



Before the Appellate Board
National Electric Power Regulatory Authority
(NEPRA)
Islamic Republic of Pakistan

NEPRA Office , Ata Turk Avenue (East), G5/1, Islamabad
Tel. No. +92 051 2013200 Fax No. +92 051 2600030
Website: www.nepra.org.pk E-mail: office@nepra.org.pk

No. NEPRA/AB/Appeal/166/POI/2019/ // 8

March 04, 2021

- | | |
|--|---|
| 1. Atta Muhammad
S/o. Meraj Din,
Prop: Agricultural Tube Well No. 07,
Mehmood Booti, Lahore | 2. Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore |
| 3. Saeed Ahmed Bhatti
Advocate High Court,
66-Khyber Block, Allama Iqbal Town,
Lahore | 4. Sub Divisional Officer (Opr),
LESCO Ltd,
Baghbanpura Sub Division,
Lahore |
| 5. POI/Electric Inspector
Lahore Region, Energy Department,
Govt. of Punjab, Block No. 1,
Irrigation Complex, Canal Bank,
Dharampura, Lahore | |

Subject: **Appeal Titled LESCO Vs. Atta Muhammad Against the Decision Dated 19.03.2019 of the Provincial Office of Inspection to Government of the Punjab Lahore Region, Lahore**

Please find enclosed herewith the decision of the Appellate Board dated 03.03.2021, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(Ikram Shakeel)
Deputy Director (M&E)
Appellate Board

Forwarded for information please.

Director (IT) –for uploading the decision on NEPRA website



National Electric Power Regulatory Authority

Before Appellate Board National Electric Power Regulatory Authority Islamabad

In the matter of

Appeal No.166/POI-2019

Lahore Electric Supply Company Limited

.....Appellant

Versus

Atta Muhammad S/o Meraj Din, Owner of Agricultural Tube Well
No.07, Mehmood Booti, Lahore

.....Respondent

APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 19.03.2019 PASSED BY PROVINCIAL OFFICE OF INSPECTION LAHORE REGION, LAHORE

For the appellant:

Mr. Saeed Ahmed Bhatti advocate

For the respondent:

Nemo

DECISION

1. Brief speaking, the respondent is an agricultural consumer of Lahore Electric Supply Company Limited (LESCO) bearing Ref No.46-11355-2126014-R having sanctioned load of 5.6 kW and the applicable tariff is D-1(b). The billing meter (the disputed meter) of the respondent was replaced with a new meter by LESCO in January 2018 and checked by metering and testing (M&T) LESCO on 16.03.2018 and reportedly it was found 66.66% slow due to two dead phases. After issuing notice to the respondent regarding the above discrepancy, a detection bill of Rs.287,300/- for 40,256 units for the period May 2017 to December 2017 (8 months) was debited to the respondent by LESCO @ 66% slowness of the meter and added in the bill for March 2018.



National Electric Power Regulatory Authority

2. Being aggrieved, the respondent assailed the above detection bill before the Provincial Office of Inspection (POI) on 19.04.2018, which was disposed of by POI vide decision dated 19.03.2019 wherein the detection bill of Rs.287,300/- for 40,256 units for the period May 2017 to December 2017 was declared as null and void. POI directed LESCO to charge the bills for November 2017 and December 2017 on the basis of consumption of November 2016 and December 2016.
3. Being dissatisfied with the POI decision dated 19.03.2019 (hereinafter referred to as the impugned decision), LESCO has filed the instant appeal before NEPRA wherein the impugned decision was opposed on the grounds that the meter of the respondent was found 66% slow during M&T checking dated 16.03.2018, as such the detection bill of Rs.287,300/- for 40,256 units for the period May 2017 to December 2017 was charged to the respondent @ 66% slowness of the meter; that the POI failed to analyze the consumption data and revised the bills of November 2017 and December 2017 on the basis of consumption of November 2016 and December 2016 as per Clause 4.4 of the Consumer Service Manual (CSM) without applying his judicious mind; that Clause 4.4(e) of CSM could not be made applicable in the instant case; that the impugned decision is ex-facie coram non-judice, ab-initio void and without jurisdiction as the POI has no jurisdiction to carry out the proceedings after the expiry of 90 days as envisaged u/s 26(6) of Electricity Act 1910 and that the impugned decision is liable to be set aside.
4. Notice was sent to the respondent to submit reply/para-wise comments to the appeal, which however were not filed.



National Electric Power Regulatory Authority

5. After issuing notice, hearing of the appeal was conducted at NEPRA Regional Office Lahore on 26.02.2021 which was attended only by the learned counsel for LESCO and no one appeared for the respondent. Learned counsel for LESCO reiterated the same arguments as given in the appeal and contended that the detection bill of Rs.287,300/- for 40,256 units for the period May 2017 to December 2017 was debited to the respondent on account of 66.66% slowness of the meter as observed by LESCO. As per learned counsel for LESCO, the above detection bill was charged to the respondent due to a dip in consumption, whereas POI reduced the period of the above detection bill for two months only. According to the learned counsel for LESCO, there is a significant increase observed in the consumption after the installation of a new meter which justifies the charging of the above detection bill, hence the full period of the above detection bill be allowed instead of two months only.
6. Having heard the arguments and the record perused. Following are our observations:
- i. As regards the preliminary objection of LESCO regarding the failure of POI in deciding the matter within 90 days as envisaged in Section 26(6) of Electricity Act, 1910, it may be explained that the period of 90 days is provided in Electricity Act, 1910 which is not relevant for the offices of POI established under Section 38 of NEPRA Act, 1997. NEPRA is the appellate authority against the decisions of POI and not that of Electric Inspectors. It has already been held by Honorable Faisalabad High Court in judgments cited as PLJ 2017-FSD-627 and PLJ-2017-FSD-309 that the impugned order was passed by POI under section 38 of NEPRA Act, 1997 and not by Electric Inspector under Electricity Act, 1910 therefore, the outer time limit



National Electric Power Regulatory Authority

of 90 days is inapplicable. The objection of LESCO in this regard is devoid of force, therefore rejected.

- ii. The respondent was charged the detection bill of Rs.287,300/- for 40,256 units for the period May 2017 to December 2017 by LESCO on account of 66.66% slowness of the meter, which was disputed before POI. Pursuant to clause 4.4(e) of CSM, the respondent may be charged the detection bill maximum for two months in case of a slow meter, whereas LESCO charged the above detection bill for eight months to the respondent due to a slow meter, which is the violation of clause 4.4 of CSM. Under these conditions, the detection bill of Rs.287,300/- for 40,256 units for the period May 2017 to December 2017 charged @ 66.66% slowness of the meter is liable to be declared as null and void as already decided by POI.
 - iii. LESCO neither associated the respondent during alleged checking nor produced the disputed meter before POI for verification of the alleged 66.66% slowness. Hence, it would be judicious to charge the detection bill for two months i.e. November 2017 and December 2017 based on the consumption of the corresponding month of the previous year or average consumption of the last eleven months whichever is higher in pursuance of clause 4.4 of CSM. The impugned decision is liable to be modified to this extent.
7. Foregoing in view, the impugned decision is partially modified to the extent of revision of the period of the detection bill of Rs.287,300/- for 40,256 units for the period May 2017 to December 2017 for two months i.e. November 2017 and December 2017. The basis of the bills for November 2017 and December 2017 be made on the 100% of the consumption of the corresponding month of the previous



National Electric Power Regulatory Authority

year or average consumption of the last eleven months whichever is higher in pursuance of clause 4.4 of CSM. The billing account of the respondent may be overhauled accordingly.

8. The impugned decision is modified in the above terms.

Muhammad Qamar-uz-Zaman
Member/SA (Finance)

Nadir Ali Khoso
Convener/DG (M&E)

Dated: 03.03.2021