



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

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No. NEPRA/AB/Appeal/168/POI/2019/ **223**

March 10, 2021

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|--|--|
| 1. M/s. Karachi Dying (Pvt.) Ltd<br>Through its Director,<br>Muhammad Shahid,<br>152-Industrial Area, Kot Lakhpat,<br>Lahore | 2. Chief Executive Officer<br>LESCO Ltd,<br>22-A, Queens Road,<br>Lahore   |
| 3. Saeed Ahmed Bhatti<br>Advocate High Court,<br>66-Khyber Block, Allama Iqbal Town,<br>Lahore                               | 4. A. D. Bhatti,<br>Advocate High Court,<br>First Floor, Rehmat towers,<br>13-Fane Road, Lahore  |
| 5. Sub Divisional Officer (Opr),<br>LESCO Ltd,<br>Green Town Sub Division,<br>Lahore   | 6. POI/Electric Inspector<br>Lahore Region, Energy Department,<br>Govt. of Punjab, Block No. 1,<br>Irrigation Complex, Canal Bank, Dharampura,<br>Lahore |

Subject: **Appeal Titled LESCO Vs. M/s. Karachi Dying (Pvt.) Ltd Against the Decision Dated 02.04.2019 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 08.03.2021, 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

In the matter of

## Appeal No. 168/POI-2019

Lahore Electric Supply Company Limited

.....Appellant

Versus

M/s. Karachi Dying (Pvt.) Ltd, Through its Director,  
Muhammad Shahid, 152-Industrial Area Kot Lakhpat, Lahore .....Respondent

For the appellant:

Mr. Saeed Bhatti Advocate

For the respondent:

Mr. A.D Bhatti advocate

## DECISION

1. Through this decision an appeal filed by Lahore Electric Supply Company Limited (hereinafter referred to as LESCO) against the decision dated 02.04.2019 of the Provincial Office of Inspection Lahore Region, Lahore (hereinafter referred to as POI) is being disposed of.
2. As per facts of the case, the respondent is an industrial consumer of LESCO bearing Ref No.24-11213-1017300 with a sanctioned load of 485 kW under B-2b tariff. Metering equipment of the respondent was checked by standing committee LESCO on 23.06.2016 and both the TOU billing meter (old billing meter) and backup meter (old backup meter) were declared as 33% slow. Multiplication factor (MF) of the respondent was raised from 160 to 240 w.e.f July 2016 and onwards. Subsequently, the metering equipment was again checked by LESCO on 04.07.2017 and reportedly the old billing



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meter was found 66% slow due to two dead phases and the old backup meter was found 33% slow due to one dead phase. LESCO issued a notice dated 11.07.2017 to the respondent regarding 66% slowness of the billing meter, which was subsequently replaced with a new billing meter by LESCO vide meter change order (MCO) dated 31.07.2017. LESCO charged the bill of 228,960 units to the respondent in July 2017, which contained the current bill of 72,960 units charged based on the consumption of new billing meter and the detection bill of 145,440 units for the period 23.06.2016 to 04.07.2017 due to the difference of readings between the billing and backup meters.

3. The respondent filed an application before POI on 22.08.2017 and challenged the aforesaid bill with the contention that 156,000 units were charged in excess in July 2017. The matter was decided by POI vide decision dated 02.04.2019 wherein it was held that the bill of 228,960 units charged by LESCO in July 2017 is null & void. As per the POI decision, LESCO was directed to charge a revised bill of total of 140,640 units for July 2017 and the adjustment of the excessive amount in the future bills.
  4. Being dissatisfied with the decision dated 02.04.2019 of POI (hereinafter referred to as the impugned decision), LESCO has filed the instant appeal before NEPRA. In its appeal LESCO inter alia contended that both the TOU billing and backup meters of the respondent were checked by LESCO on 23.06.2016 and both the TOU billing and backup meters were found 33% slow, therefore the same were replaced with a new billing meter vide MCO dated 31.07.2017. LESCO further contended that the bill of 228,960 units was debited to the respondent in July 2017 including the bill of 72,960 units recorded by the new billing meter and a detection bill of 145,440 units for the
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period 23.06.2016 to 04.07.2017 due to the difference of readings between the billing and backup meters. As per LESCO, the above bill is justified and payable by the respondent, which however was revised for 140,640 units by POI without applying judicious mind and without the analysis of the consumption data. LESCO pointed out that the impugned decision is ex-facie Coram non-judice, ab-initio void & 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.

5. Notice of the appeal was issued to the respondent for filing reply/para-wise comments, which were filed on 15.10.2019. In his reply, the respondent inter alia opposed the maintainability of the appeal on the grounds that the appeal was filed before NEPRA with a delay of 6 days; that neither any prior notice was issued nor the respondent was associated in the impugned checking of LESCO; that both the TOU billing and backup meters were found 33% slow by LESCO on 23.06.2016; that 37% slowness was observed in the old billing meter during a joint inspection of POI on 22.09.2016; that the Appellate Board vide earlier decision dated 08.08.2017 has directed LESCO to charge the bills w.e.f April 2016 and onwards till the replacement of the old billing meter @ 37% slowness; that LESCO unilaterally declared the old billing meter 66% slow vide checking dated 04.07.2017; that no check meter was installed in series with the old billing meter to determine the quantum of slowness; that 156,000 units were charged in excess by LESCO against the disputed TOU billing meter, which is illegal and unlawful. The respondent termed the impugned decision as Appeal No.168/POI-2019



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self-contained, well-reasoned, and based on facts & law and prayed that the same should be upheld.

6. Notice was issued and hearing of the appeal was held at NEPRA Regional Office Lahore on 26.02.2021, which was attended by both parties. Learned Counsel for LESCO contended that TOU billing and backup meters of the respondent were checked by LESCO on 04.07.2017 and the old backup meter was found 33% slow, whereas the old billing meter was found 66% slow. As per learned counsel for LESCO, the bill of 228,960 units was issued to the respondent in July 2017, which included the current bill of 72,960 units debited based on the consumption of new billing meter and the detection bill of 145,440 units for the period 23.06.2016 to 04.07.2017 due to the difference of readings between the billing and backup meters. According to learned counsel for LESCO, the above bill is justified and payable by the respondent. Learned counsel for LESCO finally prayed that the impugned decision is liable to be set aside. On the contrary, learned counsel for the respondent reiterated the same stance as contained in his reply/para-wise comments of the appeal and contended that LESCO unilaterally declared the old billing meter as 66% slow and replaced the same with new meter 12.07.2017 but neither the old billing meter was produced before POI for checking nor check meter was installed in series with it to ascertain the quantum of slowness. Learned counsel for the respondent further submitted that there is no justification for charging the aforesaid bill and the same is liable to be withdrawn. Learned counsel for the respondent defended the impugned decision and prayed for upholding the same.

7. Arguments were heard and the record was examined. It is observed as under:

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- 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 of 90 days is inapplicable. The objection of LESCO in this regard is devoid of force, therefore rejected.
- ii. There is no force in the objection of the respondent regarding the limitation as the copy of the impugned decision dated 02.04.2019 was obtained by LESCO on 09.04.2019 and the appeal was filed before NEPRA on 08.05.2019 within 30 days of receipt of the impugned decision under section 38(3) of NEPRA Act 1997.
- iii. The metering equipment of the respondent was checked by LESCO on 23.06.2016 and both the TOU billing and backup meters were found 33% slow. Hence MF was enhanced from 160 to 240 by LESCO w.e.f July 2016 and onwards. Subsequently, the metering equipment was again checked by LESCO on 04.07.2017 and reportedly the old billing meter was found 66% slow due to two dead phases and the old backup meter was found 33% slow due to one dead phase. Thereafter, LESCO charged a bill of 228,960 units to the respondent for July 2017 which contain two parts (I) the bill of 72,960 units recorded by the new billing



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meter for July 2017 and (II) the detection bill of 145,440 units for the period 23.06.2016 to 04.07.2017 being the difference of readings between the billing and backup meters. The respondent challenged the above bill before POI on 22.08.2017.

iv. **Part-I:** POI vide impugned decision declared the bill of 72,960 units for July 2017 recorded by the new billing meter as justified and payable by the respondent. The determination of POI to this extent is correct and liable to be maintained.

v. **Part-II:** Detection bill of 145,440 units for the period 23.06.2016 to 04.07.2017 charged being the difference of readings between the billing and backup meters.

POI revised the detection bill of 145,440 units for only 67,680 units vide impugned decision, which may be verified. It is observed that LESCO installed check meters in series with the disputed TOU billing meters of the respondent on 04.07.2017 and subsequently took readings of check and disputed billing meters on 12.07.2017. To verify the stance of LESCO regarding 66% slowness of the disputed TOU billing meter, the following analysis is done on the basis of readings recorded by both the check and TOU billing meters on 04.07.2017 & 12.07.2017:

Reading	(A)	(B)	C=(B)-(A)	D	€= (C )x(D)	(F)
Checking	04.07.2017	12.07.2017	Difference	MF	Units	% slowness
Old meter	45856	45974	118	160	18880	$= \frac{\text{units of check meter} - \text{units of old meter}}{\text{units of check meter}} \times 100$ $= \frac{57,600 - 18,880}{57,600} \times 100 = 66.66\%$
Check meter	4.16	364	360	160	57600	

The above comparison of consumption data establishes that the old billing meter was 66.66% slow as compared to the check meter. This fact was also confirmed



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by POI in the impugned decision. Now the period of slowness needs to be determined. According to clause 4.4 (e) of CSM, the maximum period for charging the detection bill due to a slow meter is two billing cycles, whereas in the instant case LESCO charged the detection bill for a period of 12 months (23.06.2016 to 04.07.2017) on the basis of difference of readings between the billing and backup meters which is inconsistent with chapter 4 of CSM. It is relevant to mention that LESCO staff failed to point out any discrepancy in the meters during the monthly readings before M&T LESCO checking dated 04.07.2017, which is a violation of chapter 6 of CSM. Hence POI has rightly declared the detection bill of 145,440 units for the period 23.06.2016 to 04.07.2017 as null and void and not payable by the respondent.

- vi. Since 66% slowness in the old billing meter is established, hence it would be judicious to charge the detection bill @ 66% slowness of the old billing meter from June 2017 to 12.07.2017. Calculation in this regard is done below:

Reading Month	(A) June 2017	(B) 12.07.2017	C=(B)-(A)	D	(E) = (C )x(D)	(F)	(G)=(F)-(E)
			Difference	MF	Units to be charged @ 66% slowness	Units already charged	Net chargeable units
Old meter	45353	45834	481	480	230880	115440	115440

- vii. The respondent is liable to pay net 115,440 units as a detection bill due to 66% slowness of the TOU billing meter. The impugned decision is liable to be modified to this extent.





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8. Forgoing in view, it is concluded as under:

- i. The impugned decision for cancellation of the bill for 228,960 units charged in July 2017 is correct and the same is maintained to this extent.
- ii. The respondent should pay the bill as per detail given below:

Dispute	Period	Units to be charged	Remarks
I	July 2017	72,960	Consumption of new billing meter.
II	June 2017 to 12.07.2017	115,440	Consumption of old billing meter @ 66% slowness of the meter.
<b>Total</b>		<b>188,400 units</b>	

- iii. The consumer's account of the respondent should be overhauled after making the adjustment of the payments already made against the aforesaid detection bills.

9. The impugned decision is disposed of in the above terms.

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

Nadir Ali Khoso  
Convener/DG (M&E)

Dated: 08.03.2021