



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

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No. NEPRA/AB/Appeal/186/POI/2019/ 224


March 10, 2021

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| 1. M/s. Madina Poultry Farms
Through its Proprietor,
Muhammad Nadeem,
R/o. Has Mouza Ghazi Pura,
Sharqpur, District Sheikhpura | 2. Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore |
| 3. Muhammad Arif Malhi,
Advocate High Court,
01-District Courts,
Sheikhpura | 4. A. D. Bhatti,
Advocate High Court,
First Floor, Rehmat towers,
13-Fane Road, Lahore |
| 5. Sub Divisional Officer (Opr),
LESCO Ltd,
Sharqpur Sub Division,
District Sheikhpura | 6. POI/Electric Inspector
Lahore Region, Energy Department,
Govt. of Punjab, Block No. 1,
Irrigation Complex, Canal Bank, Dharampura,
Lahore |

Subject: **Appeal Titled LESCO Vs. M/s. Madina Poultry Farms Against the Decision Dated 22.01.2019 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, National Electric Power Regulatory Authority Islamabad

In the matter of

Appeal No. 186/POI-2019

Lahore Electric Supply Company Limited

.....Appellant

Versus

M/s. Madina Poultry Farms, Through its Proprietor, Muhammad Nadeem,

R/o Has Mouza Ghazi Pura, Sharqpur, District SheikhpuraRespondent

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,
TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997
AGAINST THE DECISION DATED 22.01.2019 PASSED BY PROVINCIAL
OFFICE OF INSPECTION LAHORE REGION, LAHORE**

For the appellant:

M. Arif Malhi 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 22.01.2019 of the Provincial Office of Inspection, Lahore Region, Lahore (hereinafter referred to as POI) is being disposed of.
2. LESCO is a licensee of the National Electric Power Regulatory Authority (hereinafter referred to as NEPRA) for distribution of electricity in the territory specified as per terms and conditions of the license and the respondent is its industrial consumer

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bearing Ref No.46-11126-0002913 with a sanctioned load of 20 kW under the B-1(b) tariff. As per fact of the case, the old billing meter of the respondent was replaced with a new meter by LESCO in May 2018. Thereafter, LESCO issued the current bill of Rs.70,781/- for June 2018 which included the arrears of Rs.455,735/-. The electric supply of the respondent was disconnected by LESCO due to nonpayment of the above arrears.

3. Being aggrieved, the respondent challenged the abovementioned arrears before Lahore High Court Lahore vide writ petition No.215887/2018, which was disposed of by the Honorable High Court vide order dated 30.05.2018 with the direction to POI for the decision. The matter was decided by POI vide its decision dated 22.01.2019 wherein the arrears of Rs.455,735/- added in the bill for June 2018 were declared as null and void and LESCO was directed to overhaul the account of the respondent after adjustment of excessive payments.
4. Being dissatisfied with the decision of POI dated 22.01.2019 (hereinafter referred to as the impugned decision), LESCO filed the instant appeal before NEPRA. In its appeal, LESCO contended that the old billing meter of the respondent was replaced with a new meter in May 2018 and the arrears of Rs.455,735/- were included in the bill for June 2018 as per consumption recorded by the old billing meter. As per LESCO, the above arrears are correct, legal and justified and POI ignored the material facts while passing the impugned decision. LESCO pointed out that the impugned decision was pronounced by POI after the expiry of 90 days in violation of Appeal No.186-2019





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Section 26(6) of Electricity Act, 1910, and prayed for setting aside the impugned decision.

5. Notice was sent to the respondent to submit reply/para-wise comments to the appeal, which were filed on 18.11.2019. In his reply, the respondent opposed the maintainability of the appeal inter alia, on the grounds that the appeal is time-barred being filed with a delay of 3 months and 16 days; that LESCO failed to prove the alleged arrears of Rs.455,735/- and did not provide any detail thereof, hence the same is rightly set aside; that the POI passed the impugned decision after providing the complete opportunity of hearing to both the parties and consideration of the legal aspect of the case; that the impugned decision was rendered by the officer in the capacity of POI under the NEPRA Act, 1997, as such the limitation of 90 days is not applicable in the present case in pursuance of judgment reported on PLJ 2017 Lahore 627 and that the appeal may be dismissed with special costs.
 6. Notice was issued and hearing of the appeal was held at NEPRA Regional Office Lahore on 26.02.2021 which was attended by the learned counsels of both parties. In response to the question of limitation, learned counsel for LESCO argued that the delay in filing the appeal was not intentional as the time was consumed due to the internal departmental process of LESCO. Learned counsel for LESCO reiterated the objection of the jurisdiction of POI and contended that the matter was decided by POI after 90 days, hence the impugned decision is liable to be set aside on this ground alone. On merits, Learned counsel for LESCO informed that the arrears of
- Appeal No.186-2019



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Rs.455,735/- added in the bill for June 2018 were charged to the respondent as per consumption of the old billing meter and the same is justified and payable by the respondent. On the contrary, learned counsel for the respondent pointed out that the appeal is time-barred and LESCO has not submitted an application for the condonation of the delay. Learned counsel for the respondent defended the impugned decision for declaring the above arrears as null and void and prayed for dismissal of the appeal.

7. Argument heard and the record examined. It has been observed as under:

- 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-Faisalabad-627 and PLJ-2017-Faisalabad-309 that 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. Regarding the point of limitation raised by the respondent, it is observed that the impugned decision was announced by POI on 22.01.2019, copy of the same was obtained by LESCO on 29.01.2019 against which LESCO filed an appeal before

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NEPRA on 17.06.2019 after the prescribed limit of thirty days as envisaged in Section 38(3) of NEPRA Act, 1997. However LESCO did not submit the application for condonation of delay. Moreover, LESCO has not given cogent reasons justifying the delay in filing the appeal before NEPRA. Obviously, the appeal is time-barred and liable to be dismissed on this ground. Even otherwise, the impugned decision for cancellation of arrears of Rs.455,735/- added in the bill for June 2018 is correct as LESCO neither produced the disputed billing meter before POI for checking nor produced any document i.e. detection proforma, M&T checking report, meter change order to justify the charging of the above arrears. The billing account of the respondent may be overhauled after making adjustments of payments made (if any) against the above detection bill.

8. Foregoing in view, the impugned decision is maintained and the appeal is dismissed.

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

Nadir Ali Khoso
Convener/DG (M&E)

Dated: 08.03.2021