



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

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No. NEPRA/AB/Appeal/215/POI/2019/225

March 10, 2021

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| 1. Fayyaz-ud-Din
S/o. Ghulam Qadir,
R/o. House No. 15-F-345,
Mohallah Bus Stop, Salampura,
G. T. Road, 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,
N-Bilal Colony 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. Fayyaz-ud-Din Against the Decision Dated 19.02.2019 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.215/POI-2019

Lahore Electric Supply Company Limited

.....Appellant

Versus

Fayyaz-ud-Din S/o Ghulam Qadi, R/o House No.15-F-345,
Mohallah Bus Stop, Salampura, G.T.Road Lahore

.....Respondent

APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 19.02.2019 PASSED BY PROVINCIAL OFFICE OF INSPECTION LAHORE REGION, LAHORE

For the appellant:

Mr. Saeed Ahmed Bhatti advocate
Mr. Naveed Shahnawaz SDO

For the respondent:

Mr. Fayyaz-ud-Din

DECISION

1. Brief speaking, the respondent is an industrial consumer of Lahore Electric Supply Company Limited (LESCO) bearing Ref No.46-11313-1991800 with a sanctioned load of 7 kW and the applicable tariff is B-1(b). The billing meter (the disputed meter) of the respondent was found defective, hence the average units were charged by LESCO. The disputed meter was replaced with a new meter by LESCO and checked by metering and testing (M&T) LESCO on 06.04.2018 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 amounting to Rs.110,006/- for 5,900 units for the period December 2017 to March 2018 (15 months) was debited to the respondent by LESCO @ 66% slowness of the meter and added in the bill for May 2018.

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2. Being aggrieved, the respondent filed an application before the Provincial Office of Inspection (POI) on 28.06.2018 and assailed the above detection bill along with the bills for the period January 2018 to April 2018. The complaint of the respondent was disposed of by POI vide decision dated 19.02.2019 wherein the detection bill of Rs.110,006/- for 5,900 units for the period from December 2017 to March 2018 was declared as null and void. POI directed LESCO to charge the bills for December 2017 to May 2018 on the basis of consumption of December 2016 to May 2017.
3. Being dissatisfied with the POI decision dated 19.02.2019 (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 06.04.2018, as such the detection bill of Rs.110,006/- for 5,900 units for the period December 2017 to March 2018 charged to the respondent @ 66% slowness of the meter is legal and justified; that the POI failed to analyze the consumption data and revised the bills of December 2017 to March 2018 on the basis of consumption of December 2016 to March 2017 without applying his judicious mind; 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 were filed on 02.10.2019. In the reply, the respondent repudiated the stance of LESCO and stated that neither any prior notice was served regarding the 66% slowness nor the disputed meter was checked in his presence before its replacement, as such there is no justification to charge 66% slowness as LESCO has already debited exaggerated



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billing on account of the defective meter. The respondent further stated that the premises was used as a store and only one lamp was installed there due to which less consumption was recorded by the meter. The respondent finally prayed for the decision on merits.

5. After issuing notice, hearing of the appeal was conducted at NEPRA Regional Office Lahore on 26.02.2021 which was attended by both parties. Learned counsel for LESCO reiterated the same arguments as given in the appeal and contended that the detection bill of Rs.110,006/- for 5,900 units for the period from December 2017 to March 2018 was debited to the respondent @ 66.66% slowness of the meter as observed by LESCO on 06.04.2018. As per learned counsel for LESCO, the above detection bill was charged to the respondent due to a dip in consumption, whereas POI revised the billing for December 2017 to May 2018 on the basis of consumption of December 2016 to May 2017. According to the learned counsel for LESCO, the recovery of the above detection bill by LESCO is correct and the respondent is obligated to pay the same. On the other hand, the respondent appearing in person repeated the same contention as given in the reply to the appeal, rebutted the version of LESCO, and prayed for the maintainability of the impugned decision.
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



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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. The respondent was charged the detection bill of Rs.110,006/- for 5,900 units for the period December 2017 to March 2018 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 fifteen months to the respondent due to a slow meter, which is inconsistent of clause 4.4 of CSM. Under these conditions, the detection bill of Rs.110,006/- for 5,900 units for the period December 2017 to March 2018 charged @ 66.66% slowness of the meter is liable to be declared as null and void as already decided by POI.
 - iii. LESCO did not produce the disputed meter before POI for verification of the alleged 66.66% slowness. Hence it would be judicious to charge the bills for the period December 2017 to May 2018 on the basis of 100% of 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 to the extent of cancellation of the detection bill of Rs.110,006/- for 5,900 units for the period December 2017 to March 2018 is correct and should be maintained. However, the bills for the period December 2017 to May 2018 be revised on DEF-EST code in pursuance of clause 4.4 of CSM. The basis



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of the bills for December 2017 to May 2018 be made on 100% of the consumption of the corresponding month of the previous year or average consumption of the last eleven months whichever is higher. 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: 08.03.2021