



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

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No. NEPRA/AB/Appeal/263/POI/2019/898


November 22, 2021

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| 1. Muhammad Naeem Khalil<br>R/o. House No. 50, Street No. 02,<br>Zahid Chowk, Amin Park,<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. Assistant Manager (Opr),<br>LESCO Ltd,<br>Amin Park Sub Division,<br>Lahore |
| 5. POI/Electric Inspector<br>Lahore Region, Energy Department,<br>Govt. of Punjab, Block No. 1,<br>Irrigation Complex, Canal Bank,<br>Dharampura, Lahore |  |

Subject: **Appeal Titled LESCO Vs. Muhammad Naeem Khalil Against the Decision Dated 31.10.2018 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 10.11.2021, 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.

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





## National Electric Power Regulatory Authority

### Before Appellate Board

In the matter of

### Appeal No. 263/POI-2019

Lahore Electric Supply Company Limited

.....Appellant

Versus

Muhammad Naeem Khalil, R/o House No.50, Street No.02,  
Zahid Chowk, Amin Park, Lahore

.....Respondent

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,  
TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997  
AGAINST THE DECISION DATED 30.10.2018 PASSED BY PROVINCIAL  
OFFICE OF INSPECTION LAHORE REGION, LAHORE**

For the Appellant:

Mr. Saeed Bhatti Advocate  
Mr. Rizwan Rashid

For the Respondent:

Nemo

### DECISION

1. Through this decision, an appeal filed by Lahore Electric Supply Company Limited (hereinafter referred to as LESCO) against the decision dated 31.10.2018 of the Provincial Office of Inspection, Lahore Region, Lahore (hereinafter referred to as the 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 domestic consumer







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bearing Ref No.06-11133-0662607-U with a sanctioned load of 1 kW under the A-1(a) tariff. As per fact of the case, the billing meter of the Respondent was checked by Metering and Testing (M&T) LESCO on 23.04.2018 and reportedly it was found tampered and 59% slow. Notice dated 23.04.2018 was served to the Respondent regarding the above discrepancy and a letter dated 23.04.2018 was addressed by LESCO to SHO Shafiq Abad Police Station for lodging of FIR against the Respondent. Afterward, a detection bill of Rs.68,687/- for 3,290 units for the period July 2017 to December 2017 six (6) months was charged to the Respondent by LESCO on the basis of the connected load and added in the bill for May 2018.

3. Being aggrieved, the Respondent filed an application before the POI on 29.08.2018 and assailed the above detection bill. The matter was disposed of by the POI vide decision dated 31.10.2018 wherein the detection bill of Rs.68,687/- for 3,290 units for the period July 2017 to December 2017 charged by LESCO was declared as null & void. LESCO was directed to overhaul the billing account of the Respondent accordingly.
4. Being dissatisfied with the decision of the POI dated. 31.10.2018 (hereinafter referred to as the impugned decision), LESCO filed the instant appeal before NEPRA. In its appeal, LESCO opposed the maintainability of the impugned decision inter alia, on the following grounds; (1) the detection bill of Rs.68,687/- for 3,290 units for the period July 2017 to December 2017 was debited to the Respondent on account of dishonest abstraction of electricity through tampering the meter as observed on







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23.04.2018, (2) the POI misconceived the real facts of the case as the above detection bill was debited to the Respondent on account of dishonest abstraction of energy which does not call for interference by the said forum, (3) the POI failed to analyze the consumption data in true perspective and declared the above detection bill as void, (4) the POI failed to examine the disputed meter which is essential to resolve the controversy between the parties, (5) the impugned decision is illegal, unlawful, without authority & jurisdiction, void ab-initio, biased and based on surmises and conjectures and the same is liable to be set aside.

5. Notice for filing reply/para-wise comments to the appeal was served to the Respondent, which however were not filed.

6. After issuing notice, hearing of the appeal was held at the NEPRA Regional Office Lahore on 21.10.2021, which was attended by learned counsel along with SDO LESCO for the Appellant and no one appeared for the Respondent. In response to the issue of limitation, learned counsel for LESCO averred that copy of the impugned decision dated 31.10.2018 was received by LESCO on 08.08.2019, and the appeal was filed on 07.09.2019 within thirty (30) days of receipt of the impugned decision as per Section 38(3) of NEPRA Act 1997. Learned counsel for LESCO reiterated the same contentions as given in memo of the appeal and contended that the detection bill of Rs.68,687/- for 3,290 units for the period July 2017 to December 2017 was charged to the Respondent due to theft of electricity committed through the tampered meter as noticed by LESCO on 23.04.2018. Learned counsel for LESCO further opposed the







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analysis of the POI for comparison of consumption data being incorrect. He stated that the POI instead of checking the disputed meter relied on the consumption data. Learned counsel for LESCO submitted that being a theft case, the Respondent is liable to pay the above detection for six (6) months in accordance with chapter 9 of the Consumer Service Manual (CSM).

7. Argument heard and the record examined. Following are our observations:

- i. At first, the point of limitation should be addressed before going into merits of the case. It is observed that the impugned decision was announced by the POI on 31.10.2018, copy was received by LESCO on 08.08.2019 against which LESCO filed an appeal before NEPRA on 06.09.2019 within thirty (30) days as envisaged in Section 38(3) of the NEPRA Act 1997 and it was received on 13.09.2019 within seven (7) days of its dispatch in accordance with Regulation 4 (2)(b) of NEPRA (Procedure for Filing Appeal) Regulations, 2012. The relevant excerpt from the Regulation is reproduced below for the sake of convenience:

*"Limitation for filing the appeal.—(1) Every appeal shall be filed within a period of thirty days from the date on which a copy of the order against which the appeal is preferred is received by the appellant: Provided that the Authority may, upon an application filed on this behalf, entertain an appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within the period. (2) Subject to anything contrary on the record the copy of the order against which an appeal is filed shall be presumed to have been received by the appellant if: (a) sent by courier, three days following the day it is dispatched by the Receipt and Issue department of the Authority; (b) sent by registered post, seven days following the date it is mailed by the Receipt and Issue department of the Authority; and (c) sent by hand delivery; on the production of the receipt showing the date it is served on the appellant."*

- ii. LESCO raised the preliminary objection regarding the jurisdiction of the POI. It







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is observed that the dispute of billing pertains to the theft of electricity through tampering with the metering equipment. As such, the POI has exclusive jurisdiction to adjudicate such disputes of billing where metering equipment is involved as per judgment of honorable Supreme Court of Pakistan reported in PLD 2012 SC 371. The relevant excerpts from the mentined paragraphs are reproduced as follows:

**"P L D 2012 Supreme Court 371**

*"In case, the theft alleged is by means other than the tampering or manipulation of the metering equipment etc., the matter would fall exclusively under Section 26-A of the Act, the Electricity Act, outside the scope of powers of the Electric Inspector. Since the Electric Inspector possess special expertise in examining the working of the metering equipment and other relater apparatus, it makes sense that any issue regarding their working, functioning or correctness, whether or not deliberately caused, be examined by him. It may be added that Section 26-A is an enabling provision empowering the licensee to charge the consumer for dishonest extraction or consumption of electricity. It does not provide any procedure for resolving any dispute between the consumer and the licensee on a charge of theft. It should be, therefore be read in conjunction with the other relevant provisions including section 26(6) of the Act."*

In view of the above, the objection of LESCO is not valid and therefore liable to be rejected.

iii. The disputed billing meter of the Respondent was found tampered/59% slow during LESCO checking on 23.04.2018. Resultantly, a detection bill of Rs.68,687/- for 3,290 units for the period July 2017 to December 2017 was charged to the Respondent by LESCO and added in the bill for May 2018, which was agitated before the POI.

iv. LESCO charged the above detection bill for a period of six (6) months i.e. July







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2017 to December 2017 to the Respondent being a general supply consumer due to theft of electricity, which is violative of Clause 9.1c(3) of the Consumer Service Manual (CSM). Said Clause of CSM allows LESCO to recover the detection bill maximum for three (3) months as no approval was granted by the Chief Executive Officer LESCO. In addition to the above, the meter under dispute was not produced before the POI for verification of alleged tampering and slowness. Moreover, the meter under dispute was found defective on 23.04.2018 but LESCO charged the detection bill for the irrelevant period July 2017 to December 2017 instead of the allowed period i.e. February 2018 to April 2018, which is violative of the ibid Clause of CSM. Hence, we hold that the detection bill of Rs.68,687/- for 3,290 units for the period July 2017 to December 2017 charged to the Respondent by LESCO is unjustified and liable to be declared as null and void, which concurs with the determination of the POI.

- v. LESCO alleged the illegal extension of load i.e. 2.89 kW + 2 ACs by the Respondent as observed during checking dated 23.04.2018. However, no action was taken by LESCO so far for regularization of the connected load as evident from the bill of October 2021. Therefore the Respondent is liable to be charged the detection bill as per sanctioned load maximum for three (3) months i.e. February 2018 to April 2018 as per Clause 9.1c(3) of CSM. Calculation in this regard is done below:







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Units/month to be charged = Sanctioned load (kW) x No. of Hours x Load factor  
as per annex-VIII of CSM  $1 \times 730 \times 0.2 = 146 \text{ units/month}$

**Period: February 2018 to April 2018 (Three (3) months)**

(A) Total Units assessed	=Units/ month x No. of Months = 146 x 3	= 438 units
(B) Total units already charged	=138+200+60	= 398 units
(C) Net chargeable units	= (A) - (B) = 438-398	= 40 units

8. The upshot of the above discussion is that the impugned decision for cancellation of the detection bill of Rs.68,687/- for 3,290 units for the period July 2017 to December 2017 along with late payment surcharges is correct and maintained to this extent. LESCO is directed to charge the detection bill for net 40 units for the period February 2018 to April 2018 three (3) months to the Respondent. The billing account of the Respondent should be revised by LESCO after adjusting payments made, if any against the above detection bill.
9. The impugned decision is modified in the above terms.

Abid Hussain  
Member/Advisor (CAD)

Maria Rafique  
Member/Legal Advisor

Nadir Ali Khoso  
Convener/Senior Advisor (CAD)

Dated: 10.11.2021

