



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

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No. NEPRA/AB/Appeal/012/POI/2020/ 708

March 02, 2022

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| 1. Irfan Qadir, S/o. Ghulam Qadir, R/o. Samanzar Colony, Badami Bagh, Lahore | 2. Chief Executive Officer LESCO Ltd, 22-A, Queens Road, Lahore |
| 3. Mehar Shahid Mehmood, Advocate High Court, Mehar Law Associates, Office No. 34, Third Floor, Ali Plaza, 3-Mozang Road, Lahore | 4. A. D. Bhatti, Advocate High Court, First Floor, Rehmat Tower, 13-Fane Road, Lahore |
| 5. Sub Divisional Officer (Operation), LESCO Ltd, Shad Bagh Sub Division, Lahore | 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. Irfan Qadir Against the Decision Dated 29.10.2019 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 14.02.2022. 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. 012/POI-2020

Lahore Electric Supply Company Limited

.....Appellant

Versus

Irfan Qadir S/o Ghulam Qadir, R/o Samanzar Colony,
Badami Bagh, Lahore

.....Respondent

APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 29.10.2019 PASSED BY PROVINCIAL OFFICE OF INSPECTION LAHORE REGION, LAHORE

For the Appellant:

Mehar Shahid Mehmood 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 the LESCO) against the decision dated 29.10.2019 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 the NEPRA) for the distribution of electricity in the territory specified as per terms and conditions of the license and the Respondent is its consumer having the industrial connection bearing Ref No.24-11152-0154000



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with a sanctioned load of 180 kW under the B-2(b) Tariff category. Metering equipment of the Respondent was checked by the Standing Committee LESCO on 11.05.2018 and reportedly the difference of readings was noticed between the billing and backup meters. Resultantly, LESCO charged the bills amounting to Rs. 968,980/- for 54,160 units and Rs. 665,676/- for 22,100 units to the Respondent in May 2018 and June 2018 respectively on account of the difference of readings between the billing and backup meters.

3. Being aggrieved with the above actions of the LESCO, the Respondent assailed the above bills before the Civil Court Lahore on 22.01.2019, which was disposed of by the Honorable Civil Court with the direction to the Respondent to approach the POI. Accordingly, the Respondent filed an application before the POI and challenged the bills of May 2018 and June 2018. During the joint checking of POI on 01.08.2019, both the billing and backup meters of the Respondent were found within BSS limits and both the parties signed the checking report without raising any objection. The POI adjudicated the matter and passed the decision dated 29.10.2019, wherein the bills of Rs.968,980/- for 54,160 units and Rs.665,676/- for 22,100 units charged to the Respondent in May 2018 and June 2018 respectively were cancelled. LESCO was directed to revise the bills @ 11,547 units+42 kW MDI for the months i.e. May 2018 and June 2018 as per the average consumption recorded during the year 2017.

4. Being dissatisfied with the decision of the POI dated 29.10.2019 (hereinafter



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referred to as the impugned decision), the LESCO filed the instant appeal before the NEPRA. In its appeal, the LESCO opposed the maintainability of the impugned decision inter alia, on the following grounds; (1) the POI failed to decide the application of the Respondent within ninety (90) days, which is a clear violation of Section 26(6) of the Electricity Act 1910; (2) the POI did not apply judicious mind and passed the impugned decision on illegal assumptions and presumptions; and (3) the POI had not thrashed out the consisting reasons of the LESCO in the mater. and (4) the impugned decision is bad in law and against the facts of the case. LESCO finally prayed that the impugned decision is liable to be struck down.

5. Notice for filing reply/para-wise comments was served to the Respondent, which were filed on 30.09.2020. In the reply, the Respondent submitted that neither any prior notice was served nor the checking was carried out by the LESCO during his presence, hence there is no justification to charge such huge bills, and the Appellant LESCO is not entitled to any relief from the NEPRA. The Respondent further submitted that the POI minutely considered the documents, pleadings of the parties, given the comparison of consumption data, and rendered the just decision, which is liable to be upheld. As per Respondent, the POI conducted the joint checking of the metering equipment, whereupon the LESCO did not raise any objection. According to the Respondent, the POI had rightly revised the billing of the disputed months i.e. May 2018 and June 2018 on the basis of the average consumption of the previous year. The Respondent prayed for dismissal of the appeal being filed after 30 days.



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6. Hearing in the matter was held at the NEPRA Regional Office Lahore on 14.01.2022, which was attended by both the parties. Learned counsel for the LESCO reiterated the same arguments as contained in memo of the appeal and averred that the difference of reading between the billing and backup meters was observed during the checking dated 15.05.2018 for which notice was served to the Respondent and the difference bills were charged in the months of May 2018 and June 2018. As per learned counsel for the LESCO, the date and time of the billing meter were found upset during the POI joint checking but neither the said discrepancy nor the difference of reading was considered by the POI in the impugned decision. Learned counsel for the LESCO prayed for setting aside the impugned decision and further pleaded to allow the above difference bills. On the contrary, learned counsel for the Respondent repudiated the stance of LESCO for charging the above bills and argued that both the billing and backup meters were found within BSS limits during the POI joint checking dated 01.08.2019, hence there is no justification to charge such excessive billing during the months i.e. May 2018 and June 2018. Learned counsel for the Respondent submitted that the LESCO did not produce such document before the POI to substantiate its stance for the difference bills. Learned counsel for the Respondent supported the impugned decision and prayed for upholding the same.

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

- i. At first, the point of limitation should be addressed before going into the merits of the case. It is observed that the impugned decision was announced by POI



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on 29.10.2019, copy of the same was received by LESCO on 10.12.2019 against which LESCO filed the instant appeal before the NEPRA on 13.12.2019, which is within thirty (30) days as envisaged in Section 38(3) of the NEPRA Act 1997. We are convinced with the arguments of LESCO with regard to the limitation and the appeal is treated within time. The objection of the Respondent in this regard is not valid.

- ii. While addressing the preliminary objection of LESCO regarding the failure of POI in deciding the matter within ninety (90) days under Section 26(6) of the Electricity Act, 1910, it may be noted that the said restriction of the time limit is inapplicable for the POI established under Section 38 of the NEPRA Act, 1997. The same has already been held by the Honorable Lahore High Court in the following cited judgments, PLJ 2017-Lahore-627 and PLJ-2017-Lahore-309. As such the objection of LESCO in this regard carries no weight, hence rejected.
- iii. LESCO debited the bills of May 2018 and June 2018 to the Respondent based on the difference of readings between the billing and backup meters. The Respondent challenged the above bills before the POI. During joint checking of the POI on 01.08.2019, both the billing and backup meters of the Respondent were found working within BSS limits, both the parties signed the POI joint checking report without raising any objection. LESCO did not provide any documentary evidence to substantiate its stance with regard to the charging of the above difference bills. Moreover, LESCO did not provide a comparative statement of the consumption of both the billing and backup meters. Further, the consumption of the digital TOU meter will be considered correct if there is



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a difference between the billing and backup meters. Reliance in this regard is placed on the WAPDA circular issued vide letter No.518-36 dated 28.02.2001, the operative portion of which is reproduced below:

"establishment where Electro-mechanical & Solid State TOU MDI meters are installed, the reading recorded on Solid State TOU MDI meters will be considered final, in case there is difference between the two."

In view of the above-narrated facts and discussion, we are inclined to agree with the findings of the POI that the billing and backup meters of the Respondent were found within BSS limits and there is no justification to debit the aforesaid difference bills on mere surmises of difference of readings between the billing and backup meters. Under the circumstances, as mentioned above, the bills of Rs.968,980/- for 54,160 units and Rs.665,676/- for 22,100 units debited to the Respondent in May 2018 and June 2018 respectively on account of the difference of readings between the billing and backup meters are declared as unjustified and should be withdrawn, which concurs with the impugned decision.

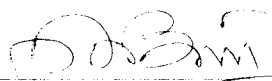
- iv. Similarly, the determination of POI for revision of the bills for May 2018 and June 2018 @ 11,547 units+42 kW MDI as recorded during the year 2017 is not in line with provisions of the Consumer Service Manual (CSM) and the same is liable to be withdrawn to this extent.
- v. Since the date and time of the billing meter of the Respondent were found upset during the joint checking of the POI dated 01.08.2019, it would be judicious to charge the bills for May 2018 and June 2018 on the basis of 100% consumption




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of the corresponding months of the previous year i.e. May 2017 and June 2017 or average consumption of last eleven months i.e. July 2017 to April 2018, whichever is higher as per Clause 4.4 of the CSM.

8. In view of what has been stated above, it may be safely concluded that the bills of Rs.968,980/- for 54,160 units and Rs.665,676/- for 22,100 units debited to the Respondent in May 2018 and June 2018 respectively on account of the difference of readings between the billing and backup meters are unjustified and the same are declared as null and void. The Respondent should be charged the revised bills for the months May 2018 and June 2018 on the basis of 100% consumption of the corresponding months of the previous year i.e. May 2017 and June 2017 or average consumption of the last eleven months i.e. July 2017 to April 2018, whichever is higher. The billing account of the Respondent should be overhauled after making adjustments of the payments against the above detection bill.
9. The impugned decision is modified in the above terms.


Abid Hussain
Member/Advisor (CAD)


Nadir Ali Khoso
Convener/Senior Advisor (CAD)

Date: 14.02.2022