



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

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No. NEPRA/AB/Appeal/029/POI/2020/ 267

March 02, 2022

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| 1. Ch. Zahoor ud Din,<br>S/o. Ch. Ahmed Ali,<br>Through its Legal Heir. Ch. Sajjad<br>Jahangir, S/o. Ch. Muhammad Jahangir,<br>R/o. 250, H-1, Johar Town, Lahore | 2. Chief Executive Officer<br>LESCO Ltd,<br>22-A, Queens Road,<br>Lahore   |
| 3. Mehar Shahid Mehmood,<br>Advocate High Court,<br>Mehar Law Associates,<br>Office No. 34, Third Floor,<br>Ali Plaza, 3-Mozang Road, Lahore                     | 4. Imran Ahmad Malik,<br>Advocate Supreme Court,<br>CSJ & Co. S. M. Tower,<br>9-Fane Road, Lahore  |
| 5. Sub Divisional Officer (Operation),<br>LESCO Ltd,<br>Burj Attari 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,<br>Dharampura, Lahore |

Subject: **Appeal Titled LESCO Vs. Ch. Zahoor ud Din Against the Decision Dated 21.05.2019 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 07.02.2022, 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. 029/POI-2020

Lahore Electric Supply Company Limited

.....Appellant

Versus

Ch. Zahoor ud Din, S/o Ch. Ahmed Ali, Through its Legal Heir  
Sajjad Jahangir, S/o Ch. Muhammad Jahangir, R/o.250,  
H-I, Johar Town, Lahore

.....Respondent

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,  
TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997  
AGAINST THE DECISION DATED 21.05.2019 PASSED BY PROVINCIAL  
OFFICE OF INSPECTION LAHORE REGION LAHORE**

For the Appellant:

Mr. Mehar Shahid Mehmood Advocate

For the Respondent:

Ch. Sajjad Jahangir

### DECISION

1. As per fact of the case, the Respondent is an agricultural consumer of Lahore Electric Supply Company Limited (hereinafter referred to as the LESCO) bearing Ref No.45-11127-0041400-R and the applicable tariff category is D-1. The Respondent challenged before the Provincial Office of Inspection Lahore Region, Lahore (the POI) the detection bill of Rs.97,257/- for 19,272 units for the period March 2018 to May 2018 charged by the LESCO in November 2018. According to the POI, the opportunity of hearing was provided to both parties but LESCO failed to appear before the POI and failed to submit the reply/para-wise comments despite repeated notices. The matter was disposed of by



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the POI vide decision dated 21.05.2019 on ex-parte basis and the detection bill of Rs.97,257/- for 19,272 units for the period, March 2018 to May 2018 charged by LESCO in November 2018 was declared as null and void.

2. The appeal in hand has been filed by the LESCO against the POI decision dated 21.05.2019 (hereinafter referred to as the impugned decision) before the NEPRA, wherein LESCO contended that the POI failed to decide the application of the Respondent within 90 days as the application was filed on 03.01.2019 and it was decided on 21.05.2019, which is a clear violation of Section 26(6) of Electricity Act 1910. LESCO further contended that the POI did not apply judicious mind and passed the impugned decision on illegal assumptions and presumptions. As per LESCO, the POI failed to consider the consumption record and had not thrashed the consisting reasons and issued the illegal order. LESCO prayed that the impugned decision is liable to be set aside.
3. Notice for filing reply/para-wise comments to the appeal was served to the Respondent, which were filed on 14.01.2022. The Respondent repudiated the contentions of the LESCO and submitted that nine opportunities were given to the LESCO for submission of reply but they failed to submit the same. The Respondent further submitted that the appeal is badly time-barred and no application for the condonation of the delay has been filed by LESCO. As per Respondent, LESCO with malafide intention has not attached complete record of the Respondent's application. According to the Respondent, the POI has exclusive jurisdiction to entertain the dispute of billing under Section 38 of the



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NEPRA Act 1997. The Respondent prayed that the appeal is liable to be dismissed with cost.

4. After issuing notice, the appeal was fixed for hearing at the NEPRA Regional Office Lahore on 14.01.2022 in which both the parties were present. Learned counsel for the LESCO repeated the same contentions as given in memo of the appeal and inter alia, contended that the LESCO attended several hearings, hence the impugned decision could not be decided on an ex-parte basis. LESCO further contended that there are no consequences in case of non-submission of the reply to the complaint before the POI, hence, the impugned decision is liable to be set aside and the matter be remanded back to POI for decision afresh after hearing the parties. On the contrary, the representative for the Respondent rebutted the stance of the learned counsel for the LESCO and argued that the LESCO failed to file the reply within the stipulated time despite, the fact that the POI afforded nine (9) opportunities to the LESCO. The representative for the Respondent stated that the LESCO did not attend the hearing dated 21.05.2019, therefore the impugned decision was passed by the POI on ex-parte as per general law. The Representative defended the impugned decision and prayed for setting aside the impugned decision.
5. Arguments were heard and the record placed before us was examined. Following are our findings:
  - i. While addressing the preliminary objection on the grounds of limitation raised by the Respondent, it is noted that the copy of the impugned decision dated 21.05.2019 was



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received by LESCO on 11.07.2019 against which the LESCO filed an appeal which was received before the NEPRA on 17.08.2019 i.e. after thirty-six (36) days. The appeal is therefore considered to have been filed within thirty (30) days after excluding seven (7) days allowed for dispatch under 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."*

In view of the above, the objection of the Respondent is not valid and the same is dismissed.

- ii. As regards the preliminary objection of LESCO regarding the failure of POI in deciding the matter within ninety (90) days as envisaged in Section 26(6) of Electricity Act, 1910, it may be explained that the period of ninety (90) days is provided in the Electricity Act, 1910 which is not relevant for the offices of POI established under



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Section 38 of NEPRA Act, 1997. NEPRA is the appellate forum against the decisions of POI and not that of Electric Inspectors. The same has been held by the honorable Lahore High Court in the following cited judgments PLJ 2017-Lahore-627 and PLJ-2017-Lahore-309. The objection of LESCO in this regard is devoid of force, therefore rejected.

- iii. No documentary evidence has been placed before us by the Respondent to substantiate his stance that notice issued by the POI for the hearing dated 21.05.2019 was served/received by LESCO. Obviously, LESCO had no opportunity to rebut the assertions of the Respondent in the hearing dated 21.05.2019. We are inclined to accept the plea of LESCO for remanding back the matter to the POI.
- iv. In view of the above, the impugned decision is set aside and the matter is remanded back to the POI for deciding afresh after providing the opportunity of hearing to both the parties in accordance with the law.

6. The appeal is disposed of in the above terms.

Abid Hussain  
Member/Advisor (CAD)

Nadir Ali Khoso  
Convener/Senior Advisor (CAD)

Dated: 07.02.2022