



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

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No. NEPRA/AB/Appeal/030/POI/2020/ 2/0

March 02, 2022

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| 1. Ishtiaq Ahmed,
S/o. Mian Muhammad Afzal,
R/o. House No. 01, Street No. 03,
Naulakha Park, Faiz Bagh, 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. A. D. Bhatti,
Advocate High Court,
First Floor, Rehmat Tower,
13-Fane Road, Lahore |
| 5. Sub Divisional Officer (Operation),
LESCO Ltd,
Sultan Pura 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. Ishtiaq Ahmed Against the Decision Dated 22.10.2019 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 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. 030/POI-2020

Lahore Electric Supply Company LimitedAppellant

Versus

Ishtiaq Ahmed S/o Mian Muhammad Afzal, R/o House No.01,
Street No.03, Naulakha Park, Faiz Bagh, LahoreRespondent

APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 22.10.2019 PASSED BY PROVINCIAL OFFICE OF INSPECTION LAHORE REGION, LAHORE

For the Appellant:

Mr. Saeed Bhatti 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 22.10.2019 of the Provincial Office of Inspection, Lahore Region, Lahore (hereinafter referred to as the POI) is being disposed of.
2. Briefly speaking, LESCO is a licensee of the National Electric Power Regulatory Authority (hereinafter referred to as the NEPRA) for distribution of electricity in the territory specified as per terms and conditions of the license and the Respondent



National Electric Power Regulatory Authority

is its domestic consumer bearing Ref No.01-11155-0059303 with a sanctioned load of 2.2 kW under the A-1(a) tariff category. The billing meter of the Respondent was checked by SDO LESCO on 27.08.2015 and reportedly, it was found tampered for the dishonest abstraction of electricity. Notice dated 04.09.2015 was served to the Respondent regarding the above discrepancy and a demand notice of Rs.2,165/- along with a provisional detection bill of Rs.8000/- were issued to the Respondent, which were paid on 14.09.2015 and 09.09.2015 respectively. Afterwards, the Respondent received a bill of Rs.71,726/- in September 2019, which included the detection bill of Rs.46,409/- for 2,175 units for the period March 2015 to August 2015 six (6) months charged by the LESCO on the basis of the connected load.

3. Being aggrieved with the actions of the LESCO, the Respondent filed a civil suit before the Civil Judge, Lahore and challenged the above-referred bill. The Honorable Civil Judge vide order dated 23.05.2019 returned the plaint of the Respondent due to the lack of jurisdiction. Later on, the Respondent filed a complaint dated 21.07.2019 before the POI and assailed the bill of Rs. 71,726/- for September 2019 which contained the detection bill of Rs. 46,409/-. The matter was disposed of by the POI vide decision dated 22.10.2019, wherein the bill of Rs.71,726/- for September 2019 including the detection bill of Rs.46,409/- for 2,175 units for the period, March 2015 to August 2015 six (6) months was declared as null & void. LESCO was directed to revise the bills of July 2015 and onwards till the replacement of the impugned meter on the basis of consumption of July 2014 and onwards. LESCO was further directed to overhaul the billing account



National Electric Power Regulatory Authority

of the Respondent accordingly.

4. Being dissatisfied with the decision of the POI dated 22.10.2019 (hereinafter referred to as the impugned decision), the 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.46,409/- for 2,175 units for the period March 2015 to August 2015 six (6) months was debited to the Respondent on account of dishonest abstraction of electricity through tampering the meter as observed on 27.08.2015; (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 was rendered by the POI by relying upon the Clause 4.4 of the Consumer Service Manual (CSM); (6) the impugned decision is illegal, unlawful, without jurisdiction, void ab-initio, biased and based on surmises and conjectures, hence 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 submitted.
6. After issuing notice, hearing of the appeal was held at the NEPRA Regional Office Lahore on 14.01.2022, which was attended by learned counsels for the Appellant LESCO and the Respondent respectively. Learned counsel for the LESCO



National Electric Power Regulatory Authority

reiterated the same contentions as given in memo of the appeal and contended that the detection bill of Rs.46,409/- for 2,175 units for the period March 2015 to August 2015 six (6) months was charged to the Respondent due to theft of electricity committed through the tampered meter as noticed by LESCO during checking on 27.08.2015. Learned counsel for LESCO opposed the analysis of the POI for revision of the detection bill as per Chapter 4 of the CSM and argued that Chapter 9 of the CSM is applicable in the instant case being theft of electricity dispute. Learned counsel for LESCO prayed for setting aside the impugned decision being violative of Chapter 9 of the CSM. He further pleaded that the above detection bill be declared as justified and payable by the Respondent. On the contrary, learned counsel for the Respondent averred that the billing meter of the Respondent was stolen on 07.09.2015 for which FIR was registered with the police and a demand notice for installation of a new meter along with a bill of Rs.8000/- was paid by the Respondent on 14.09.2015. Learned counsel for the Respondent opposed the charging of the detection bill of Rs.46,409/- for 2,175 units for the period March 2015 to August 2015 six (6) months on the plea that the low consumption in July 2015 and August 2015 was charged by the LESCO due to missing meter, as such the POI has rightly allowed LESCO to charge the detection bill for two (2) months as per Clause 4.4 of the CSM. He further denied the allegation of theft of electricity levelled by the LESCO and argued that the checking was carried out by the SDO LESCO unilaterally, hence it cannot be treated as reliable. Learned counsel for the Respondent finally prayed for upholding

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National Electric Power Regulatory Authority

the impugned decision.

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

i. LESCO raised the preliminary objection regarding the jurisdiction of the POI.

It 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 mentioned 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 possesses special expertise in examining the working of the metering equipment and other related 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 rejected.

ii. The disputed billing meter of the Respondent was found tampered during the LESCO checking on 27.08.2015. Resultantly, a detection bill of Rs.46,409/- for



National Electric Power Regulatory Authority

2,175 units for the period March 2015 to August 2015 six (6) months was charged to the Respondent by LESCO and added in the bill for September 2015, which was agitated before the POI.

- iii. LESCO charged the above detection bill for a period of six (6) months i.e. March 2015 to August 2015 to the Respondent being a general supply consumer i.e. A-I due to theft of electricity, which is violative of Clause 9.1c(3) of the CSM. The Said Clause of the CSM allows the 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. Moreover, LESCO charged the above detection bill based on 4 kW including the AC load, however, LESCO did not produce any document, which may show that the illegally extended load as alleged was regularized by LESCO. Hence, we hold that the detection bill of Rs.46,409/- for 2,175 units for the period March 2015 to August 2015 six (6) months charged to the Respondent by the LESCO is unjustified and liable to be declared as null and void, which concurs with the determination of the POI.
- iv. According to Clause 9.1c(3) of the CSM, the Respondent is liable to be charged the detection bill as per the sanctioned load maximum for three (3) months i.e. June 2015 to August 2015. Calculation of the detection bill in this regard is done below as per the formula given in Annex VIII of the CSM:

$$\begin{aligned} \text{Units/month to be charged} &= \text{Sanctioned load (kW)} \times \text{No. of Hours} \times \text{Load factor} \\ &= 2.2 \times 730 \times 0.2 = \mathbf{321 \text{ units/month}} \end{aligned}$$



National Electric Power Regulatory Authority

Period: June 2015 to August 2015 (Three (3) months)

(A) Total Units assessed	=Units/ month x No. of Months = 321 x 3	= 963 units
(B) Total units already charged	= 299+209+146	= 654 units
(C) Net chargeable units	= (A) - (B) = 963-654	= 309 units

8. The upshot of the above discussion is that the impugned decision for cancellation of the detection bill of Rs.46,409/- for 2,175 units for the period March 2015 to August 2015 six (6) months is correct and maintained to this extent. LESCO is directed to charge the detection bill for net 309 units for the period June 2015 to August 2015 three (3) months to the Respondent. The billing account of the Respondent should be revised by LESCO after adjusting payments made 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: 07.02.2022