



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

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No. NEPRA/AB/Appeal/037/POI/2020/ 361

April 07, 2022

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| 1. Salar Ali,
S/o. Riaz Ali Raja,
R/o. 31-A, Umer Din Road,
Wassanpura, 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 (Operation),
LESCO Ltd,
Sultanpura 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. Salar Ali Against the Decision Dated 17.12.219 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 28.03.2022, 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. Additional Director (IT) --for uploading the decision on NEPRA website



National Electric Power Regulatory Authority

Before The Appellate Board

In the matter of

Appeal No. 037/POI-2020

Lahore Electric Supply Company Limited

.....Appellant

Versus

Salar Ali S/o Riaz Ali Raja, R/o.31-A,
Umer Din Road, Wassanpura, Lahore

.....Respondent

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,
TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997
AGAINST THE DECISION DATED 17.12.2019 PASSED BY PROVINCIAL
OFFICE OF INSPECTION LAHORE REGION, LAHORE**

For the Appellant:

Mr. Saeed Bhatti Advocate

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 17.12.2019 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



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referred to as 'the NEPRA') for distribution of electricity in the territory specified as per terms and conditions of the license and the Respondent is its domestic consumer bearing Ref No.10-11155-0708200 with a sanctioned load of 1 kW under the A-1(a) tariff category. As per fact of the case, the billing meter of the Respondent was checked by Metering and Testing (M&T) LESCO on 15.06.2019 and reportedly, it was found tampered, therefore FIR No.1063/2019 dated 19.06.2019 was registered with the police against the Respondent. Afterwards, a detection bill of Rs.74,525/- for 2,200 units for the period December 2018 to May 2019 six (6) months was charged to the Respondent by the LESCO on the basis of the connected load and added in the bill for September 2019.

3. Being aggrieved, the Respondent filed a complaint before the POI on 02.10.2019 and assailed the above detection bill. The matter was disposed of by the POI vide decision dated 17.12.2019, wherein the detection bill of Rs.74,525/- for 2,200 units for the period, December 2018 to May 2019 six (6) months charged by the 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. 17.12.2019 (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.74,525/- for 2,200 units for the period December 2018 to May 2019 six (6) months was debited to the Respondent on



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account of dishonest abstraction of electricity through tampering the meter as observed on 15.06.2019; (2) the FIR No.1063/2019 dated 19.06.2019 was registered against the Respondent; (3) 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, (4) the POI failed to analyze the consumption data in true perspective and declared the above detection bill as void, (5) the POI failed to examine the disputed meter which is essential to resolve the controversy between the parties. LESCO maintained that the impugned decision 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 10.03.2022, which was attended by learned counsel for the Appellant LESCO and the Respondent did not appear. Learned counsel for the LESCO reiterated the same contentions as given in memo of the appeal and contended that the detection bill of Rs.74,525/- for 2,200 units for the period December 2018 to May 2019 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 15.06.2019. Learned counsel for LESCO further opposed the analysis of the POI for the consumption data of the Respondent and argued that Chapter 9 of the CSM is applicable in the instant case being theft of electricity dispute. As per learned counsel for LESCO, FIR was



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registered against the Respondent and the tampered meter was handed over to the police, which was not checked by the POI. Learned counsel for LESCO prayed for setting aside the impugned decision and for declaring the impugned detection bill as justified.

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

- i. With regard to the preliminary objection of the LESCO 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



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LESCO checking on 15.06.2019. Resultantly, a detection bill of Rs.74,525/- for 2,200 units for the period December 2018 to May 2019 six (6) months was charged to the Respondent by LESCO, which was agitated before the POI.

- iii. Clause 9.1c(3) of the CSM allows LESCO to recover the detection bill maximum for three (3) months to the Respondent being general supply consumer i.e. A-I in the absence of approval of the Chief Executive Officer LESCO. Whereas LESCO charged the above detection bill for a period of six (6) months i.e. December 2018 to May 2019 to the Respondent due to theft of electricity without approval of the Chief Executive Officer LESCO, which is violative of Clause 9.1c(3) of the CSM. Hence, we hold that the detection bill of Rs.74,525/- for 2,200 units for the period December 2018 to May 2019 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. LESCO lodged the FIR No.1063/2019 dated 19.06.2019 against the Respondent on account of theft of electricity and charged the above detection bill on the basis of connected load i.e. 3.506 kW. However, the Respondent neither submitted his reply/para-wise comments to the appeal nor appeared before us to rebut the contentions of LESCO. Under these circumstances, the Respondent is liable to be charged the detection bill maximum for three (3) months i.e. March 2019 to May 2019 as per Clause 9.1c(3) of the CSM and calculation of the detection bill in this regard is done below as per the formula given in Annex VIII of the CSM on the basis of the connected load i.e. 3.506 as noticed by LESCO on 15.06.2019:



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$$\begin{aligned}\text{Units/month to be charged} &= \text{Sanctioned load (kW)} \times \text{No. of Hours} \times \text{Load factor} \\ &= 3.506 \times 730 \times 0.2 = \mathbf{512 \text{ units/month}}\end{aligned}$$

Period: March 2019 to May 2019 (Three (3) months)

(A) Total Units assessed	=Units/ month x No. of Months = 512 x 3 = 1,536 units
(B) Total units already charged	= 171+270+421 = 862 units
(C) Net chargeable units	= (A) - (B) = 1536-862 = 674 units

8. The upshot of the above discussion is that the impugned decision for cancellation of the detection bill of Rs.74,525/- for 2,200 units for the period December 2018 to May 2019 six (6) months is correct and maintained to this extent. LESCO is directed to charge the detection bill for net 674 units for the period March 2019 to May 2019 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)

Dated: 28.03.2022