



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

NEPRA Office , Ata Turk Avenue (East), G5/1, Islamabad

Tel. No. +92 051 2013200 Fax No. +92 051 2600030

Website: www.nepra.org.pk E-mail: office@nepra.org.pk

No. NEPRA/AB/Appeal/043/POI/2020/ 759


July 13, 2022

- | | |
|---|---|
| 1. Shahbaz Riaz Butt,
S/o. Muhammad Riaz Butt,
R/o. House No. 431-A, Bilal Street,
Imamia Colony, Shahdara, Lahore | 2. Chief Executive Officer,
LESCO Ltd, 22-A,
Queens Road, Lahore |
| 3. Muhammad Arif Malhi,
Advocate High Court,
01-District Courts, Sheikhpura | 4. Rana Jabbar,
Advocate High Court,
First Floor, Sheikh Elahi Manzil,
Near Al-Taj Hotel, 1-Turner Road,
Lahore |
| 5. Assistant Manager (Operation),
LESCO Ltd,
Faisal Park Sub Division, District
Sheikhpura | 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. Shahbaz Riaz Butt Ali Against the Decision Dated 17.12.2019 of the Provincial Office of Inspection to Government of the Punjab Lahore Region, Lahore

Please find enclosed herewith the order of the Appellate Board dated 06.07.2022, 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. 043/POI-2020

Lahore Electric Supply Company Limited

.....Appellant

Versus

Shahbaz Riaz Butt, S/o Muhammad Riaz Butt,
R/o, House No.431-A, Bilal Street, Imamia Colony,
Shahdara, 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 THE PROVINCIAL OFFICE OF INSPECTION LAHORE REGION LAHORE

For the Appellant:

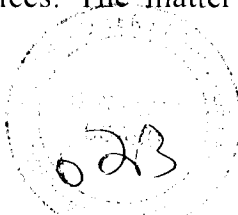
Mr. Muhammad Arif Malhi Advocate

For the Respondent:

Mr. Shahbaz Riaz Butt

DECISION

1. Brief facts leading to the filing of instant appeal are that Mr. Shahbaz Riaz Butt (hereinafter referred to as "the Respondent") is a domestic consumer of Lahore Electric Supply Company Limited (hereinafter referred to as the "the Appellant") bearing Ref No.46-11114-1342900-U with applicable tariff category A-1. The Respondent filed a complaint before the Provincial Office of Inspection Lahore Region, Lahore (the "POI") on 11.09.2019 and challenged the bill total amounting to Rs.123,914/- charged by the Appellant in August 2019, which included the arrears of Rs.113,876/-. According to the decision of the POI, several opportunities for hearings i.e. 24.09.2019, 15.10.2019, 05.11.2019, 26.11.2019, and 17.12.2019 were provided to both parties but the Appellant failed to appear before the POI and failed to submit the reply/para-wise comments despite repeated notices. The matter was disposed of by the POI vide





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decision dated 17.12.2019 on ex-parte basis and the arrears of Rs.113,876/- excessively charged by the Appellant to the Respondent and added to the bill for August 2019 were declared as null and void.

2. Subject appeal has been filed by the Appellant against the POI decision dated 17.12.2019 (hereinafter referred to as the "impugned decision") before the NEPRA. In its appeal, the Appellant opposed the impugned decision *inter alia*, on the grounds that neither any notice was served nor sufficient opportunity of defense was provided by the POI; that the impugned decision is against the principle of justice; that no one should be condemned unheard; that the POI has wrongly exercised the jurisdiction vested with it; that the impugned decision is based on ex-parte proceedings without associating the Appellants. The Appellant prayed that the impugned decision is liable to be set aside and the complaint of the Respondent is liable to be dismissed in the interest of justice.

3. Proceedings by the Appellate Board

- 3.1 Upon filing of the instant appeal, a Notice dated 02.07.2020 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days. In response, the Respondent submitted his reply/para-wise comments to the appeal before the NEPRA on 30.07.2020, wherein the Respondent opposed the maintainability of the appeal on the following grounds that the appeal is hopeless time-barred being filed after the prescribed time; that the Appellant could not prove its case through solid evidence and the POI has passed a well-reasoned and speaking order; that the bill was excessively charged by the Appellant without any moral justification; that the Appellant did not appear before the POI intentionally despite the Appellant officials were well aware of the proceedings before the POI; and that the appeal is liable to be dismissed with special cost.





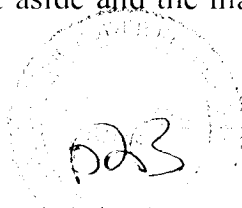
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4. Hearing

4.1. Hearing in the matter of the subject Appeal was initially scheduled for 10.03.2022 at NEPRA Regional Office Lahore, which was not attended by either party, to provide an opportunity for hearing, the case was adjourned till the next date.

4.2. The hearing of the appeal was again fixed for 02.06.2022 at NEPRA Head Office Islamabad and accordingly, the notices dated 26.05.2022 were served to the parties (i.e. the Appellant and the Respondents) to attend the hearing. On the said date of hearing, no one appeared for the Appellant, whereas Mr. Najamuddin appeared on behalf of the Respondent. However, Mr. Najamuddin had no authorization from the Respondent to plead the case. Therefore the hearing was adjourned with the direction to Mr. Najamuddin to obtain the authorization from the Respondent.

4.3. The hearing was rescheduled for 16.06.2022 and notices dated 07.06.2022 were sent to both the parties to attend the hearing. As per schedule, the hearing of the appeal was conducted at the NEPRA Regional Office, Lahore on 16.06.2022, in which learned counsel of the Appellant was present while the Respondent appeared in person. At the outset of the hearing, learned counsel for the Appellant repeated the same contentions as given in memo of the appeal and *inter alia*, contended that neither any notice was served by the POI nor any intimation was given by the Respondent regarding the proceedings before the POI, hence the impugned decision could not be decided on ex-parte basis. The Appellant 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





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- 5.2 The Appellant claims that no notices were served by the POI with regard to the proceedings of the Respondent's complaint, hence the impugned ex-parte decision be set aside and the matter be remanded back to the POI for the decision on merits. The Respondent rebutted the assertions of the Appellant but could not provide any documentary evidence, which could substantiate that the notices were served by the POI to the Appellant. Since the factual controversies are involved in the case, which needs detailed investigation to determine the fate of the disputed bill of August 2019, hence both the parties showed their consent to remand back the matter to the POI for determination afresh.
- 6 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 within thirty (30) days from the date of receipt of NEPRA decision.
- 7 The appeal is disposed of in the above terms.

Syed Zavar Haider
Member

Muhammad Irfan-ul-Haq
Member

Abid Hussain
Convener

Dated: 06/7/2022

