



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

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No. NEPRA/AB/Appeal/047/POI/2021/ 3/2

March 29, 2022

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| 1. Muhammad Ashiq,
S/o. Mian Muhammad Aslam,
R/o. Lohari Wala, Mazhar Abad,
Depalpur, Tehsil Depalpur,
District Okara | 2. Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore |
| 3. Malik Asad Akram Awan.
Advocate High Court,
Sargodha Khushab Law Chambers,
9 Turner Road, Turner Tower,
First Floor ,Lahore | 4. Assistant Manager (Operation),
LESCO Ltd,
Mazhar Abad Sub Division,
Depalpur |
| 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. Muhammad Ashiq Against the Decision Dated 09.12.2020 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 15.03.2022, 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 Appellate Board

In the matter of

Appeal No. 047/POI-2021

Lahore Electric Supply Company Limited

.....Appellant

Versus

Muhammad Ashiq S/o Mian Muhammad Aslam, R/o Lohari Wala,
Mazhar Abad, Depalpur, District Okara

.....Respondent

APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 09.12.2020 PASSED BY PROVINCIAL OFFICE OF INSPECTION LAHORE REGION, LAHORE

For the Appellant:

Mr. Malik Asad Advocate

For the Respondent:

Mr. Muhammad Ashiq

DECISION

1. Brief facts leading to the filing of instant appeal are that the Respondent is an agricultural consumer of the Lahore Electric Supply Company Limited (hereinafter referred to as the LESCO) bearing Ref No.45-11455-1371409-R with a sanctioned load of 15 kW under the D-2(b) tariff category. Reportedly, the display of the billing meter of the Respondent was found washed during the Metering and Testing (M&T) LESCO checking dated 29.09.2016 and it was replaced with a new meter by the LESCO vide meter change order (MCO) dated 30.09.2016.
2. Subsequently, the Respondent approached the Provincial Office of Inspection, Lahore Region, Lahore (the POI) on 24.12.2019 and disputed the arrears of Rs.671,046/- included in the bill for November 2019. In his complaint, the Respondent prayed for



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withdrawal of 41,247 units excessively charged by the LESCO. The POI decided the matter vide the decision dated 09.12.2020 (the impugned decision), wherein 26,713 units were declared as excessive and LESCO was directed to refund the same to the Respondent. As per the impugned decision, LESCO was further directed to charge 6,570 units for the period July 2016 to 29.09.2016 to the Respondent.

3. LESCO has filed the instant appeal before the NEPRA against the POI decision dated 09.12.2020 (hereinafter referred to as the impugned decision), wherein it is contended that the impugned decision suffers from serious misreading and non-reading of record and was passed in a mechanical and slipshod manner. LESCO further contended that the impugned decision is self-contradictory as on one side, the POI declared the detection bill as illegal and on the other side he is mentioning that MDI was correctly charged. As per LESCO, the POI failed to disclose any valid reasons and the impugned decision is non-speaking as the POI rendered the impugned decision without appreciating the available evidence on record. LESCO finally prayed for setting aside the impugned decision and termed the detection bill as justified.
4. Notice of the appeal was sent to the Respondent for filing reply/para-wise comments, which were filed on 15.06.2021. In his reply, the Respondent supported the impugned decision and submitted that the LESCO charged 26,713 excessive units till June 2016 as compared to the reading of the meter noted during checking dated 29.06.2016. The Respondent prayed for the maintainability of the impugned decision and declaring the detection bill as illegal.
5. Hearing of the appeal was held at the NEPRA Regional Office Lahore on 04.02.2022



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wherein learned counsel represented the Appellant LESCO and the Respondent appeared in person. Learned counsel for the LESCO raised the preliminary objection regarding limitation and averred that the complaint of the Respondent before the POI is barred by the time being filed after three (3) years of the dispute, which is violative of Article 181 of the Limitation Act 1908. Learned counsel for LESCO reiterated the same arguments as given in memo of the appeal and defended the charging of the bills till September 2016. Learned counsel for LESCO submitted that the POI had passed the impugned decision without lawful authority and prayed for setting aside the same. On the contrary, the Respondent defended the impugned decision and prayed for its maintainability.

6. Arguments were heard and the record placed before use was examined. Before going into the merits of the case, the preliminary objection of the LESCO regarding the limitation needs to be addressed. It is observed that the Respondent filed a complaint before the POI on 24.12.2019 and disputed the arrears of Rs.671,046/- included in the bill for November 2019, whereas the POI vide the impugned decision declared 26,713 units as excessive till June 2016. Thus the relief granted by the POI to the Respondent till June 2016 is beyond three years from the date of complaint i.e.24.12.2019, which is not consistent with Article 181 of the Limitation Act, 1908. In this regard, reliance is placed on the Lahore High Court, judgment dated 30.11.2015 in respect of writ petition No.17314-2015 in the case “Muhammad Hanif v/s NEPRA and others”, wherein it was held as under:

“The petitioner at the most can invoke Article 181 of The Limitation



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Act, 1908 which is the residuary provision and caters the issue of limitation where no period of limitation is provided elsewhere in the Schedule of The Limitation Act, 1908 or under Section 48 of The Code of Civil Procedure (V of 1908). Article 181 of The Limitation Act, 1908 prescribes three years for filing an application that applies when the right to apply accrues as prescribed in Article 181 of Limitation Act, 1908."

Foregoing in view, we are convinced with the arguments of LESCO that the impugned decision for the refund of 26,713 units to the Respondent till June 2016 is barred by time as the application was filed before the POI after three (3) years. Therefore the impugned decision is liable to be set aside.

7. In view of the appeal, the appeal is accepted and the impugned decision is set aside.

Abid Hussain
Member/Advisor (CAD)

Nadir Ali Khoso
Convener/Senior Advisor (CAD)

Dated: 15.03.2022

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