



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

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No. NEPRA/Appeal/065/POI/2020/ 1310

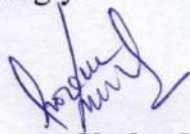
November 29, 2022

- | | |
|---|---|
| 1. Lahore Regency (Pvt.) Ltd,
Through its Managing Director,
25-Egerton Road, 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. Qaiser Mahmood Ch,
Advocate High Court,
Lawmen Associates,
4-A, Mozang Road, Lahore |
| 5. Assistant Manager (Operation),
LESCO Ltd,
Davis Road 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. Lahore Regency (Pvt.) Limited Against the Decision Dated 03.12.2019 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 24.11.2022, 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. 065/POI-2020

Lahore Electric Supply Company Limited

.....Appellant

Versus

Lahore Regency (Pvt) Limited. Through its Managing Director,
25-Egerton, Road, Lahore

.....Respondent

**APPEAL UNDER SECTION 38(3) OF THE REGULATION OF GENERATION,
TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997
AGAINST THE DECISION DATED 03.12.2019 PASSED BY THE PROVINCIAL
OFFICE OF INSPECTION LAHORE REGION, LAHORE**

For the Appellant:

Mr. Saeed Ahmed Bhatti Advocate

Mr. Waseem Abbas SDO

Mr. M. Jamil Asif TA

For the Respondent:

Mr. Qaiser Mahmood Advocate

DECISION

1. Briefly speaking, Lahore Regency (Pvt) Limited. (hereinafter referred to as the "Respondent") is an industrial consumer of Lahore Electric Supply Company Limited (hereinafter referred to as the "Appellant") bearing Ref No.24-11334-0034008 having sanctioned load of 497kW under the B-2(b) tariff category. Reportedly, the billing meter of the Respondent was found 63.87% slow and the connected load was observed as 622 kW during the Metering and Testing (M&T) team checking dated 06.09.2019. Therefore, a detection bill of Rs.18,012,025/- against 949,231 units+2,217 kW MDI for





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twelve (12) months for the period August 2018 to September 2019 was debited to the Respondent on the basis of consumption of corresponding months of the previous year and added to the bill for September 2019.

2. Being aggrieved, the Respondent approached the Provincial Office of Inspection, Lahore Region, Lahore (hereinafter referred to as the "POI") on 16.10.2019 and assailed the above-referred detection bill. The POI inspected the metering equipment of the Respondent on 08.11.2019 in presence of both parties, wherein the billing meter of the Respondent was found 64.7% slow, the checking report was signed by both parties without raising any observation. The POI vide the decision dated 03.12.2019 declared the detection bill of Rs.18,012,025/- against 949,231 units+2,217 kW MDI for twelve (12) months for the period August 2018 to September 2019 as null and void. The POI directed the Appellant to charge the revised bills for July 2019 and onwards till the replacement of the slow meter after adding 64.7% slowness of the meter. The POI further directed the Appellant to overhaul the billing account of the Respondent and for adjustment of excess payments in future bills.
3. Being dissatisfied, the Appellant has filed the instant appeal before the NEPRA against the POI decision dated 03.12.2019 (hereinafter referred to as the "impugned decision"). The Appellant opposed the impugned decision *inter alia*, on the main grounds that the charging of the detection bill of Rs.18,012,025/- for 949,231 units+2,217 kW MDI for twelve (12) months for the period August 2018 to September 2019 was fully proved





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through the submission of authentic documents including consumption data but the POI erroneously relied its determination upon Clause 4.4(e) of the Consumer Service Manual-2010 (the "CSM-2010"); that the POI did not consider the consumption data while deciding the fate of above detection bill and failed to exercise the powers vested under the Section 26(6) of Electricity Act 1910; that there is no restriction of the period in case of slowness proved by the competent forum; that the impugned decision is illegal, unlawful, arbitrary, and the same is liable to be set aside.

4. Proceedings by the Appellate Board

Upon filing of the instant appeal, a Notice dated 09.07.2020 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days. The Respondent submitted his reply to the Appeal before NEPRA on 20.07.2020. In his reply, the Respondent submitted that the Appellant was approached for extension on load from 877 KW to 1600 KW vide application dated 21.05.2018 for which demand notices dated 16.04.2019 for the replacement of metering equipment and security deposit were paid. The Respondent further submitted that officials of the Appellant visited the site on 12.09.2019 for the replacement of the old meters and allegedly observed the slowness in the billing meter of the Respondent. As per Respondent, SDO being the competent official of the Appellant takes the meter readings but neither he pointed out such discrepancy of slow meter nor was the same observed by the POI. According to the Respondent, a detection bill of Rs.18,012,025/- against 949,231 units+2,217 kW MDI for twelve (12)





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months for the period August 2018 to September 2019 was disputed before the POI. The Respondent contended that the POI is empowered to adjudicate the matter under Section 38 of the NEPRA Act and the Appellants are under obligation to charge 64.7% slowness for two months only as per Clause 4.4(e) of the CSM-2010. The Respondent defended the impugned decision and prayed for upholding the same.

5. Hearing

- 5.1 Hearing of the Appeal was fixed for 10.03.2022 for which notices dated 03.03.2022 were sent to both parties. On the given date, counsels for both the Appellant and the Respondent were present. However, the hearing was adjourned at the request of the counsel for the Respondent.
- 5.2 After issuing notices dated 07.06.2022 to both parties, the hearing was conducted at NEPRA Regional Office Lahore on 16.06.2022, which was attended by the counsels for both the Respondent and the Appellant. The counsel for the Respondent again requested for the adjournment to prepare for the case, which was not opposed by the counsel for the Appellant. In view of the above, the hearing was adjourned till the next date.
- 5.3 Notices dated 15.08.2022 were issued to both the Appellant and the Respondent and hearing of the Appeal was conducted at NEPRA Regional Office Lahore on 23.08.2022, which was attended by XEN for the Appellant and counsel for the Respondent. During the hearing, XEN of the Appellant informed that the counsel engaged in the present case is suffering from severe illness and could not attend the hearing. He requested the adjournment, which was allowed till the next date.





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5.4 Lastly, notices dated 21.09.2022 were sent to both parties, and the appeal was heard at NEPRA Regional Office Lahore on 29.09.2022, which was attended by both parties. Learned counsel for the Appellant reiterated the same arguments as given in memo of the appeal and defended the charging of the detection bill of Rs.18,012,025/- against 949,231 units+2,217 kW MDI for twelve (12) months for the period August 2018 to September 2019 on the grounds that two CTs of the billing meter of the Appellant became defective and the Respondent deliberately shifted the load of second connection on the impugned billing meter of first connection, hence the above said detection bill was charged on the basis of consumption of corresponding months of the previous year due to the defective meter. He opposed the impugned decision for revision of the above detection bill for two months @ 64.7% slowness of the meter and prayed to allow the above-mentioned detection bill being justified. To verify the allegation of the Appellant, consumption data of the second connection for the disputed period was solicited from the Appellant within seven (07) days. Counsel for the Respondent refuted the allegation of the Appellant, supported the impugned decision, and prayed for upholding the same.

6. Arguments heard and the record examined. Following are our observations:

6.1 Jurisdiction of the POI in the instant case:

While addressing the preliminary objection of the LESCO regarding the failure of POI in deciding the matter within ninety (90) days under Section 26(6) of the Electricity Act, 1910, it is noted that the said restriction of the time limit is inapplicable for the POI





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established under Section 38 of the NEPRA Act, 1997. The same has already been held by the Honorable Lahore High Court in its judgments reported in PLJ 2017-Lahore-627 and PLJ-2017-Lahore-309. As such the objection of the LESCO in this regard carries no weight, hence rejected.

6.2 Detection bill of Rs.18,012,025/- against 949,231 units+2,217 kW MDI for twelve (12) months for the period August 2018 to September 2019:

The Appellant charged a detection bill of Rs.18,012,025/- against 949,231 units+ 2,217 kW MDI for twelve (12) months for the period August 2018 to September 2019 to the Respondent, which was assailed by him before the POI, who vide impugned decision reduced the period of detection bill from twelve months to two months. Since the dispute pertains to the period from August 2018 to September 2019, therefore the matter shall be dealt under the then-applicable Consumer Service Manual-2010 (the "CSM-2010").

6.3 The Appellant has charged the above detection bill to the Respondent after observing 63.87% slowness in the billing meter. The POI during the joint checking dated 08.11.2019 observed 64.7% slowness in the impugned billing meter, the checking report was signed by both parties without raising any objection. Hence, there is no dispute over the slowness of the meter and only the fate of the detection bill needs to be decided.

6.4 Under Chapter 9 of the CSM-2010, the detection bill is allowed in case of direct theft or illegal abstraction of electricity. The relevant excerpt is reproduced below:

NOTE: Mere occurrence of any of the above defects in a meter does not warrant illegal abstraction of electricity. In cases sometimes, weathering effects atmospheric conditions and also wears out the postal orders, seals, and other parts of the metering equipment. The detecting Authority must be reasonably sure regarding the illegal abstraction happening before it actually decides to charge



consumer for the same. The same is true for the appellant forum as well. In addition in places where the meters are outside the premises, the prime responsibility of the maintenance of the healthy state of the meter rests with the LESCO. A consumer shall not be charged if the meter wears out through normal atmospheric effects or through some internal fault in a meter for which a consumer cannot be held responsible. For such cases, the normal course of action on part of a LESCO should be to replace the meter with a healthy meter. However, if the LESCO feels that the quantum of energy lost because of malfunctioning of the metering equipment is more than ONE billing cycle then in such a case the LESCO shall install a check meter in series with the impugned meter and declare the check meter as the billing meter. Difference between the consumption of the two meters to be recorded and the same may be charged to the consumer for a maximum of two billing cycles. However, it must be ensured that this would not be a DETECTION BILL."

- 6.5 However, in case of a defect/slowness of metering equipment, not attributable to any act or omissions of the Consumer. DISCO is not allowed to issue any detection bill to the consumer; rather it can charge the Consumer maximum for two regular billing cycles.

Clause 4.4(e) of the CSM-2010 is relevant, which states that:

Clause 4.4(e) of the CSM-2010

The charging of consumers on the basis of defective code, where the meter has become defective and is not recording the actual consumption will not be more than two billing cycles. The basis of charging will be % of the consumption recorded in the same month of the previous year or the average consumption of the last 11 months whichever is higher. Only the Authorized employee of LESCO will have the power to declare a meter defective. However, the consumer has a right to challenge the defective status of the energy meter and the LESCO will get the meter checked at the site with a check meter or a rotary sub-standard or digital power analyzer accompanied by an engineer of the metering and testing laboratory free of cost.

- 6.6 In the instant case, the Appellant raised the detection bill against the Respondent after



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finding the meter slow by 63.87%. During the hearing, the Appellant though stated that the Respondent shifted the load of its second meter on the slow billing meter of the impugned connection. In this regard, the Appellants were directed to submit the consumption data of the second connection for the disputed period to verify their assertion but they did not provide any data in support of their contention.

- 6.7 Given the above facts, the matter simply pertains to the slowness of the impugned meter. In such case, under Clause 4.4(c) of the CSM-2010, the concerned distribution company upon establishing the meter slowness is under obligation to either remove the meter immediately or charge the consumer enhanced MF till the replacement with a correct meter to avoid financial loss.
- 6.8 Clause 4.4(e) of the CSM-2010 is clear that on account of a fault not attributed to the Respondent being a Consumer, the Appellant can charge the bills maximum of up to two billing cycles for regular bills. Therefore, the detection bill of Rs.18,012,025/- against 949,231 units+2,217 kW MDI for twelve (12) months for the period August 2018 to September 2019 debited to the Respondent is unjustified and the same is cancelled, which is also the determination of the POI.
- 6.9 Since 63.87% slowness was discovered by the Appellant on 06.09.2019 and 64.7% slowness in the billing meter was confirmed by the POI during joint checking dated 08.11.2019. The POI allowed the Appellant to charge the revised bills for July 2019 and onwards till the replacement of the slow meter after adding 64.7% slowness. The Respondent supported the impugned decision and prayed for upholding the same. Whereas, the Appellant opposed the finding of POI to this extent but neither provided cogent reasons nor submitted substantial documented evidences to modify the same.





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Under these circumstances, we are inclined to agree with the determination of the POI for allowing the Appellant to charge the revised bills for two months only due to 64.7% slowness of the meter under Clause 4.4(e) of the CSM-2010.

6.10 The Appellant is directed to overhaul the billing account of the Respondent, accordingly.

7. In view of the above, the appeal is dismissed.

Syed Zavar Haider
Member

Muhammad Irfan-ul-Haq
Member

Abid Hussain
Convener

Dated: 24/11/2022

