



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

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No. NEPRA/Appeal/124/POI/2020/ 1325

December 05, 2022

- |   |   |
|---|---|
| 1. Munir Ahmad,<br>R/o. Main Gulshan Park Colony,<br>Near Masjid Academy, Lahore                | 2. Chief Executive Officer,<br>LESCO Ltd,<br>22-A, Queens Road,<br>Lahore   |
| 3. Saeed Ahmed Bhatti,<br>Advocate High Court,<br>66-Khyber Block, Allama Iqbal Town,<br>Lahore | 4. A. D. Bhatti,<br>Advocate High Court,<br>First Floor, Rehmat Tower,<br>13-Fane Road, Lahore  |
| 5. Sub Divisional Officer (Operation),<br>LESCO Ltd,<br>Multan Road Sub Division,<br>Lahore     | 6. POI/Electric Inspector,<br>Lahore Region, Energy Department,<br>Govt. of Punjab, Block No. 1,<br>Irrigation Complex, Canal Bank,<br>Dharampura, Lahore |

Subject: **Appeal Titled LESCO Vs. Munir Ahmad Against the Decision Dated 01.06.2020 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 05.12.2022, 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.124/POI-2020

Lahore Electric Supply Company Limited

.....Appellant

Versus

Munir Ahmad, R/o. Main Gulshan Park Colony,  
Near Masjid Academy, Lahore

.....Respondent

### APPEAL U/S 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997

For the Appellant:

Mr. Saeed Ahmed Bhatti Advocate

For the Respondent:

Mr. A.D Bhatti Advocate

Mr. Mudassar Iqbal

### DECISION

1. Through this decision, the appeal filed by the Lahore Electric Supply Company Limited (hereinafter referred to as the "Appellant") against the decision dated 01.06.2020 of the Provincial Office of Inspection, Lahore Region, Lahore (hereinafter referred to as the "POI") is being disposed of.
2. Briefly speaking, Mr. Munir Ahmad (hereinafter referred to as the "Respondent") is an industrial consumer of the Appellant bearing Ref No.46-11232-2201600-U with sanctioned load of 07kW and the applicable Tariff category is B-1(b). The Appellant has claimed that the billing meter of the Respondent was found 66% slow due to the two dead phases during the Metering & Testing ("M&T") team checking







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dated 28.08.2019. Therefore, a detection bill amounting to Rs.214,522/- against 11,419 units for six months for the period from February 2019 to July 2019 was debited to the Respondent @ 66% slowness of the billing meter and added to the bill for August 2019.

3. Being aggrieved, the Respondent assailed the above detection bill before the POI on 18.09.2019. The complaint of the Respondent was disposed of by the POI vide the decision dated 01.06.2020, wherein the detection bill of Rs.214,522/- for 11,419 units for six months for the period from February 2019 to July 2019 was cancelled.
4. Through the instant appeal, the afore-referred decision dated 01.06.2020 of the POI has been impugned by the Appellant before the NEPRA. In its appeal, the Appellant objected to the maintainability of the impugned decision, *inter alia*, on the main grounds, (1) the billing meter of the Respondent was found 66% slow due to dead phases on 28.08.2019, therefore a detection bill of Rs.214,522/- against 11,419 units for six months for the period from February 2019 to July 2019 was debited to the Respondent in August 2019 due to 66% slowness of the meter; (2) the POI failed to analyze consumption data in true perspective and erred in holding that the detection bill of Rs.214,522/- is null and void; (3) the impugned decision was rendered by the POI after the expiry of statutory period of ninety (90) days, hence it is ex-facie, coram non-judice, void, ab-initio without lawful authority and jurisdiction; (4) the Respondent did not serve notice prior filing complaint to the POI as required under Section 26(6) of the Electricity Act, 1910. The Appellant finally prayed that the impugned decision is liable to be set aside.



**5. Proceedings by the Appellate Board**

5.1 Upon filing of the instant appeal, a notice dated 21.10.2020 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days. The Respondent however submitted reply to the Appeal on 22.02.2021, wherein he stated that the Appellant neither checked the billing meter in his presence nor issued any notice before the alleged checking, therefore, serving of impugned detection bill carries no sanction. The Respondent further stated that the Appellant failed to prove the detection bill of Rs.214,522/- and the same has rightly been set aside by the POI. The Respondent prayed for the dismissal of the appeal being filed after a delay of 87 days.

**6. Hearing**

6.1 Notices dated 21.09.2022 were served to the parties and hearing of the appeal was conducted at Lahore on 29.09.2022, which was attended by the learned counsels for the Appellant and the Respondent. Learned counsel for the Appellant reiterated the same version as contained in the memo of the appeal and contended that 66% slowness was reported in the billing meter of the Respondent due to two dead phases on 28.08.2019, as such the detection bill of Rs.214,522/- against 11,419 units for six months for the period from February 2019 to July 2019 was debited to the Respondent in August 2019 due to 66% slowness of the meter. Learned counsel for the Appellant averred that the dip in consumption data confirms 66% slowness in the impugned billing meter, hence the above detection bill is justified and payable by the Respondent. As per learned counsel for the Appellant, the impugned decision for







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cancellation of the above detection bill is unjustified and the same is liable to be struck down.

6.2 Learned counsel for the Respondent repudiated the contentions of learned counsel for the Appellant and argued that there is no justification to charge the above-referred detection bill due to 66% slowness of the billing meter as the disputed detection bill charged is neither consistent with Clause 4.4(e) of the Consumer Service Manual-2010 (the "CSM-2010") nor the procedure was followed by the Appellant as per provisions of CSM-2010 to establish 66% slowness of the impugned meter. Learned counsel for the Respondent supported the impugned decision and prayed for upholding the same.

7. Arguments heard and the record perused. Following are our observations:

7.1 **Objection regarding the time limit for POI**

As per the record, the Respondent filed his complaint before the POI on 18.09.2019 under Section 38 of the NEPRA Act. POI pronounced its decision on 06.01.2020 i.e. after 110 days of receipt of the complaint. The Appellant has objected that the POI was bound to decide the matter within 90 days under Section 26(6) of the Electricity Act, 1910. In this regard, it is observed that the forum of POI has been established under Section 38 of the NEPRA Act which does not put a restriction of 90 days on POI to decide complaints. Section 38 of the NEPRA Act overrides provisions of the Electricity Act, 1910. Reliance in this regard is placed on the judgments of the honorable Lahore High Court Lahore reported in *PLJ 2017 Lahore 627* and *PLJ 2017 Lahore 309*. Keeping in view the overriding effect of the NEPRA Act being Appeal No.124/POI-2020





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later in time, and the above-referred decisions of the honorable High Court, hence the objection of the Respondent is dismissed.

### **7.2 Objection regarding prior notice before approaching the POI:**

As regard another objection of the Appellant for not issuing notice as per the Electricity Act, 1910 by the Respondent before filing a complaint to the POI, it is elucidated that the matter was adjudicated by the POI under Section 38 of the NEPRA Act, 1997 and as per procedure laid down in Punjab (Establishment and Powers of Office of Inspection) Order, 2005, which do not require for service of any notice before approaching the POI. The above objection of the Appellant is not valid, therefore overruled.

### **7.3 Detection bill of Rs.214,522/- against 11,419 units debited in August 2019**

The facts submitted before us transpire that the Appellant found the billing meter of the Respondent 66% slow during checking dated 28.08.2019, therefore a detection bill of Rs.214,522/- against 11,419 units for six months for the period February 2019 to July 2019 was issued to the Respondent in August 2019 due to 66% slowness, which was assailed by him before the POI. The Appellant has filed this appeal defending the above detection bill charged to the Respondent and prayed for setting aside the impugned decision.

7.4 66% slowness in the billing meter of the Respondent was allegedly discovered by the Appellant on 28.08.2019 and the disputed detection bill was issued in August 2019. Therefore the matter will be dealt with under the provisions of the







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CSM-2010. Clause 4.4 of the CSM-2010 enumerates the procedure to confirm the defect/slowness in the metering equipment and charge the consumer on the basis of thereof. Sub-clauses (b), (c), and (e) of Clause 4.4 of the CSM-2010 being relevant in the instant are reproduced below:

### **"4.4 Meter Replacement**

*(b) Should the LESCO at any time, doubt the accuracy of any metering equipment, the LESCO may after information the consumer, install another duly calibrated and tested metering equipment in series with the impugned metering equipment to determine the difference in consumption or maximum demand recorded by the check metering equipment and that recorded by the impugned metering equipment during a fixed period. If one such comparative test being made the impugned metering equipment should prove to be incorrect, the impugned metering equipment shall be removed from the premises with the written consent of the consumer, and the LESCO in the absence of any interference or alteration in the mechanism of the impugned metering equipment being detected by the LESCO shall install "correct meter" without any further delay.*

*(c) Where it is not possible for the LESCO to install check metering equipment of appropriate capacity in series with the impugned metering equipment, to check the accuracy of the impugned metering equipment as described above, the LESCO shall, after information (in writing) the consumer, test the accuracy of the impugned metering equipment at site by means of Rotary Sub-Standard or digital power analyzer. If incorrect, the impugned metering equipment shall be removed and immediately removed upon settlement/payment of assessed amount. In case if a correct meter is not available then the multiplying factor shall be charged accordingly till the replacement with correct meter.*

*(d) .....*





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*(e) 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.*

Under sub-clause 'b' above, upon doubt about the accuracy of the metering equipment of the Respondent, the Appellant was required to install a check metering equipment, after informing the Respondent, to determine the difference in consumption or maximum demand recorded by the check meter and the impugned meter during a fixed period. In case of confirmation of slowness/defectiveness in the impugned meter, the same was required to be removed with the written consent of the Consumer.

7.5 Alternatively, the Appellant was required to follow the procedure given in sub-clause (c) of Clause 4.4 of the CSM-2010, which stipulates the checking of metering equipment after informing (in writing) the consumer, by means of a Rotary Sub-standard or digital power analyzer.

7.6 As per the record presented before us, there is no evidence that the Appellant followed the procedure either under sub-clause (b) or sub-clause (c) of the CSM-2010. The Appellant has claimed that the metering equipment was checked in







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presence of the Respondent, however, the Test check proforma dated 28.08.2019 as submitted by the Appellant is not signed by the Respondent. The essence of Clause 4.4 of the CSM-2010 is to ensure transparency by taking the consumer onboard. Claim of the Appellant about meter slowness without following the laid down procedure suffers from the credibility deficit.

7.7 Notwithstanding above observation, the consumption of the Respondent during the disputed period i.e. February 2019 to July 2019 is compared with the consumption of corresponding months of the previous year in the below table to confirm any abnormal variation:

| Undisputed   |              | Disputed     |              |
|--------------|--------------|--------------|--------------|
| Month        | Units        | Month        | Units        |
| Feb-18       | 989          | Feb-19       | 1437         |
| Mar-18       | 1209         | Mar-19       | 914          |
| Apr-18       | 1115         | Apr-19       | 658          |
| May-18       | 797          | May-19       | 682          |
| Jun-18       | 717          | Jun-19       | 877          |
| Jul-18       | 857          | Jul-19       | 1098         |
| <b>Total</b> | <b>5,684</b> | <b>Total</b> | <b>5,666</b> |

As evident from the above, there has been no abnormal decline in the consumption of the Respondent during the disputed period i.e. February 2019 to July 2019 vis-à-vis the total consumption of the corresponding months of the year 2018. Under these circumstances, we hold that the detection bill of Rs.214,522/- for 11,419 units for the period from February 2019 to July 2019 is unjustified and the same is declared null and void.





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- 7.8 The billing account of the Respondent be overhauled after adjustment of the payments made against the detection bill.
8. Foregoing in view, the appeal is dismissed.

Syed Zavar Haider  
Member

Abid Hussain  
Convener

Muhammad Irfan-ul-Haq  
Member

Dated: 05.12.2022

