



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

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No. NEPRA/AB/Appeal/151/POI/2019/ 153

February 08, 2022

- | | |
|---|--|
| 1. Hafiz Salman Khalid,
S/o. Khalid Hussain Mirza,
R/o. 17-KM off Ferozpur Road,
Rohi Nala, Lahore | 2. Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore |
| 3. Mian Habib-ur-Rehman
Advocat High Court,
Room No. 221, Subhan Centre,
Baba Mouj Darya Road,
Lahore | 4. A. D. Bhatti,
Advocate High Court,
First Floor, Rehmat Tower,
13-Fane Road, Lahore |
| 5. Sub Divisional Officer (Opr),
LESCO Ltd,
Nishter Colony 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. Hafiz Salman Khalid Against the Decision Dated 29.01.2019 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 02.02.2022, 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. Director (IT) –for uploading the decision on NEPRA website



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. 151/POI-2019

Lahore Electric Supply Company Limited

.....Appellant

Versus

Hafiz Salman Khalid S/o Khalid Hussain Mirza,
R/o 17-KM, off Ferozpur Road Rohi Nala, Lahore

.....Respondent

APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 29.01.2019 PASSED BY PROVINCIAL OFFICE OF INSPECTION LAHORE REGION, LAHORE

For the Appellant:

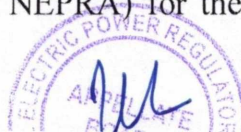
Mr. Habib-ur-Rehman Advocate

For the Respondent:

Mr. A.D Bhatti Advocate

DECISION

1. Through this decision, an appeal filed by the Lahore Electric Supply Company Limited (hereinafter referred to as the LESCO) against the decision dated 29.01.2019 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 referred to as the NEPRA) for the distribution of electricity in the





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territory and as per terms and conditions specified in the license and the Respondent is its industrial consumer bearing Ref No.24-11533-1000048-U with a sanctioned load of 80 kW under the B-2(b) Tariff category. As per the stated facts of the case, the metering equipment of the Respondent was checked by the Standing Committee LESCO on 31.08.2018, the billing meter was found 33% slow due to the one dead phase and the backup meter was found within BSS limits. LESCO shifted billing of the Respondent on the backup meter vide the Meter Change Order (MCO) dated 31.08.2018 and recommended to charge 28,120 units+167 kW MDI on the basis of the difference of readings between the billing and backup meters. Afterwards, LESCO charged the following bills to the Respondent:

- Bill of August 2018 for the cost of 30320 units+185 kW
- Bill of September 2018 for the cost of 6,960 units+178 kW
- Bill of October 2018 for the cost of 7,880 units+127 kW

3. Being dissatisfied with the actions of the LESCO, the Respondent filed a complaint before the POI on 28.09.2018 and disputed the arrears of Rs.404,807/- pertaining to the period August 2018 to October 2018. Metering equipment of the Respondent was inspected by the POI on 12.12.2018 in presence of both the parties and the billing meter was found defective with erratic behavior and the backup meter was found within permissible limits. The complaint of the Respondent was disposed of vide the POI decision dated 29.01.2019, wherein the bills for the period August 2018 to October 2018 were declared null and void. As per the POI decision, the LESCO was allowed to charge the bills for the period August 2018 to October



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2018 and onwards till the replacement of the meter on the basis of consumption of August 2017 to October 2017. The POI further directed the LESCO to overhaul the billing account of the Respondent.

4. Subject appeal has been filed by the LESCO against the afore-mentioned decision (hereinafter referred to as the "impugned decision") before NEPRA. In its appeal, the LESCO objected to the maintainability of the impugned decision, inter alia, on the following grounds, (1) the billing meter of the Respondent was found 33% slow on 31.08.2018, therefore the difference of 28,120 units + 167 kW between the billing and backup meters was charged to the Respondent to recover the loss sustained by the LESCO; (2) the POI had not thrashed out the consisting reasons and announced the illegal decision; (3) the POI did not apply judicious mind while passing the impugned decision; (4) the impugned decision was passed on the basis of surmises and conjectures. LESCO finally prayed that the impugned decision be set aside.
5. In response to the notice, the Respondent filed reply/para-wise comments to the appeal on 27.04.2021. In his reply, the Respondent supported the impugned decision and contended that the impugned decision is legal, comprehensive, valid, self-contained and the same is liable to be upheld. The Respondent further contended that the billing meter was found defective with erratic behavior during the POI joint checking dated 12.12.2018, therefore, he cannot be penalized on account of the alleged difference of readings between the billing and backup





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meters. As per Respondent, the appeal was filed by the LESCO before the NEPRA after elapse of two (2) months, therefore the same is liable to be dismissed being time-barred.

6. Hearing of the appeal was conducted at the NEPRA Regional Office Lahore on 14.01.2022, wherein LESCO and the Respondent were represented by their respective counsels. Learned counsel for the LESCO reiterated the same contentions as given in memo of the appeal and stated that the billing meter of the Respondent was found 33% slow during the checking dated 31.08.2018, therefore the recovery of bills for the period August 2018 to October 2018 due to the difference of the billing and backup meters is correct and in line with Clause 4.4 of the CSM. Learned counsel for the LESCO termed the above bills as justified and payable by the Respondent. On the other hand, learned counsel for the Respondent in his rebuttal argued that neither the difference of the readings between the billing and backup meters was proved nor 33% slowness of the billing meter was witnessed by the POI during the joint checking. Learned counsel for the Respondent opposed the charging of the bills for the period August 2018 to October 2018 on the basis of reading of the backup meter and prayed for withdrawal of the same. Learned counsel for the Respondent finally pleaded for the maintainability of the impugned decision.

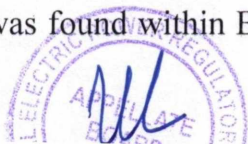




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7. Arguments heard and the record placed before us was examined. It is observed as under:

- i. With regard to the preliminary objection of the Respondent for limitation, it is observed that the copy of the impugned decision dated 29.01.2019 was received by the LESCO on 11.04.2019 and the appeal was filed by the LESCO before the NEPRA on 19.04.2019 within 30 days of receipt of the impugned decision as per Section 38(3) of the NEPRA Act 1997. The objection of the Respondent in this regard carries no weight and is overruled.
- ii. Metering equipment of the Respondent was checked by the LESCO on 31.08.2018 and it was found 33% slow due to the one dead phase and the backup meter was found within BSS limits. LESCO shifted the billing of the Respondent on the backup meter vide the MCO dated 31.08.2018 and recommended to charge 28,120 units+167 kW on the basis of the difference of readings between the billing and backup meters. Afterwards, the LESCO charged the following bills to the Respondent:
 - Bill of August 2018 for the cost of 30320 units+185 kW
 - Bill of September 2018 for the cost of 6,960 units+178 kW
 - Bill of October 2018 for the cost of 7,880 units+127 kW
- iii. The billing meter of the Respondent was inspected by the POI on 12.12.2018 in presence of both the parties and it was found defective with erratic behavior and the backup meter was found within BSS limits. Neither the Respondent





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challenged the accuracy of the backup meter nor the POI during the joint checking dated 12.12.2018 found any error in the functioning of the backup meter. Moreover, it is an admitted fact that the backup meter of the Respondent was converted into the billing meter by the LESCO on 31.08.2018 for onward billing.

- iv. In order to check whether the bill of August 2018 already charged by the LESCO is justified, the following working is done:

Table-A

Consumption already charged in August 2018		Consumption assessed till 31.08.2018					
		A	B	C	D=B-C	E	F=D x E
		Reading upto 31.08.2018	Billing meter	Backup meter	Difference	MF	Consumption
Units	30,320	Units	6114	6817	703	40	28120
MDI (KW)	185	MDI (KW)	42.23	46.41	4.18	40	167

As evident from the above table, the Respondent was charged on the higher side in the month of August 2018 by the LESCO as compared to the consumption assessed on the basis of the difference of readings between the billing and backup meters till 31.08.2018. Therefore the bill of 30,320 units+185 kW charged by the LESCO to the Respondent in August 2018 is liable to be declared null and void being excessive, unjustified. The Respondent is liable to be charged the revised bill of 28,120 units+167 kW for August 2018 as per the calculation in Table-A above.

- v. As regards the bills of September 2018 and October 2018 charged by the LESCO to the Respondent are concerned, it is observed that high MDI (KW) was charged in the said months by the LESCO. Such high MDI (KW) is neither compatible with the sanctioned load i.e. 80 kW of the Respondent nor recorded in the billing history



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of the Respondent before and after the dispute as evident from the MDI (KW) chart tabulated below:

Table-B

Months		MDI (KW)
Before dispute	Jan-18	42
	Feb-18	22
	Mar-18	27
	Apr-18	23
	May-18	21
	Jun-18	16
	Jul-18	25
Dispute	Aug-18	185
	Sep-18	178
	Oct-18	127
After dispute	Nov-18	47
	Dec-18	50
	Jan-19	47
	Feb-19	32

In view of the above table, we are convinced with the version of the Respondent that the excessive billing was done by the LESCO during the months, i.e. September 2018 and October 2018 to the Respondent. Therefore the impugned decision for cancellation of the bills for September 2018 and October 2018 and revision of the same based on consumption of September 2017 and October 2017 is justified and the same is liable to be maintained to this extent.

8. Summing up the foregoing discussion, we concluded that:

- i. Following bills charged by the LESCO to the Respondent are cancelled as already decided by the POI:

Table-C





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Months	Units	MDI (KW)
Aug-18	30,320	185
Sep-18	6,960	178
Oct-18	7,880	127

ii. The Respondent may be charged the revised bills as per the detail given below:

Table-D

Months	Units	MDI (KW)	Basis of charging
Aug-18	28,120	167	difference of reading between the billing and backup meters till 31.08.2018
Sep-18	10,160	52	consumption of September 2017
Oct-18	9,880	60	consumption of October 2017

iii. The billing account of the Respondent may be overhauled after adjusting payments made against the above-disputed bills.

9. The impugned decision is modified in the above terms.

Abid Hussain
Member/Advisor (CAD)

Nadir Ali Khoso
Convener/Senior Advisor
(CAD)

Date: 02.02.2022

