



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

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No. NEPRA/AB/Appeal/278/ & 020/POI/2019/ 031

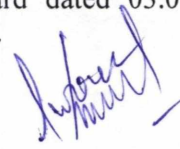
January 11, 2022

- | | |
|--|---|
| 1. Riasat Hussain, S/o Muhammad Hussain, R/o. Qazafi Bazar, Mandi Muridke, District Sheikhpura | 2. Chief Executive Officer LESCO Ltd, 22-A, Queens Road, Lahore |
| 3. Mehar Shahid Mahmood, Advocate High Court, Office No. 34, Third Floor, Ali Plaza, 3-Mozang Road, Lahore | 4. Mian Irfan Ahmed Spall, Advocate High Court, Second Floor, Ali Plaza, 3-Mozang Road, Lahore |
| 5. Assistant Manager (Operation), LESCO Ltd, Canal Park Sub Division, Muridke | 6. POI/Electric Inspector, Gujranwala Region, Govt. of Punjab, Munir Chowk, Near Kacheri Road, Gujranwala |

Subject: Appeal Titled LESCO Vs. Riasat Hussain & Riasat Hussain Vs. LESCO Against the Decision Dated 22.05.2019 of the Provincial Office of Inspection to Government of the Punjab Gujranwala Region, Gujranwala

Please find enclosed herewith the decision of the Appellate Board dated 03.01.2022, 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.278/POI-2019

Lahore Electric Supply Company Limited

.....Appellant

Versus

Riasat Hussain S/o Muhammad Hussain,
R/o Qazafi Bazar Mandi Muridke, District Sheikhpura

.....Respondent

&

Appeal No. 020/POI-2020

Riasat Hussain S/o Muhammad Hussain,
R/o Qazafi Bazar Mandi Muridke, District Sheikhpura

.....Appellant

Versus

Lahore Electric Supply Company Limited

.....Respondent

APPEALS UNDER SECTION 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 22.05.2019 PASSED BY PROVINCIAL OFFICE OF INSPECTION GUJRANWALA REGION GUJRANWALA

For LESCO:

Mehar Shahid Mehmood Advocate

For Consumer:

Mr. Taj Malik Advocate

Mr. Riasat Hussain

DECISION

1. As per the facts of the case, Lahore Electric Supply Company Limited (hereinafter referred to as the LESCO) is a licensee of the National Electric Power Regulatory





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Authority (hereinafter referred to as the NEPRA) for the distribution of electricity in the territory specified as per terms and conditions of the license and Mr. Riasat Hussain is its commercial Consumer having Ref.No.03-11651-0280900 and the applicable tariff is A-2a (hereinafter referred to as "the Consumer"). LESCO along with FIA raided the premises of the Consumer on 04.06.2015 and allegedly, the Consumer was found stealing electricity through the tampered meter and the connected load observed was 8.356 kW. FIR dated 04.06.2015 was registered against the Consumer and a detection bill of 17,826 units for the period June 2014 to May 2015 (12 months) was debited to the Consumer-based on 30% load factor of the connected load and added in the bill for May 2015.

2. Being aggrieved with the above actions of LESCO, the Consumer filed a complaint before the Provincial Office of Inspection, Gujranwala Region, Gujranwala (the POI) and assailed the above detection bill. The complaint of the Consumer was disposed of by POI vide decision dated 22.05.2019 (hereinafter referred to as the impugned decision), wherein the detection bill of 17,826 units for the period June 2014 to May 2015 (12 months) was declared as illegal, unjustified and not payable by the Consumer. As per the impugned decision, the LESCO was directed to issue a revised detection bill @ 1033 units/month for the periods June 2014 to September 2014 and April 2015 to May 2015 and @ 769 units/month for the period October 2014 to March 2015 to the Consumer.
3. Being dissatisfied with the impugned decision, both parties filed cross-appeals. As the facts and subject matter of the appeals are same, both have been clubbed and being





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disposed of through a single/consolidated decision.

4. In its appeal, LESCO contended that the premises of the Consumer was checked by the M&T LESCO along with the FIA team on 04.06.2015 and the Consumer was found stealing electricity through the tampered meter, therefore, the FIR dated 04.06.2015 was filed against the Consumer and a detection bill of 17,826 units for the period June 2014 to May 2015 (12 months) was debited to the Consumer according to last 3 years consumption data. LESCO further contended that the POI had not thrashed out the consisting reasons and assessed the illegal order without perusing the record. As per LESCO, the POI has not decided the dispute within a period of 90 days, which is a violation of Section 26(6) of the Electricity Act 1910, hence the impugned decision becomes void ab-initio and coram non-judice. LESCO finally prayed for setting aside the impugned decision. On the contrary, the Consumer opposed the impugned decision inter alia, on the grounds that the POI passed the impugned decision without considering the consumption history; that the POI did not apply his judicious mind; that the impugned decision is against Clause 4.4 of the Consumer Service Manual (CSM); and that the impugned decision is liable to be set aside.
5. Notice of the appeals was sent to both parties for reply/para-wise comments, which however were not filed.
6. Hearing of both the appeals was conducted at the NEPRA Regional Office Lahore on 26.11.2021, which was attended by both the parties. In response to the question of limitation raised by this forum, learned counsel for the LESCO explained that the





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impugned decision was pronounced by the POI on 22.05.2019, a copy of the same was obtained by the LESCO on 05.08.2019 and the appeal was filed before the NEPRA on 17.08.2019 within 30 days of receipt of the impugned decision as envisaged in Section 38 (3) of the NEPRA Act 1997. Learned counsel for the LESCO reiterated the same contentions as given in memo of the Appeal No.278/2019 and contended that the premises of the Consumer was raided by the M&T LESCO along with the FIA team on 04.06.2015 and allegedly the Consumer was found stealing electricity through the tampered meter and the connected load observed was 8.356 kW. Learned counsel for the LESCO further contended that the FIR dated 04.06.2015 was registered against the Consumer and a detection bill of 17,826 units for the period June 2014 to May 2015 (12 months) was debited to the Consumer on the basis of 3 years consumption history but the POI wrongly allowed the detection bill on the seasonal basis despite the fact that the premises is a shop. Learned counsel for the LESCO prayed to allow the above detection bill for twelve months. Lastly, learned counsel raised the point of limitation with regard to Appeal No.020/2020 filed by the Consumer. Conversely, learned counsel for the Consumer explained that a copy of the impugned decision dated 22.05.2019 was obtained on 28.08.2019, and appeal No.020/2020 was filed on 26.09.2019 within the prescribed time limit as laid down in Section 38 of the NEPRA Act 1997. On merits, learned counsel for the Consumer denied the allegation of theft of electricity and argued that the meter was installed on the pole and the Consumer cannot be attributed for any discrepancy in the meter. Learned counsel for the Consumer opposed the impugned decision and prayed





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for the modification to the extent of revision of the detection bill for two months only as per Clause 4.4(e) of the CSM.

4. Arguments of both the parties heard and the record examined. Following has been observed:

- i. At first, the point of limitation should be addressed before going into the merits of the case. It is observed that the impugned decision was announced by POI on 22.05.2019, copy of the same was received by LESCO on 05.08.2019 against which LESCO filed the appeal No.278/2019 before the NEPRA on 17.08.2019, which is within thirty (30) days as envisaged in Section 38(3) of the NEPRA Act 1997. Similarly, the consumer filed appeal No.020/2020 before the NEPRA on 26.09.2019 within thirty (30) days of receipt of the impugned decision i.e.28.08.2019. We are convinced with the arguments of both the parties with regard to the limitation and both the appeals are treated within time.
- ii. As regards the preliminary objection of LESCO regarding the failure of the POI in deciding the matter within 90 days as envisaged in Section 26(6) of Electricity Act, 1910, it may be explained that the period of 90 days is provided in Electricity Act, 1910 which is not relevant for the offices of the POI established under Section 38 of NEPRA Act, 1997. NEPRA is the appellate authority against the decisions of POI and not that of Electric Inspectors. It has already been held by Honorable Lahore High Court in judgments cited as PLJ 2017-Lahore-627 and PLJ-2017-Lahore-309 that impugned order is passed by the POI under section 38 of NEPRA Act, 1997 and not





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by an Electric Inspector under the Electricity Act, 1910 therefore, the outer time limit of 90 days is inapplicable. The objection of LESCO in this regard is devoid of force, therefore rejected.

- iii. The premises of the Consumer was checked by the M&T LESCO along with the FIA team on 04.06.2015 and the Consumer was allegedly found stealing electricity through the tampered meter, therefore, a detection bill of 17,826 units for the period June 2014 to May 2015 (12 months) was debited to the Consumer, which was challenged before the POI.
- iv. According to Clause 9.1c(3) of the CSM, the Consumer being a general supply Consumer i.e. A-II may be charged the detection bill maximum for three months in case of theft of electricity committed through the tampered meter, if the approval for charging the detection bill beyond three billing cycles was not obtained from the Chief Executive Officer LESCO being the competent authority. Therefore charging the above detection bill for twelve months i.e. June 2014 to May 2015 is inconsistent with the foregoing Clause of the CSM. Similarly, the determination of the POI to allow the detection bill for twelve months is violative of the ibid Clause of the CSM. Under these circumstances, we are of the firm view that the detection bill of 17,826 units for the period June 2014 to May 2015 (12 months) charged by the LESCO and the impugned decision for revision of the same @ 1033 units/month for the periods June 2014 to September 2014 and April 2015 to May 2015 and @ 769 units/month





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for the period October 2014 to March 2015 are unjustified, in contravention with Clause 9.1c(3) of the CSM, and the same are liable to be set aside.

- v. Since the discrepancy of the tampered meter was observed during the LESCO checking dated 04.06.2015, the Consumer being a general supply consumer is liable to be charged the detection bill maximum for three months i.e. March 2015 to May 2015 as per Clause 9.1c(3) of the CSM and based on 30% load factor of the connected load i.e. 8.356 kW as per Annex VIII of the CSM. The impugned decision is liable to be modified to this extent.

5. Summing up the aforesaid discussion, we have concluded that the detection bill of 17,826 units for the period June 2014 to May 2015 (12 months) charged by the LESCO to the Consumer is unjustified and the same is cancelled as already decided by the POI. The Consumer should be charged the detection bill for three months i.e. March 2015 to May 2015 based on the 30% load factor of the connected load i.e. 8.356 kW. The billing account of the Consumer should be overhauled in accordance with the above conclusion and the payment made against the disputed bill be adjusted, accordingly.

6. In view of the above, both the appeals are disposed of.

Abid Hussain
Member/Advisor (CAD)

Nadir Ali Khoso
Convener/Senior Advisor (CAD)

Dated: 03.01.2022

