



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

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No. NEPRA/AB/Appeal/301/POI/2019/ 034

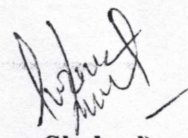
January 11, 2022

1. Haji Bashir Ahmed,
S/o Muhammad Ismail,
R/o Rafique Road, Behind Sohrab
Factory, Sheikhpura Road,
Lahore
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. Sub Divisional Officer (Operation),
LESCO Ltd,
Jia Musa Sub Division,
Lahore
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. Haji Bashir Ahmed Against the Decision Dated 25.06.2019 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 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. 301/POI-2019

Lahore Electric Supply Company Limited

.....Appellant

Versus

Haji Bashir Ahmed S/o Muhammad Ismail R/o Rafique Road,
Behind Sohrab Factory, Sheikhpura Road, Lahore

.....Respondent

APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 25.06.2019 PASSED BY PROVINCIAL OFFICE OF INSPECTION LAHORE REGION, LAHORE

For the Appellant:

Mehar Shahid Mehmood Advocate
Mr. Abdul Shafiq

For the Respondent:

Mr. Zahid Bashir

DECISION

1. Through this decision, an appeal filed by Lahore Electric Supply Company Limited (hereinafter referred to as the LESCO) against the decision dated 25.06.2019 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 specified as per terms and conditions of the license and the Respondent is its consumer having the industrial connection bearing Ref No.24-11132-2400970 with a sanctioned load of 140 kW under B-2(b) Tariff category. Metering equipment of the Respondent was checked by the Metering and Testing (M&T) LESCO on 08.01.2016 and 09.03.2018 and reportedly the difference of readings was noticed between the billing and backup meters. Resultantly, a detection bill amounting to Rs.834,143/- for 52,064 units was charged to the Respondent on the basis of the difference of readings between the billing and backup meters and added in the bill for March 2018.

3. Being aggrieved with the above actions of the LESCO, the Respondent assailed the above detection bill before the POI in March 2018. During the joint checking of POI on 08.04.2019, both the billing and backup meters of the Respondent were found within BSS limits and both the parties signed the checking report without raising any objection. The POI adjudicated the matter and passed the decision dated 25.06.2019, wherein the detection bill of Rs.834,143/- for 52,064 units charged by the LESCO in March 2018 was declared null and void.
4. Being dissatisfied with the decision of the POI dated 25.06.2019 (hereinafter referred to as the impugned decision), the LESCO filed the instant appeal before the NEPRA. In its appeal, the LESCO opposed the maintainability of the impugned decision inter alia, on the following grounds; (1) the POI failed to decide the application of the Respondent within ninety (90) days, which is a clear violation of Section 26(6) of the Electricity Act 1910; (2) the detection bill of Rs.834,143/- for



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52,064 units was charged due to the difference of readings between the billing and backup meters readings as observed on 08.01.2016 and 09.03.2018; (3) the POI did not apply judicious mind and passed the impugned decision on illegal assumptions and presumptions; and (4) the POI failed to consider the consumption record, based on the above grounds, the impugned decision is bad in law and against the facts of the case and the same is liable to be set aside.

5. Notice for filing reply/para-wise comments was served to the Respondent, however it was not filed.
6. A hearing in the matter was held 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 averred that copy of the impugned decision dated 25.06.2019 was received on 26.06.2019 and the appeal was filed before the NEPRA on 24.07.2019 within 30 days of receipt of the impugned decision. In support of his contention, learned counsel for the LESCO submitted a copy of the affidavit dated 24.07.2019 and envelop of TCS. Learned counsel for the LESCO reiterated the same arguments as contained in memo of the appeal and averred that copies of the LESCO checking reports dated 08.01.2016 and 09.03.2018 were submitted before the POI, which were not considered by the POI. As per learned counsel for the LESCO, the disputed billing meter was replaced with a new meter, which was checked by the POI during the joint checking, hence there is no justification to cancel the detection bill of Rs.834,143/- for 52,064 units charged on account of difference of readings between the billing and backup



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meters. Learned counsel for the LESCO finally prayed that the above-said detection bill be allowed. On the contrary, the representative for the Respondent repudiated the stance of learned counsel for the LESCO and stated that the billing and backup meters were jointly checked by the POI and found within BSS limits. As per the representative for the Respondent, LESCO signed the checking report of the POI without raising any objection, as such the above detection bill for a period of the last eleven (11) years is unjustified and liable to be withdrawn. The representative for the Respondent defended the impugned decision and prayed that the same may be upheld.

7. Argument heard and the record examined. Following are our observations:
 - 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 25.06.2019, copy of the same was received by LESCO on 26.06.2019 against which LESCO filed the instant appeal before the NEPRA on 24.07.2019, which is within thirty (30) days as envisaged in Section 38(3) of the NEPRA Act 1997. We are convinced with the arguments of LESCO with regard to the limitation and the appeal is treated within time.
 - ii. At addressing the preliminary objection of LESCO regarding the failure of POI in deciding the matter within ninety (90) days under Section 26(6) of the Electricity Act, 1910, it may be noted that the said restriction of the time limit is inapplicable for the POI established under Section 38 of the NEPRA Act, 1997. The same has already been held by the Honorable Lahore High Court in





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the following cited judgments, PLJ 2017-Lahore-627 and PLJ-2017-Lahore-309. As such the objection of LESCO in this regard carries no weight, hence rejected.

- iii. LESCO debited a detection bill amounting to Rs.834,143/- for 52,064 units to the Respondent based on the difference of readings between the billing and backup meters and added in the bill for March 2018. The Respondent challenged the above detection bill before the POI.
- iv. During joint checking of the POI on 08.04.2019, both the billing and backup meters were found working within BSS limits, both the parties signed the POI joint checking report without raising any objection. LESCO claimed that the disputed billing meter was replaced with a new meter before the POI joint checking. But the LESCO did not provide any documentary evidence to substantiate its stance with regard to the charging of the above detection bill. Moreover, LESCO did not provide the comparative statement of the consumption of both the billing and backup meters. Further the consumption of the digital TOU meter will be considered correct, if there is a difference between the billing and backup meters. Reliance in this regard is placed on the WAPDA circular issued vide letter No.518-36 dated 28.02.2001, the operative portion of which is reproduced below:

“establishment where Electro-mechanical & Solid State TOU MDI meters are installed, the reading recorded on Solid State TOU MDI meters will be considered final, in case there is difference between the two.”





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In view of the above-narrated facts and discussion, we are inclined to agree with the findings of the POI that the billing and backup meters of the Respondent were functioning correctly and there is no justification to debit the aforesaid detection bill on mere surmises of difference of readings between the billing and backup meters. Under the circumstances as mentioned above, the detection bill of Rs.834,143/- for 52,064 units charged by the LESCO on account of the difference of readings between the billing and backup meters is declared as unjustified and should be withdrawn, which concurs with the impugned decision.

8. In view of the above, we do not find any reason to interfere with the impugned decision, the same is upheld and consequently the appeal is dismissed.

Abid Hussain
Member/Advisor (CAD)

Nadir Ali Khoso
Convener/Senior Advisor (CAD)

Dated: 03.01.2022

