



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

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No. NEPRA/Appeal/007/POI/2021/ 037

January 16, 2023

- | | |
|---|---|
| 1. Saadat Ali,
S/o. Jalal Din,
R/o. House No. 30, Street No. 09,
Tezab Ahata, Chah Miran, 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. Assistant Manager,
LESCO Ltd,
Chah Miran 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. Saadat Ali Against the Decision Dated 31.08.2020 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 13.01.2023, 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.007/POI-2021

Lahore Electric Supply Company Limited

.....Appellant

Versus

Saadat Ali, S/o Jalal Din, R/o. House No.30,
Street No.09, Tezab Ahata, Chah Miran, Lahore

.....Respondent

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

For the Appellant:

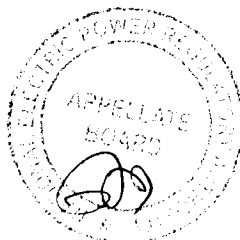
Mr. Nabeel Ahmed SDO

For the Respondent:

Mr. Saadat Ali

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 31.08.2020 of the Provincial Office of Inspection, Lahore Region, Lahore (hereinafter referred to as the “POI”) is being disposed of.
2. Briefly speaking, Mr. Saadat Ali (hereinafter referred to as the “Respondent”) is an industrial consumer of the Appellant bearing Ref No.46-11153-027800-U with sanctioned load of 04k W and the applicable Tariff category is B-1. The Appellant has claimed that the billing meter of the Respondent was found dead stop during the Metering & Testing (“M&T”) team checking dated 15.02.2019. Therefore, notice





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dated 15.02.2019 was issued to the Respondent regarding the above discrepancy, and a detection bill amounting to Rs.392,756/- against 19,680 units for seven months for the period from June 2018 to December 2018 was debited to the Respondent on the basis of connected load i.e. 8.6 kW and added to the bill for February 2019

3. Being aggrieved, the Respondent assailed the above detection bill before the POI on 20.05.2020. The complaint of the Respondent was disposed of by the POI vide the decision dated 31.08.2020, wherein the detection bill of Rs.392,756/- against 19,680 units for seven months for the period from June 2018 to December 2018 was cancelled. POI directed the Appellant to debit the revised bills @ 833 units per month for the period June 2018 to January 2019 as per the average consumption of the period from August 2017 to May 2018.
4. Through the instant appeal, the afore-referred decision dated 31.08.2020 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 defective on 15.02.2019, therefore a detection bill of Rs.392,756/- against 19,680 units for seven months for the period from June 2018 to December 2018 was debited to the Respondent in February 2019; (2) the POI failed to analyze consumption data in true perspective and erred in holding that the detection bill of Rs.392,756/- is null and void and revised the bills @ 833 units per month for the period June 2018 to January 2019 as per average consumption of August 2017 to May 2018; (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





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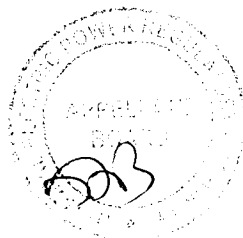
jurisdiction; (4) the Respondent did not serve notice prior filing complaint to the POI as required under Section 26(6) of the Electricity Act, 1910. The Appellant finally prayed that the impugned decision is liable to be set aside.

5. Proceedings by the Appellate Board

- 5.1 Upon filing of the instant appeal, a notice dated 27.01.2021 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days. The Respondent however did not submit the reply to the Appeal.

6. Hearing

- 6.1 After issuing notices dated 07.06.2022 to both parties, hearing of the subject appeal was conducted at NEPRA Regional Office Lahore on 16.06.2022 in which a counsel appeared for the Appellant and no one represented the Respondent. In order to provide an opportunity for hearing to the Respondent, the case was adjourned till the next date.
- 6.2 The hearing of the Appeal was rescheduled at Lahore on 23.08.2022 for which notices dated 15.08.2022 were issued to both the Appellant and the Respondent. On the given date of the hearing, no one appeared for both parties, however, a written request was made by the counsel for the Appellant for the adjournment due to illness. In view of the above, the hearing of the case was adjourned till the next date.
- 6.3 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 both parties. The representative for the Appellant reiterated the same version as contained in the memo of the appeal and contended that the billing meter of the Respondent was found dead





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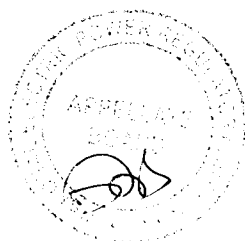
stop on 15.02.2019, as such the detection bill of Rs.392,756/- against 19,680 units for seven months for the period from June 2018 to December 2018 was debited to the Respondent in February 2019 on the basis of the connected load. The representative for the Appellant averred that the dip in consumption data confirms the defectiveness in the impugned billing meter, hence the above detection bill is justified and payable by the Respondent. As per the representative for the Appellant, the impugned decision for cancellation of the above detection bill is unjustified and the same is liable to be struck down.

6.4 The Respondent appearing in person repudiated the contentions of the Appellant for charging the above detection bill, 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 20.05.2020 under Section 38 of the NEPRA Act. POI pronounced its decision on 31.08.2020 i.e. after 102 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 Appeal No.007/POI-2021





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PLJ 2017 Lahore 309. Keeping in view the overriding effect of the NEPRA Act being later in time, and the above-referred decisions of the honorable High Court, hence the objection of the Respondent is dismissed.

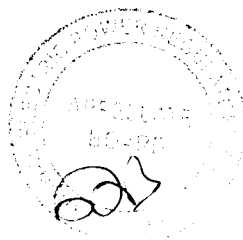
7.2 Objection regarding prior notice before approaching the POI:

As regards 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.392,756/- against 19,680 units debited in February 2019

The facts submitted before us transpire that the Appellant found the billing meter of the Respondent dead stop during checking dated 15.02.2019, therefore a detection bill of Rs.392,756/- against 19,680 units for seven months for the period June 2018 to December 2018 was issued to the Respondent in February 2019, 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 The billing meter of the Respondent was allegedly discovered as dead stop by the Appellant on 15.02.2019 and the disputed detection bill was issued in February 2019.





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Therefore the matter will be dealt with under the provisions of the CSM-2010.

Clause 4.4 of the CSM-2010 enumerates the procedure to confirm the defect in the metering equipment and charge the Consumer on the basis of thereof. Sub-clause (b) of Clause 4.4 of the CSM-2010 being relevant in the instant is reproduced below:

"4.4 Meter Replacement

(b) Should the LESCO at any time, doubt the accuracy of any metering equipment, the LESCO may after informing 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.

Under sub-clause 'b' of Clause 4.4 of the CSM-2010, in case of confirmation of defective in the impugned meter, the same was required to be removed with the written consent of the Consumer.

7.5 However, as per the record presented before us, there is no evidence that the Appellant followed the procedure under sub-clause (b) of the CSM-2010. The Appellant has claimed that the metering equipment was checked in presence of the Respondent, however, the Test check proforma dated 15.02.2019 as submitted by the Appellant is not signed by the Respondent.

7.6 Needless to say that the essence of Clause 4.4 of the CSM-2010 is to ensure transparency by taking the consumer on board. Therefore, the claim of the Appellant





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about the dead stop meter without following the laid down procedure suffers from the credibility deficit. Moreover, charging the above detection bill on the basis of connected load i.e. 8.6 kW in case of a defective meter is inconsistent with the ibid clause of the CSM-2010. Under these circumstances, we hold that the detection bill of Rs.392,756/- against 19,680 units for seven months for the period from June 2018 to December 2018 is unjustified and the same is liable to be declared null and void.

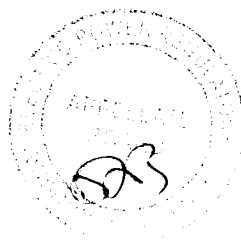
7.7 Similarly, the determination of POI for revision of the bills @ 833 units/month for the period June 2018 to January 2019 as per average consumption of August 2017 to May 2018 is not consistent with Clause 4.4(e) of the CSM-2010. Said clause of the CSM-2010 allows the Appellant to debit the bills maximum of two months in case of a defective meter and the basis of charging the said bills be made as per 100% consumption of the corresponding month of the previous year or average consumption of last eleven months, whichever is higher. Hence the impugned decision to this extent is liable to be withdrawn.

7.8 Since the impugned meter of the Respondent was found dead stop during checking dated 15.02.2019, the Respondent is liable to be charged the revised bills for two months as per Clause 4.4(e) of the CSM-2010.

8. In view of what has been stated above, we have concluded that:

8.1 The detection bill of Rs.392,756/- against 19,680 units for seven months for the period from June 2018 to December 2018 is declared null and void.

8.2 The Respondent may be charged the revised bills for two months as per Clause 4.4(e) of the CSM-2010.





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- 8.3 The billing account of the Respondent may be overhauled after adjustment of the payments made against the above detection bill.
9. The impugned decision is modified in the above terms.

Syed Zawar Haider
Member

Muhammad Irfan-ul-Haq
Member

Abid Hussain
Convener

Dated: 13-01-2023

