



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

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No. NEPRA/Appeal/058/2021/674

February 02, 2023

- | | |
|---|---|
| 1. Mst. Shazia Begum,
W/o. Muhammad Aslam Chaudhary,
R/o. House No. 60, A-2, Street No. 13,
Ahmad Park, Mohni Road, Lahore | 2. Chief Executive Officer,
LESCO Ltd,
22-A, Queens Road,
Lahore |
| 3. Khalid Jamil,
Advocate Supreme Court of Pakistan,
Basement Ali Continental Hotel,
1-Mozang Road, Lahore | 4. Amir Gul Sher,
Advocate High Court,
Office No. B-1, Basement Wajdani Plaza,
13-39, Lower Mall, Lahore |
| 5. Assistant Manager (Operation),
LESCO Ltd,
Karim Park 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. Mst. Shazia Begum Against the Decision Dated 29.10.2020 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 30.01.2023, 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. 058/POI-2021

Lahore Electric Supply Company Limited

.....Appellant

Versus

Mst. Shazia Begum, W/o. Muhammad Aslam Chaudhary,
R/o. House No. 60, A-2, Street No. 13, Ahmed Park,
Mohani Road, Lahore

.....Respondent

APPEAL UNDER SECTION 38(3) OF THE REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997

For the Appellant:

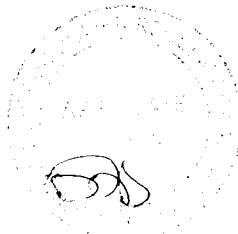
Mr. Khalid Jamil Advocate

For the Respondent:

Mr. Amir Gul Sher Advocate

DECISION

1. Briefly speaking, Mst. Shazia Begum (hereinafter referred to as the “Respondent”) is a domestic consumer of Lahore Electric Supply Company Limited (hereinafter referred to as the “Appellant”) bearing Ref No.04-11134-0332700-U with the applicable tariff category is –A-1(a).
2. The Respondent filed a complaint before the Provincial Office of Inspection Lahore Region, Lahore (hereinafter referred to as the “POI”) and assailed the bill of Rs.54,345/- charged by the Appellant added to the bill for April 2019. According to the decision of the POI, several opportunities of hearings i.e. 04.02.2020, 25.02.2020, 18.03.2020, 21.04.2020, 02.06.2020, 30.06.2020, 21.07.2020, 18.08.2020, 15.09.2020, 06.10.2020 and 20.10.2020 were provided to both parties but the Appellant failed to appear before the POI and to submit the reply/para-wise comments despite repeated notices. The





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matter was decided ex-parte vide the decision dated 29.10.2020 and the complaint of the petitioner was accepted and the Appellant was directed to overhaul the billing account of the Respondent, accordingly.

3. Subject appeal has been filed by the Appellant against the POI decision dated 29.10.2020 (hereinafter referred to as the “impugned decision”) before the NEPRA on 15.02.2021. In its appeal, the Appellant, *inter alia*, prayed for setting aside the impugned decision on the main grounds; that the impugned bill was charged on account of bill adjustment, wherein the metering equipment was not involved, hence the POI has no jurisdiction to adjudicate the matter as per judgment of Supreme Court of Pakistan reported in PLD 2012 SC 371; that no one could be condemned unheard as per settled principle of Audi alteram partem and Article 10-A of the Constitution of Islamic Republic of Pakistan 1973; that the POI failed to adopt the due process for conducting a fair trial; that the mere issuance of notices without their proper service is not of any consequences; that the impugned decision is passed on speculations and telegraphic in nature being passed without touching pros and cons of the case.

4. Proceedings by the Appellate Board

- 4.1 Upon the filing of the instant appeal, a Notice dated 03.06.2021 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days, which were submitted on 05.07.2021. In the reply, the Respondent contended that the impugned bill was charged by the Appellant in violation of CSM as the impugned meter was not installed at the premises during the disputed period. The Respondent further contended that the entire actions of the Appellant indicate that the dispute of





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billing pertains to the metering equipment, hence the POI has exclusive jurisdiction to adjudicate the matter according to the judgment of the Supreme Court of Pakistan reported in PLD 2012 SC 371. As per Respondent, the Appellants were well aware of the proceedings before the POI as the SDO of the Appellant issued a revised bill in compliance with the interim dated 22.01.2020 of the POI, hence their contention for non-serving of notices is not correct. According to the Respondent, the appeal is contrary to the facts and misconceive to hoodwink this forum, therefore the same is liable to be dismissed with cost in the interest of justice.

5. Hearing

5.1 Hearing in the matter was initially scheduled for 13.10.2022 at NEPRA Regional Office Lahore, which however was adjourned for 24.11.2022 at the request of both parties. Hearing on the subject matter was again fixed for 24.11.2022 at Lahore, which was attended by counsels for both the Appellant and the Respondent. Learned counsel for the Appellant repeated the same contentions as given in memo of the appeal and *inter alia*, contended that neither any notice was served by the POI nor any intimation was given by the Respondent regarding the proceedings before the POI, hence the impugned decision could not be decided on ex-parte basis. Learned counsel for the Appellant prayed for setting aside the impugned decision and for remanding back the matter to POI for decision afresh after hearing both parties.

5.2 Learned counsel for the Respondent submitted that the Respondent was acquitted from the allegation of theft of electricity levelled by the Appellant, hence there is no justification for the recovery of the disputed bill. Learned counsel for the Respondent





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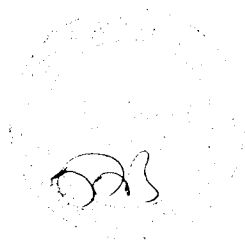
further submitted that many opportunities for hearing were provided but the Appellant did not bother to submit a reply to the complaint and to appear before the POI, hence ex-parte proceedings were initiated by the lower forum against them. He prayed for the maintainability of the impugned decision and dismissal of the appeal being devoid of merits.

6. We have heard the arguments and examined the record placed before us. Our observations are as under:

6.1 Jurisdiction of the POI u/s 38 of the NEPRA Act:

The entire facts of the case manifest that the case pertains to the billing due to the theft of electricity through tampering with the meter and the POI has been empowered to adjudicate such matters under Section 38 of the NEPRA Act. In this context, the honorable Supreme Court of Pakistan in the case reported as PLD 2012 SC 371 held that the POI has exclusive jurisdiction to entertain the complaints of billing, where, the metering equipment is involved and the Civil Court has the jurisdiction in case of bypassing the meter. Thus the objection of the Appellant has no force and the same is rejected.

6.2 The Appellant claims that no notices were served by the POI with regard to the proceedings of the Respondent's complaint, hence the impugned ex-parte decision be set aside and the matter be remanded back to the POI for the decision on merits. Since the factual controversies are involved in the case, which needs detailed investigation to determine the fate of the bill of Rs.54,345/- charged in April 2019. Hence, the impugned decision is set aside and the matter is remanded back to the POI for deciding





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afresh after providing the opportunity of hearing to both parties in accordance with the law within thirty (30) days from the date of receipt of the NEPRA decision.

Muhammad Irfan-ul-Haq
Member

Abid Hussain
Convener

Dated: 30/01/2023.

