



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

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No. NEPRA/AB/Appeal/069/2021/581

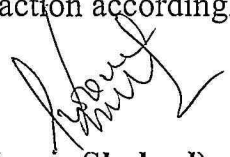
September 19, 2023

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| 1. M/s. Abdalians Co-operative Housing Society,
Through its President/Secretary,
Block-B, Near Shaukat Khannum Hospital,
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 (Operation),
LESCO Ltd,
Air Line Town 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. M/s. Abdalians Co-operative Housing Society Limited Against the Decision Dated 24.03.2021 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 19.09.2023 (08 pages), regarding the subject matter, for information and necessary action accordingly.

Encl: As Above


(Ikram Shakeel)
Deputy Director (AB)

Forwarded for information please.

1. Director (IT) –for uploading the decision on NEPRA website



National Electric Power Regulatory Authority

Before The Appellate Board

In the matter of

Appeal No.069/POI-2021

Lahore Electric Supply Company LimitedAppellant

Versus

M/s. Abdalians Co-operative Housing Society,
Through its President/Secretary, Block-B,
Near Shaukat Khanum Hospital, LahoreRespondent

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

For the Appellant:

Mr. Saeed Ahmed Bhatti Advocate

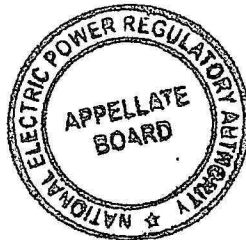
For the Respondent:

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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 24.03.2021 of the Provincial Office of Inspection, Lahore Region, Lahore (hereinafter referred to as the "POI") is being disposed of.
2. Briefly speaking, M/s. Abdalian Co-operative Housing Society Ltd (hereinafter referred to as the "Respondent") is an industrial consumer of the Appellant bearing Ref No.24-11243-1000600-U with sanctioned load of 40 kW and the applicable Tariff is B-2(b). The Appellant has claimed that one phase of the billing meter (the

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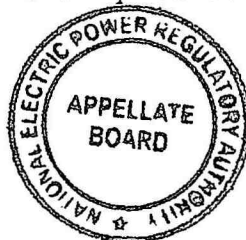




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“old meter”) of the Respondent was found dead stop and the backup meter was found working within specified limits during the Metering & Testing (“M&T”) team checking dated 12.09.2017, therefore billing of the Respondent was shifted to the backup meter (the “new meter”) of the Respondent w.e.f 12.09.2017 and onwards. Subsequently, the metering equipment of the Respondent was checked by the M&T team of the Appellant on 28.02.2019, wherein the new billing meter was found running 66.66% slow and the old billing meter was found running 33.33% slow. Notice dated 01.03.2019 was issued to the Respondent regarding the above discrepancies in the metering equipment and a detection bill of Rs.1,085,372/- for 32,404 units+188 kW MDI for five months for the period from September 2018 to January 2019 was debited to the Respondent @ 66.66% slowness of the new meter and added to the bill for February 2019.

3. Being aggrieved with the abovementioned actions of the Appellant, the Respondent filed an application before the POI on 18.11.2019 and challenged the detection bill of Rs.1,085,372/-. The metering equipment of the Respondent was checked by the POI on 22.09.2020 in the presence of both parties in which both the new and old meters were found dead stop. The matter was disposed of by the POI vide the decision dated 24.03.2021, wherein the detection bill of Rs.1,085,372/- for 32,404 units+188 kW MDI for five months for the period from September 2018 to January 2019 debited @ 66.66% slowness of the new meter was cancelled and the Appellant was allowed to recover the detection bill for two months only i.e. December 2018 and January 2019 as per consumption of corresponding months of the previous year or average consumption of last eleven months, whichever is higher.



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4. Through the instant appeal, the afore-referred decision dated 24.03.2021 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 POI erred in declaring the detection bill of Rs.1,085,372/- for 32,404 units +188 kW MDI for the period from September 2018 to January 2019 as null and void and allowed the Appellant to charge revised bills for December 2018 and January 2019 as per consumption of corresponding months of the previous year or average consumption of last eleven months, whichever is higher; (2) the POI failed to analyze the consumption data in true perspective; (3) the impugned metering equipment was checked by the POI after nineteen months from the date of checking dated 28.02.2019; (4) the POI failed to consider the difference of 37,470 units is recoverable from 12.09.2017 to 28.02.2019 due to the malfunctioning of the new meter; (5) the POI did not record the evidence and decided the petition of the Respondent on mere surmises and conjectures; (6) the impugned decision was announced after expiry of 90 days, which is violative of Section 26(6) of Electricity Act, 1910; (7) the POI has failed to appreciate that the complaint could not be entertained as notice as required under Section 26(6) of the Electricity Act, 1910 was served upon the Appellant before filing the same; (8) the impugned decision is illegal, unlawful, arbitrary and the same is liable to be set aside.

5. Proceedings by the Appellate Board

Upon filing of the instant appeal, a notice dated 11.06.2021 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days,



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which however were not filed.

6. Hearing

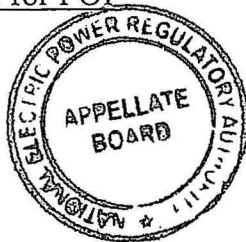
6.1 Hearings of the Appeal were conducted at NEPRA Regional Office Lahore on 13.10.2022 and 24.11.2022, which however were adjourned due to the absence of the Respondent. Finally, hearing of the Appeal was conducted at NEPRA Regional Office Lahore on 02.06.2023 in which counsel appeared for the Appellant and again no one appeared for the Respondent. Learned counsel for the Appellant repeated the same arguments as contained in memo of the Appeal and submitted that the old meter became 33% slow during checking dated 12.09.2017, therefore onward billing was shifted to the new meter. Learned counsel for the Appellant further submitted that the new meter was found 66% slow and the old meter was found running 33% slow during subsequent checking dated 28.02.2019, therefore a detection bill of Rs.1,085,372/- for 32,404 units+188 kW MDI for five months for the period from September 2018 to January 2019 was debited to the Respondent @ 66.66% slowness of the new meter, which is justified and payable by him. He opposed the impugned decision for revision of the detection bill for two months and argued that 37,470 units are recoverable from the Respondent being the difference of readings between the new and old billing meters. He finally prayed for setting aside the impugned decision and pleaded to allow the entire detection bill.

7. Arguments heard and the record perused. Following are our observations:

7.1 Objection regarding the time limit for POI

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As per the record, the Respondent filed his complaint before the POI on 18.11.2019 under Section 38 of the NEPRA Act. POI pronounced its decision on 24.03.2021 i.e. after 492 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 NEPRA 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 PLJ-2017-Lahore-309. Keeping in view the overriding effect of the NEPRA Act on the Electricity Act, 1910, and the above-referred decisions of the honorable High Court, the objection of the Appellant is dismissed.

7.2 Objection regarding prior notice before filing the complaint before 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.1,085,372/- 32,404 units+188 kW MDI for five months for the period from September 2018 to January 2019

The metering equipment of the Respondent was checked by the M&T team of the

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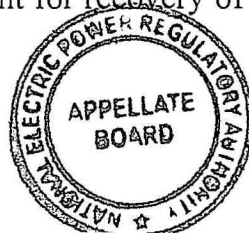
Appellant on 28.02.2019, wherein the old and new meters were found 33% and 66% slow respectively. The Appellant debited a detection bill of Rs.1,085,372/- for 32,404 units+188 kW MDI for five months for the period from September 2018 to January 2019 to the Respondent @ 66.66% slowness of the new meter, which was impugned by him before the POI.

7.4 During joint checking dated 22.09.2020 of the POI, impugned new and old meters of the Respondent were found dead stop, the joint checking report was signed by both parties without raising any objection. The POI allowed the Appellant to recover the detection bill for two months only i.e. December 2018 and January 2019 as per the corresponding consumption of the previous year or the average consumption of the last eleven months, whichever is higher. Against the impugned decision of the POI, the Appellant has filed this appeal before the NEPRA.

7.5 In its appeal, the Appellant prayed to allow 66.66% slowness of the meter w.e.f. September 2018 to January 2019. Clause 4.4(e) of the CSM-2010 being relevant in the instant case is reproduced below:

(e) The charging of consumers on the basis of defective code, where the meter has become defective and is not recording the actual consumption will not be more than two billing cycles. The basis of charging will be 100% of the consumption recorded in the same month of the previous year or the average consumption of the last 11 months whichever is higher. Only the Authorized employee of GEPCO will have the power to declare a meter defective. However, the consumer has a right to challenge the defective status of the energy meter and the GEPCO will get the meter checked at the site with a check meter or a rotary sub-standard or digital power analyzer accompanied by an engineer of the metering and testing laboratory free of cost."

7.6 Above-referred clause of the CSM-2010 restricts the Appellant to charge the bills maximum for two months in case of a slow/defective meter. Therefore, the contention of the Appellant for recovery of 66.66% slowness for the period



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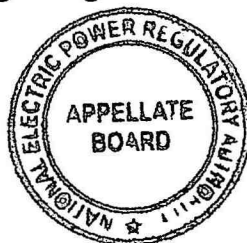
September 2018 to January 2019 i.e. five months is inconsistent with the ibid clause of the CSM-2010. Moreover, the version of the Appellant for recovery of 37,470 units from 12.09.2017 to 28.02.2020 due to the difference of readings between the new and old meters is not correct as the Appellant shifted the billing on the new meter w.e.f 12.09.2017. Moreover, the difference of readings of the impugned metering equipment cannot be made the basis for the determination of the fate of the detection bill as the Appellant itself debited the detection bill @ 66% slowness of the new meter and even failed to quantify their assertion before the POI.

7.7 In view of the foregoing discussion, we are constrained to assume that the detection bill of Rs.1,085,372/- for 32,404 units+188 kW MDI for five months for the period from September 2018 to January 2019 is unjustified and the same is cancelled.

7.8 As regards the determination of POI for revision of the bills for two months i.e. December 2018 to January 2019 as per Clause 4.4(e) of the CSM-2010 concerned, the quantum of slowness/defectiveness be determined through the below analysis of consumption data:

Undisputed		Disputed		% increase/ Decrease in slowness
Month	Units	Month	Units	
Dec-17	3940	Dec-18	2540	-36%
Jan-18	3600	Jan-19	2040	-43%

The above consumption pattern of the Respondent even does not support the version of the Appellant regarding 66% slowness of the meter. Hence the



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determination of PoI for revision of the bills for December 2018 and January 2019 on the basis of consumption of corresponding months of the previous or average consumption of the last eleven months, whichever is higher is correct.

7.9 The billing account of the Respondent be overhauled after adjusting payments made against the above bills.

8. Foregoing in view, this appeal is dismissed.

Abid Hussain
Member

Naweed Illahi Sheikh
Convener

Muhammad Irfan-ul-Haq
Member

Dated: 19-09-2023

