



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

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No. NEPRA/Appeal/079/2021/ 662

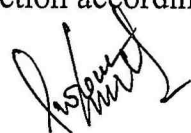
November 20, 2023

- | | |
|---|---|
| 1. Muhammad Sharjeel Adnan,
R/o. House No. 224,
Upper Mall Scheme, Lahore | 2. Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore |
| 3. Rai Abid Ali Kharal,
Advocate High Court,
Elahi Law Associates, Office No. 25,
3 rd Floor, Ali Plaza, 3-Mozang Road,
Lahore | 4. Sub Divisional Officer (Operation),
LESCO Ltd,
GOR 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. Muhammad Sharjeel Adnan Against the Decision Dated 05.10.2020 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 20.11.2023 (05 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.079/POI-2021

Lahore Electric Supply Company Limited

.....Appellant

Versus

Muhammad Sharjeel Adnan,
R/o. House No.224, Upper Mall Scheme, Lahore

.....Respondent

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

For the Appellant:

Rai Abid Ali Kharal Advocate

For the Respondent:

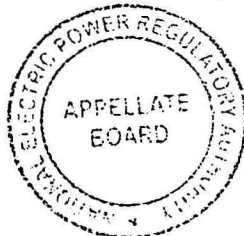
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DECISION

1. Through this decision, the appeal filed by the Lahore Electric Supply Company Limited (hereinafter referred to as the "Appellant") against the decision dated 05.10.2020 of the Provincial Office of Inspection, Lahore Region, Lahore (hereinafter referred to as the "POI") is being disposed of.
2. Briefly speaking, Mr. Muhammad Sharjeel Adnan (hereinafter referred to as the "Respondent") is a domestic consumer of the Appellant bearing Ref No.07-11252 -0641002-U with sanctioned load of 5 kW and the applicable Tariff category is A-1(b). The Appellant has claimed that the billing meter of the Respondent was checked by the Metering & Testing ("M&T") team on 15.05.2020 and it was declared 33% slow due to blue phase being dead. Notice dated 15.05.2020 was issued to the Respondent regarding the slowness of the meter. Thereafter, a detection bill of Rs.302,353/- against 15,987 units for ten months for the period from July 2019 to April 2020 was debited to the Respondent.

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3. Being aggrieved, the Respondent filed a complaint before the POI on 10.07.2020 and challenged the above detection bill. The complaint of the Respondent was disposed of by the POI vide the decision dated 05.10.2020, wherein the detection bill of Rs.302,353/- for 15,987 units for ten months for the period from July 2019 to April 2020 debited due to 33% slowness of the meter was cancelled and the Appellant was allowed to revise the bills w.e.f July 2019 and onwards as per Clause 4.4(e) of the CSM-2010.
4. Through the instant appeal, the afore-referred decision 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 that the POI did not apply his independent and judicious mind; that the impugned decision is against the settled principles of law being passed without perusing the record; the POI did not decide the matter within 90 days, which is violation of Section 26(6) of the Electricity Act 1910; that the POI has not thrashed out the consisting reasons and assed the illegal order.

5. Proceedings by the Appellate Board

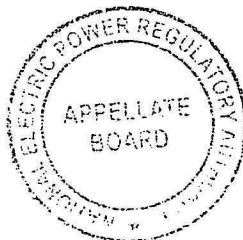
Upon filing of the instant appeal, a notice dated 25.06.2021 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days, which however were not submitted by the Respondent.

6. Hearing

- 6.1 Hearings were conducted at NEPRA Regional Office Lahore on 13.10.2022, 24.11.2022, 25.11.2022, and 02.06.2023, which however were adjourned on the request of either the Appellant or the Respondent. Finally, the hearing was conducted at NEPRA Regional Office Lahore on 08.09.2023, which was attended by a counsel for the Appellant, and again the Respondent did not tender appearance. Learned counsel for the Appellant contended that the billing meter of the Respondent was found running 33% slow during checking dated 15.05.2020, which was verified through the comparison with the check meter on 21.05.2020, therefore the detection bill amounting to Rs.302,353/- against 15,987 units for ten months for the period from July 2019 to April 2020 was debited to the Respondent to recover the revenue loss sustained by the Appellant. As per learned counsel for the Appellant, the above detection bill was cancelled by the POI without perusing the documentary evidence, hence the impugned decision is liable to be set aside.

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

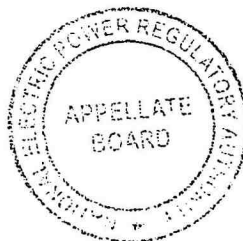
7.1 Objection regarding the time limit for POI to decide the complaint:

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. It is observed that the Respondent filed a complaint before the POI on 10.07.2020 under Section 38 of the NEPRA Act and the POI pronounced its decision on 05.10.2020 within 90 days of receipt of the complaint. Even otherwise, 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 being later in time, and the above-referred decisions of the honorable High Court, the objection of the Appellant is rejected.

7.2 Detection bill of Rs.302,353/- for 15,987 units for ten months for the period from July 2019 to April 2020

In its appeal, the Appellant has claimed that one phase of the billing meter of the Respondent was found dead stop during checking dated 15.05.2020. Resultantly, the Appellant charged the detection bill of Rs.302,353/- against 15,987 units for ten months for the period from July 2019 to April 2020 to the Respondent on account of 33% slowness of the impugned meter, which was challenged before the POI.

7.3 The Appellant did not produce the impugned billing meter of the Respondent before the POI being competent forum for verification of alleged slowness, which is contrary to the provisions of the CSM-2010. Rs.302,353/- against 15,987 units for ten months for the period from July 2019 to April 2020 to the Respondent on account of 33% slowness of the impugned meter. The Appellants were afforded opportunities of hearings time and again but the Appellant did not produce any document i.e. checking report, notice, and detection proforma, etc. before the NEPRA to substantiate their claim that the impugned meter remained 33% slow during the disputed period i.e. July 2019 to April 2020. The Appellant even failed to point out any discrepancy in the metering equipment of the Respondent during the monthly readings. This shows gross negligence and lack of interest on the part of the Appellant to defend the charging of the impugned detection bill.



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7.4 To further verify the contention of the Appellant, the consumption of the Respondent recorded during the disputed period i.e. July 2019 to April 2020 is compared with the corresponding consumption of the undisputed period in the below table:

Month	Units	Month	Units
Jul-18	2916	Jul-19	2489
Aug-18	3024	Aug-19	829
Sep-18	3674	Sep-19	1704
Oct-18	2140	Oct-19	1223
Nov-18	1689	Nov-19	537
Dec-18	1908	Dec-19	507
Jan-19	3176	Jan-20	1716
Feb-19	3857	Feb-20	1251
Mar-19	2974	Mar-20	511
Apr-19	2167	Apr-20	771

Examination of consumption data reveals that the impugned meter did not record actual consumption during the disputed period due to defectiveness. However, Clause 4.4(e) of the CSM-2010 restricts the Appellant to debit the detection bill maximum for two months in case of a slow/defective meter. However, in the instant case, the Appellant violated the ibid clause of the CSM-2010 while charging the impugned detection bill. Under these circumstances, we are inclined to agree with the findings of the POI that the recovery of the detection bill of Rs.302,353/- against 15,987 units for ten months for the period from July 2019 to April 2020 to the Respondent on account of 33% slowness of the impugned meter is incorrect and the same is cancelled.

7.5 Since defectiveness in the impugned meter of the Respondent was observed on 15.05.2020, the Respondent is liable to be charged the detection bill maximum for two retrospective months i.e. March 2020 and April 2020 as per Clause 4.4(e) of the CSM-2010. The impugned decision is liable to be modified to this extent.

8. In view of what has been stated, it is concluded that the detection bill of Rs.302,353/- against 15,987 units for ten months for the period from July 2019 to April 2020 debited to the Respondent on account of 33% slowness of the impugned meter is unjustified being inconsistent with Clause 4.4(e) of the CSM-2010 and the same is cancelled. The Respondent may be charged the revised detection bill for two retrospective months i.e. March 2020 and April 2020 and onward bills till replacement of defective meter on DEF-EST code as per the



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foregoing clause of the CSM-2010. The billing account of the Respondent be overhauled after adjusting payments made against the above detection bill.

9. Impugned decision is modified in the above terms.

Abid Hussain

Member

Naveed Ishaq Sheikh

Convener

Muhammad Irfan-ul-Haq

Member

Dated: 20-11-2023

