



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

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No. NEPRA/Appeal/091/2021/ 664

November 20, 2023

- | | |
|---|---|
| 1. M/s. Immi Garments (Pvt.) Ltd,
Through its Chief Operating Officer,
Situating at 24.5 KM, Bedian Road,
Lahore | 2. Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore |
| 3. Ch. Aamir Shahzad,
Advocate High Court,
Saleh Building, Behind Punjab Bar Council,
9-Fane Road, Lahore | 4. A. D. Bhatti,
Advocate High Court,
First Floor, Rehmat Tower,
13-Fane Road, Lahore |
| 5. Assistant Manager (Operation),
LESCO Ltd,
Bedian Road 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. M/s. Immi Garments (Pvt.) Ltd Against the Decision Dated 07.04.2021 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 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.091/POI-2021

Lahore Electric Supply Company Limited

.....Appellant

Versus

M/s. Immi Garments (Pvt.) Ltd,
Situated at 24.5 KM, Badian Road, Lahore

.....Respondent

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

For the Appellant:

Ch. Aamir Shahzad Advocate
Mr. Muhammad Raheel Court Clerk

For the Respondent:

Mr. A.D Bhatti Advocate

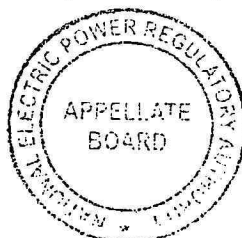
DECISION

1. Through this decision, the appeal filed by the Lahore Electric Supply Company Limited (hereinafter referred to as the "Appellant") against the decision dated 07.04.2021 of the Provincial Office of Inspection, Lahore Region, Lahore (hereinafter referred to as the "POI") is being disposed of.
2. Briefly speaking, M/s. Immi Garments (hereinafter referred to as the "Respondent") is an industrial consumer of the Appellant bearing Ref No.24-11525-9012800-U with sanctioned load of 146 kW and the applicable Tariff category is B-2(b). The Appellant has claimed that the billing meter of the Respondent was initially checked by the meter reader of the Appellant in February 2020 and reportedly it was found malfunctioning. Subsequently, Metering & Testing ("M&T") team of the Appellant checked the metering equipment of the Respondent on 21.07.2020 and reportedly, the billing meter was found running slow and the backup meter was found okay. Therefore, a detection bill of Rs.3,057,354/- was

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debited to the Respondent due to the difference in readings between the billing and backup meters and added to the bill for July 2020. The billing of the Respondent was shifted by the Appellant on the backup meter in August 2020.

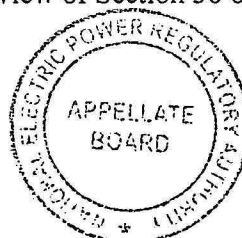
3. Being aggrieved, the Respondent filed a complaint dated 20.08.2020 before the POI and challenged the above detection bill. During joint checking of the POI on 03.09.2020, the impugned billing meter was found running 36.37% slow with upset date and time and the backup meter was found running 14.74% fast. During another checking of the POI on 03.03.2021, the impugned billing meter was found 33.3% slow and the backup meter was functioning correctly. The complaint of the Respondent was disposed of by the POI vide the decision dated 07.04.2021, wherein the detection bill of Rs.3,057,354/-was debited to the Respondent due to the difference of readings between the billing and backup meters and added to the bill for July 2020 was cancelled and the Appellant was allowed to revise the bills of June 2020 and July 2020 @ 33.3% slowness of the impugned meter.
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 impugned decision is against the facts and law of the case; that the POI did not apply his independent and judicious mind while passing the impugned decision; that the impugned decision was announced after expiry of 90 days from the date of receipt of the complaint which is not sustainable pursuant to the judgment reported as 2015 MLD 1307; and that the impugned decision is based on surmises and conjectures and the same is liable to be set aside.

5. Proceedings by the Appellate Board

Upon filing of the instant appeal, a notice dated 13.09.2021 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days, which were submitted by the Respondent on 01.11.2021. In the reply, the Respondent defended the impugned decision and submitted that the impugned billing meter was found 33.3% slow during the POI joint checking dated 03.03.2021, hence the POI considered all legal and factual aspects of the case and passed the impugned decision in accordance with law and procedure on subject. The Respondent further submitted that the POI has exclusive jurisdiction to adjudicate the instant matter in view of Section 38 of the NEPRA Act and the limitation of

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90 days as provided in Section 26(6) of the Electricity Act, 1910 is not applicable in the instant case reliance is placed on *PLJ 2017 Lhr 627*. The Respondent prayed that the impugned decision is liable to be upheld.

6. Hearing

6.1 Hearings were held at NEPRA Regional Office Lahore on 13.10.2022 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 the counsels for both the Appellant and the Respondent. Learned counsel for the Appellant contended that the billing meter of the Respondent was found running 33.3% slow during checking dated 21.07.2020, therefore the detection bill amounting to Rs.3,057,354/- was debited to the Respondent due to the difference of readings between the billing and backup meters 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.

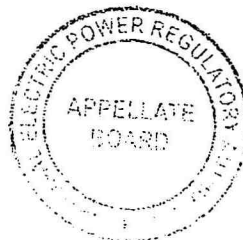
6.2 On the contrary, learned counsel for the Respondent repudiated the version of the Appellant and argued that the impugned billing meter was running 33% slow due to one phase being dead, which was confirmed by the POI during the joint checking dated 03.03.2021, hence the POI has rightly revised the detection bill for two months to account for 33% slowness. He prayed that the impugned decision is liable to be upheld.

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 20.08.2020 under Section 38 of the NEPRA Act and the POI pronounced its decision on 07.04.2021 after 90 days of receipt of the complaint. Since, 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.

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7.2 Detection bill of Rs.3,057,354/- debited to the Respondent due to the difference of readings between the billing and backup meters and added to the bill for July 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 21.07.2020. Resultantly, the Appellant charged the detection bill amounting to Rs.3,057,354/- to the Respondent due to the difference of readings between the billing and backup meters and added to the bill for July 2020, which was challenged before the POI.

7.3 During the joint checking dated 03.03.2021 of the POI, 33% slowness in the impugned billing meter of the Respondent was confirmed, hence only the period of 33% slowness needs to be determined. The Appellant debited the above detection bill on account of difference of readings between the billing and backup meters instead of established 33% slowness, which is violation of Clause 4.4(e) of the CSM-2010. Said clause of the CSM-2010 restricts the Appellant to debit the slowness maximum for two months to the Respondent. The Appellant neither provided the detection proforma to justify their claim regarding the difference of readings nor could justify the charging of the impugned detection bill. Under these circumstances, we are of the considered view that the detection bill of Rs.3,057,354/- debited to the Respondent due to the difference of readings between the billing and backup meters and added to the bill for July 2020 is unjustified being contrary to the provisions of the CSM-2010 and the same is cancelled. The impugned decision is liable to be maintained to this extent.

7.4 Since 33% slowness in the impugned meter of Respondent was observed on 21.07.2020, the Respondent is liable to be debited the detection bill for two billing cycles prior the checking dated 21.07.2020 due to 33% slowness of the impugned meter as per Clause 4.4(e) of CSM-2010.

8. In view of what has been stated above, it is concluded that the detection bill of Rs.3,057,354/- debited to the Respondent due to the difference of readings between the billing and backup meters and added to the bill for July 2020 is unjustified being contrary to Clause 4.4(e) of the CSM-2010 and the same is cancelled. The Respondent may be charged the revised detection bill for two billing cycles prior to checking dated 21.07.2020 to account for 33% slowness of the meter as per Clause 4.4(e) of the CSM-2010. The billing account of the



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Respondent be overhauled after adjusting payments made against the above detection bill.

9. The appeal is disposed of in the above terms.

Abid Hussain
Member

Naweed Illahi-Sheikh
Convener

Muhammad Irfan-ul-Haq
Member

Dated: 20-11-2023

