



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

NEPRA Office , Ata Turk Avenue (East), G5/1, Islamabad  
Tel. No.+92 051 2013200 Fax No. +92 051 2600030  
Website: [www.nepra.org.pk](http://www.nepra.org.pk) E-mail: [office@nepra.org.pk](mailto:office@nepra.org.pk)

No. NEPRA/Appeal/092/2020/ 672

February 02, 2023

1. Muhammad Nasir,  
S/o. Raja Muhammad Sadiq,  
R/o. Mouza Kachha,  
Brother Chemical Factory,  
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<sup>rd</sup> Floor, Ali Plaza, 3-Mozang Road,  
Lahore
4. Assistant Manager,  
LESCO Ltd,  
Hamza 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. Muhammad Nasir Against the Decision Dated 22.10.2019 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.092/POI-2020

Lahore Electric Supply Company Limited .....Appellant

Versus

Muhammad Nasir S/o Raja Muhammad Sadiq,  
R/o. Mouza Khacha, Brother Chemical Factory, Lahore .....Respondent

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

For the Appellant:

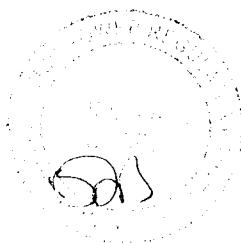
Rai Abid Ali Kharal Advocate

For the Respondent:

Nemo

### 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 22.10.2019 of the Provincial Office of Inspection, Lahore Region, Lahore (hereinafter referred to as the “POI”) is being disposed of.
2. Briefly speaking, Mr. Muhammad Nasir (hereinafter referred to as the “Respondent”) is an industrial consumer of the Appellant bearing Ref No.46-11531-0317706 with sanctioned load of 39kW and the applicable tariff category is B-2(b). The Appellant assailed the arrears of Rs.272,000/- before the POI, which contained the bill for January 2018 and February 2018. In his complaint, the





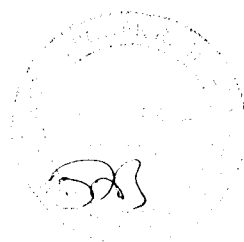
## National Electric Power Regulatory Authority

Respondent submitted that the Appellant debited the excessive billing during January 2018 and February 2018 on account of fictitious reading. The complaint of the Respondent was disposed of by the POI vide the decision dated 22.10.2019, wherein the arrears of Rs.272,000/- pertaining to the bill for January 2018 and February 2018 were cancelled. The POI directed the Appellant to debit the revised bills for the period from January 2018 and February 2018 and onwards till the replacement of the impugned meter based on consumption of the previous year.

3. Through the instant appeal, the afore-referred decision dated 22.10.2019 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 did not apply his independent and judicious mind while passing the impugned decision; (2) the impugned decision is based on illegal assumptions and presumption and the against the settled principle of law; (3) the impugned decision was announced without perusal of record; (4) the billing meter of the Respondent remained defective during the period December 2017 to January 2018 but it was found ok in subsequent checking; (5) therefore the bills were debited as per consumption data; (6) the POI decided the matter after expiry of 90 days, which is a violation of section 26(6) of the Electricity Act 1910; and the impugned decision is liable to be set aside.

#### 4. Proceedings by the Appellate Board

- 4.1 Upon filing of the instant appeal, a notice dated 02.10.2020 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.





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### 5. Hearing

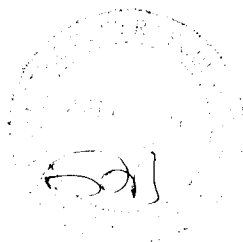
5.1 After issuing notices to both parties, hearings of the subject appeal were fixed at NEPRA Regional Office Lahore on 16.06.2022, 23.08.2022, and 29.09.2022, which however were adjourned on the request of counsel for the Appellant.

5.2 Finally, hearing of the appeal was conducted at Lahore on 24.11.2022, which was attended by counsel for the Appellant and no one appeared for the Respondent. Learned counsel for the Appellant reiterated the same version as contained in the memo of the appeal and contended that the POI has no jurisdiction to adjudicate the dispute of excessive billing. Learned counsel for the Appellant further contended that the bills for the period January 2018 and February 2018 were charged as per consumption recorded by the billing meter of the Respondent. As per the learned counsel of the Appellant, the above bills are justified and the recovery of the same be allowed in the best interest of justice.

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

#### 6.1 Objection regarding the time limit for POI

As per the record, the Respondent filed his complaint before the POI on 16.04.2018 under Section 38 of the NEPRA Act. POI pronounced its decision on 22.10.2019 i.e. after 555 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





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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, hence the objection of the Respondent is dismissed.

### 6.2 Jurisdiction of the POI u/s 38 of the NEPRA Act:

Admittedly the impugned billing meter of the Respondent remained defective during the period from December 2017 to February 2018, which was subsequently removed by the Appellant. These facts manifest that the case pertains to the billing due to a slow/defective 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.

### 6.3 Arrears of Rs.272,000/- containing the bills of January 2018 and February 2018

It is an admitted fact that the meter of the Respondent remained defective during the disputed months i.e. January 2018 and February 2018, however, the same was replaced with a new meter without getting checked by the POI being a competent forum. The Appellant did not provide any document i.e. site inspection report, notice, billing statement/PITC data and MCO, etc. to substantiate their stance that the billing for the disputed months i.e. January 2018 and February 2018 was charged



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as per consumption recorded by the impugned meter. Thus, under these circumstances, we are in agreement with the findings of the POI that the bills for January 2018 and February 2018 and onwards till the replacement of the impugned meter be charged as per 100% consumption of corresponding months of the previous year. The billing account of the Respondent may be overhauled after adjustment of the payments made against the above arrears.

7. Foregoing in view, we do not find any reason to interfere with the impugned decision, the same is upheld and the appeal is dismissed.

Muhammad Irfan-ul-Haq  
Member

Abid Hussain  
Convener

Dated: 30/01/2023

