



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 E-mail: office@nepra.org.pk

No. NEPRA/Appeal/094/2021/128

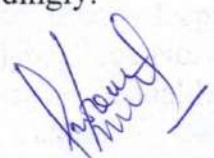
February 28, 2023

- | | |
|--|---|
| 1. The Administrative Officer,
Government Engineering Academy, Punjab,
Thokar Niaz Baig, Canal Bank 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. Wajahat Abbas Khan,
Advocate High Court,
Qazi Law Associates,
Bashir Mansion, 2-Turner Road,
Lahore |
| 5. Assistant Manager (Operation),
LESCO Ltd,
Niaz Baig 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. Government Engineer Academy 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 23.02.2023, 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. 094/POI-2021

Lahore Electric Supply Company Limited

.....Appellant

Versus

The Administrative Officer,
Government Engineering Academy Punjab,
Thokar Niaz Baig, Lahore

.....Respondent

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

For the Appellant:

Ch. Amir Shahzad Advocate
Mr. Waheed-ul-Hassan Add. XEN

For the Respondent:

Mr. M. Akram Professor

DECISION

1. As per fact of the case, the Respondent namely, Government Engineering Academy Punjab is a domestic (Hostel) consumer of the Lahore Electric Supply Company Limited (hereinafter referred to as the "Appellant") bearing Ref No.15-11234-0998156 having sanctioned load of 1 kW and the applicable tariff category is A-1(a). The Respondent filed a complaint before the Provincial Office of Inspection Lahore Region, Lahore (the "POI") on 26.08.2020 and disputed the arrears of Rs.2,776,168/- added to the bill for July 2020, which contained the bills for the period from August 2018 to June 2020. The complaint of the Respondent was disposed of by the POI vide the decision dated 24.03.2021, wherein the bills for the period August 2018 to July 2020





National Electric Power Regulatory Authority

were declared null and void. As per the POI decision, the Appellant was directed to revise the bills for the aforesaid period @ 1,285 units per month as per average consumption from January 2016 to December 2016. The Appellant was further directed to install a new meter on the premises of the Respondent to avoid litigation in the future.

2. Subject appeal was filed against the afore-referred decision of the POI (hereinafter referred to as the "impugned decision") by the Appellant before the NEPRA. In the appeal, the Appellant opposed the impugned decision on the grounds, *inter alia*, that the impugned decision is against the facts and law; that the Appellant has no personal grudge or grouse against the Respondent to issue any excessive bill; that the Appellant being government exchequer is suffering an irreparable loss and injury due to the impugned decision; that the impugned decision was rendered by the POI after the prescribed limit of 90 days, which is not sustainable in the eye of the law; that the POI has not thrashed the consisting reasons of the Appellant in the matter and passed the illegal decision based on surmises and conjectures and that the same is liable to be set aside.

3. Proceedings by the Appellate Board

- 3.1 Upon the filing of the instant appeal, a Notice dated 27.09.2021 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days which were filed on 18.10.2021. In the reply, the Respondent opposed the maintainability of the appeal *inter alia*, on the following grounds that the appeal is time-barred; that the POI decided the case based on previous year consumption; that the impugned meter was defective since April 2018 and the Appellant charged the excessive bills without reading; that the Appellant was approached time and again for



replacement of the meter but no action was taken; that the impugned decision was rendered after correct perusal of record and providing an opportunity of hearing to both parties and that the appeal is liable to be dismissed being devoid of any legal force and merit.

4. Hearing

- 4.1. Hearing of the subject appeal was held at NEPRA Regional Office Lahore on 13.10.2022 in which a counsel along with an official appeared for the Appellant whereas Mr. Muhammad Akram represented the Respondent. Learned counsel for the Appellant reiterated the same contentions as contained in memo of the appeal and contended that the defective meter of the Respondent was replaced with a new meter in February 2019 and thereafter the bills were debited as per actual consumption and the Respondent made payment accordingly without raising any dispute; that the impugned decision for revision of the bills for the period August 2018 to July 2020 as per average consumption of the year 2016 is not based on merits as the consumption of the Respondent increased during the disputed period due to extension of AC load. He prayed that the impugned decision be set aside and the bills for the period from August 2018 to July 2020 be declared as justified and payable by the Respondent.
- 4.2. The Respondent rebutted the version of the counsel for the Appellant and stated that the impugned meter became defective in January 2018 for which the Appellant was approached time and again vide applications dated 05.01.2018, 03.01.2019, 11.06.2019, 11.07.2019 and 08.10.2019 but the impugned meter was not replaced timely and excessive billing was carried out by the Appellant based on fictitious readings. The representative for the Respondent denied the allegation of the Appellant



for extension of load through the installation of AC equipment and averred that the ACs were procured in the year 2022 after the disputed period and submitted the trail of communication with regard to the bidding for the ACs procurement. The representative finally prayed that the appeal be dismissed being time-barred.

5. Arguments were heard and the record placed before us was examined. Following are our findings:

5.1 Limitation for filing the appeal:

According to Section 38(3) of the NEPRA Act, any aggrieved party may prefer an appeal before the NEPRA within 30 days from the date of receipt of the decision of the Provincial Office of Inspection. Further, a margin of 7 days is provided in case of submission through registered post, and 3 days in case of submission of appeal through courier is given in the NEPRA (Procedure for filing Appeals) Regulations, 2012. The Appellant produced a copy of the impugned decision received from the office of POI on 20.05.2021. Counting 30 days from the date of said receiving, the appeal filed on 25.05.2021 before the NEPRA is within the time limit as prescribed in the above-referred Regulation of NEPRA (Procedure for filing Appeals) Regulations, 2012, hence the objection of the Respondent in this regard has no force and is rejected.

5.2 Objection regarding the time limit for POI for deciding the complaint

As per the record, the Respondent filed his complaint before the POI on 26.08.2020 under Section 38 of the NEPRA Act. POI pronounced its decision on 24.03.2021 i.e. after 210 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 Electricity





National Electric Power Regulatory Authority

Act, of 1910. Reliance in this regard is placed on the judgments of the honorable Lahore High Court Lahore reported in 2017 PLJ 627 Lahore and 2017 PLJ 309 Lahore. 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.

5.3 Disputed bills for the period August 2018 to July 2020 charged by the Appellant

As per the record presented before us, the Respondent filed a complaint before the POI on 26.08.2020 and disputed the arrears of Rs.2,776,168/- added to the bill for July 2020, which contained the bills for the period from August 2018 to June 2020. The billing statement of the Respondent as presented by the Appellant is reproduced below for the sake of convenience:

Meter	Number	Month	Units	Status
First	17496	Oct-17	2195	Defective
	17496	Nov-17	2287	Defective
	17496	Dec-17	2378	Defective
	17496	Jan-18	2467	Defective
	17496	Feb-18	3572	Defective
	17496	Mar-18	2553	Defective
	17496	Apr-18	2722	Defective
	17496	May-18	2703	Defective
	17496	Jun-18	2742	Defective
	17496	Jul-18	3576	Active
	17496	Aug-18	2884	Active
	17496	Sep-18	4800	Active
	17496	Oct-18	4560	Active
	17496	Nov-18	2153	Active
	17496	Dec-18	3500	Active
	17496	Jan-19	3248	Defective





National Electric Power Regulatory Authority

Second	3891134	Feb-19	3573	Replaced
	3891134	Mar-19	2553	Active
	3891134	Apr-19	5014	Active
	3891134	May-19	4500	Active
	3891134	Jun-19	5500	Active
	3891134	Jul-19	6787	Active
	3891134	Aug-19	5639	Active
	3891134	Sep-19	6581	Active
	3891134	Oct-19	7246	Active
	3891134	Nov-19	4500	Active
	3891134	Dec-19	4511	Active
	3891134	Jan-20	4517	Active
	3891134	Feb-20	5213	Defective
	3891134	Mar-20	5455	Defective
Third	4913693	Apr-20	270	Replaced
	4913693	May-20	4500	Active
	4913693	Jun-20	0	Same
	4913693	Jul-20	6787	Defective

The billing statement shows that the meter of the Respondent was changed twice. The meter bearing No.17496 (the “first meter”) of the Respondent in January 2019 and the meter bearing No.03891134 (the “second meter”) in April 2020. The first meter of the Respondent showed defective status from October 2017 to June 2018. Afterward, it is shown as active from July 2018 to December 2018. The first meter is again shown as defective in January 2019, which is subsequently replaced in February 2019. It is observed that the first meter was claimed by the Appellant to have been defective on account of the vanished display. As such the stated fault can be seen with bare eyes, it is astonishing as to why the fault was not rectified by the Appellant’s staff during monthly meter readings. The Respondent itself informed the Appellant in writing twice vide its letters dated 05.01.2018 and 03.01.2019 about the defect in the said meter, however, the Appellant did not take timely action to replace the same and it was not





National Electric Power Regulatory Authority

before February 2019 that the first meter of the Respondent was replaced. This shows sheer negligence on the part of the Appellant, who under Clause 4.4 of the CSM-2010 was responsible to change the defective meter within two months.

5.4 In this situation, the bills charged by the Appellant from August 2018 to January 2019 despite the defective status of the meter, need to be redressed. As such, the first meter is shown defective since October 2017, hence the consumption of immediate corresponding months of the previous year cannot be made the basis for the determination of the bills for the disputed period i.e. August 2018 to January 2019. Under these circumstances, the consumption of the disputed period i.e. August 2018 to January 2019 is compared below with undisputed healthy consumption of the period before the dispute i.e. August 2016 to January 2017:

Corresponding period before dispute		Disputed period	
Month	Units	Month	Units
Aug-16	1100	Aug-18	2884
Sep-16	1192	Sep-18	4800
Oct-16	1192	Oct-18	4560
Nov-16	1188	Nov-18	2153
Dec-16	1285	Dec-18	3500
Jan-17	906	Jan-19	3248
Average	1144	Average	3524

5.5 The above table shows that the Appellant charged the bills for the disputed period August 2018 to January 2019 on the higher side viz-a-viz the corresponding consumption of the period before the dispute i.e. August 2016 to January 2017. In view of the foregoing discussion, it is concluded that the bills charged for the period from August 2018 to January 2019 by the Appellant to the Respondent on account of vanished display of the first meter are unjustified being excessive and the same are





National Electric Power Regulatory Authority

declared null and void.

5.6 It would be fair and appropriate to charge the revised bills @ 1,144 units/month for the period August 2018 to January 2019 as per the average consumption of the period before the dispute i.e. August 2016 to January 2017. The impugned decision is liable to be modified to this extent.

5.7 The second meter of the Respondent was installed in February 2019 and the bills for the period February 2019 to January 2020 debited by the Appellant as per consumption recorded by the second meter with active status are justified and payable by the Respondent.

5.8 Thereafter the second meter of the Respondent became defective in February 2020 and it was replaced with a new meter bearing No.4913693 ("third meter") by the Appellant in April 2020. The Appellant debited the bills for the months i.e. February 2020 and March 2020 with defective status. The consumption charged by the Appellant during the two months is compared with the consumption of corresponding months of the previous year in table-1 below, while the average consumption of the Respondent during the last eleven months is given in table-2:

Table-1			
Corresponding period before dispute		Disputed period	
Month	Units	Month	Units
Feb-19	3573	Feb-20	5213
Mar-19	2553	Mar-20	5455

Table-2	
Average consumption of last eleven months	
Month	Units
Mar-19	2553
Apr-19	5014
May-19	4500
Jun-19	5500
Jul-19	6787
Aug-19	5639
Sep-19	6581





National Electric Power Regulatory Authority

Oct-19	7246
Nov-19	4500
Dec-19	4511
Jan-20	4517
Average	5,480

As evident from the above, the bills charged by the Appellant for the disputed months i.e. February 2020 and March 2020 are higher than the corresponding consumption of the preceding year. However, the said bills are slightly lesser than the average consumption of the last eleven months i.e. March 2019 to January 2020. As per Clause 4.4(e) of the CSM-2010, the DSICO is restrained to replace the defective meter within two months and charge the bills maximum for two months as per 100% consumption of the corresponding month of the previous year or average consumption of the last eleven months, whichever is higher. Thus under the said provision, the Respondent is liable to be charged the revised bills @ 5,480 units/month for February 2020 and March 2020 as per average consumption of the last eleven months i.e. March 2019 to January 2020.

5.9 The bills for April 2020 to June 2020 charged as per healthy consumption of the third meter of the Respondent are justified and payable by the Respondent.

5.10 Third meter of the Respondent became defective in July 2020 and the Appellant debited the bill for the said month against 6,787 units as per the corresponding consumption recorded by the second meter in July 2019, which is justified being in line with Clause 4.4(e) of the CSM-2010 and payable by the Respondent.

6. Summing up the foregoing discussion, it is concluded as under:

6.1 The bills for the periods from August 2018 to January 2019 debited by the Appellant to the Respondent are unjustified and the same are cancelled.



6.2 The Respondent may be charged the revised bills @ 1,144 units per month for the period from August 2018 to January 2019 as per the average consumption of the undisputed months i.e. August 2016 to January 2017.

6.3 The bills for the periods (i) from February 2019 to January 2020 and (ii) from April 2020 to July 2020 already charged by the Appellant are justified and payable by the Respondent.

6.4 The Respondent may be charged the revised bills @ 5,480 units/month for the disputed months of February 2020 and March 2020 based on the average consumption of the last eleven months i.e. March 2019 to January 2020 as per Clause 4.4(e) of the CSM-2010

6.5 The billing account of the Respondent be overhauled accordingly.

7. The impugned decision is modified in the above terms.



Syed Zavar Haider
Member



Abid Hussain
Convener



Muhammad Irfan-ul-Haq
Member

Dated: 23/02/2023

