



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

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No. NEPRA/AB/Appeal/098/2021/501

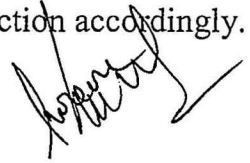
August 31, 2023

- | | |
|---|--|
| 1. Muhammad Arshad Bhatti,
S/o. Murid Hussain Bhatti,
R/o. House No. 08, Street No. 02,
Soami Nagar, Ghoray Shah, 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. A. D. Bhatti,
Advocate High Court,
Office No. 4, First Floor,
Rehmat Tower, 13-Fane Road,
Lahore |
| 5. Assistant Manager (Operation),
LESCO Ltd,
Chah Miran 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. Muhammad Arshad Bhatti Against the Decision Dated 14.04.2021 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 30.08.2023 (07 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.098/POI-2021

Lahore Electric Supply Company Limited

.....Appellant

Versus

Muhammad Arshad Bhatti, S/o Murid Hussain Bhatti,
R/o. House No.08, Street No.02, Soami Nagar,
Ghoray Shah, Lahore

.....Respondent

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

For the Appellant:

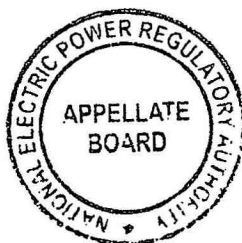
Mr. Saeed Ahmed Bhatti Advocate

For the Respondent:

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 14.04.2021 of the Provincial Office of Inspection, Lahore Region, Lahore (hereinafter referred to as the "POI") is being disposed of.
2. Briefly speaking, Mr. Muhammad Arshad Bhatti (hereinafter referred to as the "Respondent") is an industrial consumer of the Appellant bearing Ref No.46-11153-0286300-U with sanctioned load of 4 kW and the applicable Tariff category is

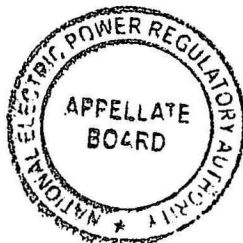




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B-1(b). The Appellant has claimed that the two phases of the billing meter of the Respondent were found dead stop during the Metering & Testing ("M&T") team checking dated 23.08.2019. Notice dated 27.08.2019 was issued to the Respondent regarding the above discrepancy. Thereafter, a detection bill of Rs.574,978/- against 25,553 units for nine (09) months for the period from October 2018 to June 2019 was charged to the Respondent @ 66% slowness of the meter and added to the bill for September 2019.

3. Being aggrieved, the Respondent filed a complaint before the POI and challenged the above detection bill. The complaint of the Respondent was disposed of by the POI vide the decision dated 14.04.2021, wherein the detection bill of Rs.574,978/- against 25553 units for nine months for the period from October 2018 to June 2019 was cancelled and the Appellant was allowed to revise the bills for two months i.e. May 2019 and June 2019 as per consumption of corresponding months of the previous year or average consumption of last eleven months, whichever is higher.
4. Through the instant appeal, the afore-referred decision dated 14.04.2021 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.574,978/- against 25,553 units for nine months for the period from October 2018 to June 2019 as null and void and allowed the Appellants to charge the revised bills for May 2019 and June 2019 as per consumption of corresponding months of previous year or average consumption of last eleven months, whichever is higher; (2) Clause 4.3.3(c)(ii) of the Consumer Service





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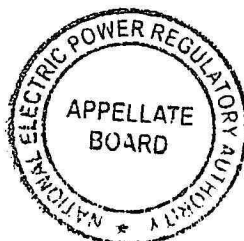
Manual 2020 (the Revised "CSM-2020") cannot be made applicable in the instant case; (3) the POI while deciding the matter ignored consumption data and other authentic documents from which it is fully established that the impugned meter was 66% slow from October 2018 to June 2019; (4) the impugned decision is ex-facie, coram non-judice, ab-initio, void and without jurisdiction as the POI has no jurisdiction to carry out the proceedings after expiry of 90 days as envisaged under Section 26(6) of the Electricity Act 1910; (5) 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 07.10.2021 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days, which however were not filed.

6. Hearing

6.1 Hearing of the appeal was initially conducted at NEPRA Regional Office Lahore on 13.10.2022, which however was adjourned till the next date due to non-availability of the Respondent. Hearing of the appeal was again conducted at NEPRA Regional Office Lahore on 02.06.2023, which was attended by counsel for the Appellant and a counsel representing the Respondent. Learned counsel for the Appellant reiterated the same version as contained in the memo of the appeal and contended that two phases of the billing meter of the Respondent were found dead stop during checking dated 23.08.2019, which was also verified from the consumption data, as such the recovery of





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detection bill of Rs.574,978/- against 25,553 units for nine months for the period from October 2018 to June 2019 @ 66% slowness be allowed in the best interest of justice.

Learned counsel for the Appellant prayed for setting aside the impugned decision.

6.2 Learned counsel for the Respondent rebutted the version of the Appellant regarding 66% slowness of the impugned meter and argued that the Appellant neither followed the procedure as laid down in Chapter of the CSM-2010 nor could produce the impugned meter as material evidence before the POI to establish the alleged slowness. Learned counsel for the Respondent supported the impugned decision for cancellation of the above detection bill and revision of the same for two months and prayed for upholding the same.

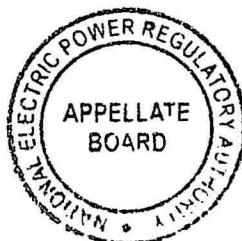
7. Arguments heard and the record perused. Following are our observations:

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

As per the record, the Respondent filed his complaint before the POI on 16.12.2020 under Section 38 of the NEPRA Act. POI pronounced its decision on 14.04.2021 i.e. after 120 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 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

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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.

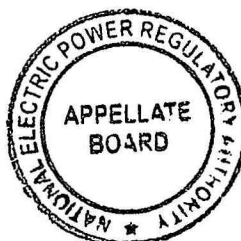
7.2 Detection bill of Rs.574,978/- against 25,553 units for nine months for the period from October 2018 to June 2019

Reportedly, two phases of the impugned meter of the Respondent were found dead stop during checking dated 23.08.2019, therefore, a detection bill of Rs.574,978/- against 25553 units for nine months for the period from October 2018 to June 2019 was debited to the Respondent @ 66% slowness of the meter, which was challenged before the POI.

7.3 It is observed that the Appellant charged the detection bill for nine months to the Respondent on account of 66% slowness of the impugned meter, which is contrary to Clause 4.4(e) of the CSM-2010. The said clause 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."

7.4 Above-referred clause of the CSM-2010 restricts the Appellant to charge slowness maximum for two months. It is further observed that the Appellant did not produce the impugned meter before the POI being a competent forum to verify the alleged



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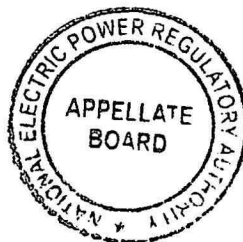
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66% slowness. To further verify the alleged 66% slowness, consumption data is analyzed in the below table:

Undisputed period		Disputed Period	
Month	Units	Month	Units
Oct-17	0	Oct-18	769
Nov-17	0	Nov-18	797
Dec-17	2048	Dec-18	942
Jan-18	2000	Jan-19	2710
Feb-18	2500	Feb-19	3856
Mar-18	3000	Mar-19	3000
Apr-18	-1500	Apr-19	-1500
May-18	2000	May-19	2000
Jun-18	-500	Jun-19	-2000
July-18	0	Jul-19	2002
Aug-18	4644	Aug-19	225
Average	1,290	Average	1164

The above consumption analysis shows that the impugned meter of the Respondent recorded lesser consumption during the disputed period as compared to the corresponding consumption of the previous year, however, this does not warrant the Appellant to recover 66% slowness of the meter during the disputed period. In view of the above, we are of the considered view that the detection bill of Rs.574,978/- against 25,553 units for nine months for the period from October 2018 to June 2019 @ 66% slowness of the meter is not correct being contrary to the facts and inconsistent with the foregoing clause of the CSM-2010 and the above detection bill is set aside.

7.5 Since the meter under dispute was found faulty on 23.08.2019, the Respondent is liable to be charged the detection bill for two previous months i.e. June 2019 and





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July 2019, and the bill of August 2019 on DEF-EST code as per Clause 4.4(e) of the CSM-2010. The impugned decision is liable to be modified to this extent.

8. Summing up the foregoing discussion, it is concluded as under;

8.1 The detection bill of Rs.574,978/- against 25,553 units for nine months for the period from October 2018 to June 2019 charged @ 66% slowness of the meter is illegal, unjustified and the same is cancelled.

8.2 The Respondent may be charged the revised detection bill for two previous months i.e. June 2019 and July 2019 and the bill of August 2019 on DEF-EST code as per Clause 4.4(e) of the CSM-2010.

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

9. Impugned decision is modified in the above terms.

Abid Hussain
Member

Naweed Hahi Sheikh
Convener

Muhammad Irfan-ul-Haq
Member

Dated: 30-08-2023

