



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

NEPRA Office , Ataturk 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/108/2021/668


November 20, 2023

- | | |
|--------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Abdul Rehman Khan,
S/o. Amanullah Khan,
Cold Storage, Ratta Kahna Road,
Depalpur, District Okara | 2. Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore |
| 3. Mian Muhammad Mudassar Bodla,
Advocate Supreme Court,
Syed Law Chambers, 4-Mozang Road,
Lahore | 4. A. D. Bhatti,
Advocate High Court,
First Floor, Rehmat Tower,
13-Fane Road, Lahore |
| 5. Assistant Manager (Operation),
LESCO Ltd,
Mazhar Abad Sub Division,
Depalpur, District Okara | 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. Abdul Rehman Khan Against the Decision Dated 29.07.2021 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 (06 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.108/POI-2021

Lahore Electric Supply Company Limited

.....Appellant

Versus

Abdul Rehman Khan S/o. Amanaulah Khan, Cold Storage,
Ratta Kahna Road Depalpur, District Okara

.....Respondent

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

For the Appellant:

Mian Muhammad Mudassar Bodla Advocate

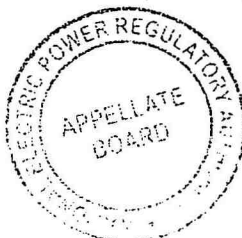
For the Respondent:

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 29.07.2021 of the Provincial Office of Inspection, Lahore Region, Lahore (hereinafter referred to as the "POI") is being disposed of.
2. Briefly speaking, Abdul Rehman Khan (hereinafter referred to as the "Respondent") is an industrial consumer of the Appellant bearing Ref No.24-11455-2213705-R with sanctioned load of 175 kW and the applicable Tariff category is B-2(b). The Appellant has claimed that both the billing and backup meters of the Respondent were checked by the Metering & Testing ("M&T") team on 23.01.2020, wherein the impugned billing meter was running 33% slow and the backup meter was found okay. Notice dated 31.01.2020 was issued to the Respondent regarding the 33% slowness of the meter and the Multiplication Factor (the "MF") of the Respondent was raised from 80 to 120 for onward billing. Thereafter, a detection bill of Rs.1,536,071/- for 64,827 units for eight (08) months for the period from May 2019 to December 2019 was charged by the Appellant to the Respondent @ 33% slowness of the meter.

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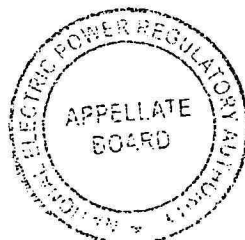
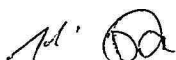
3. Being aggrieved, the Respondent filed a complaint before the POI on 10.09.2020 and challenged the above detection bill. During joint checking dated 23.09.2020 of POI, the billing meter was found 33% slow due to one dead phase. The complaint of the Respondent was disposed of by the POI vide the decision dated 29.07.2021, wherein the detection bill of Rs.1,536,071/- for 64,827 units for eight (08) months for the period from May 2019 to December 2019 was cancelled and the Appellant was directed to charge the detection bill for two months only i.e. November 2019 and December 2019 to the Respondent to account for 33% slowness.
4. Through the instant appeal, the afore-referred decision dated 29.07.2021 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 that the impugned decision is against the law and facts; that the POI did not consider the consumption data and other relevant documents; that the Clause 4.3.3 of the CSM-2021 is not applicable in the instant case; that the Respondent initially assailed the detection bill of Rs.1,536,071/- for 64,827 units for eight (08) months for the period from May 2019 to December 2019 before the Civil Court in which stay was granted; that the said order was challenged before the Additional District Judge Depalpur, who after hearing both parties allowed the appeal vide order dated 31.10.2020; that the instant matter falls in the domain of civil court and the POI has no jurisdiction to adjudicate the same and that the impugned decision be set aside.

5. Proceedings by the Appellate Board

Upon filing of the instant appeal, a notice dated 11.11.2021 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days, which were filed on 25.02.2022. In the reply, the Respondent defended the impugned decision and submitted that the Appellant debited the detection bill of Rs.1,536,071/- for 64,827 units for eight (08) months for the period from May 2019 to December 2019 in violation of Clause 4.4 of the CSM-2010. The Respondent further submitted that the POI has rightly reduced the period of slowness for two months in the case of a slow meter as per the applicable provisions of the CSM. As per Respondent, the POI has exclusive jurisdiction to adjudicate the instant matter of the slow meter and the impugned decision is liable to be upheld.

6. Hearing

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6.1 Hearing was initially conducted at NEPRA Regional Office Lahore on 02.06.2023, which however was adjourned till the next date on the request of counsel for the Appellant. Hearing of the appeal was again 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% slow during checking dated 23.01.2020, which was also verified by the POI during joint checking dated 23.09.2020, as such the recovery of Rs.1,536,071/- for 64,827 units for eight (08) months for the period from May 2019 to December 2019 @ 33% slowness be allowed in the best interest of justice. Learned counsel for the Appellant prayed for setting aside the impugned decision.

6.2 On the contrary, learned counsel for the Respondent repudiated the stance of the Appellant regarding the above detection bill, supported the impugned decision for 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 of the Appellant regarding the jurisdiction of POI:

The Appellant raised the preliminary objection that the instant matter falls within the domain of the Civil Court and the POI has no jurisdiction to adjudicate the same matter. It is noted that the matter pertains to the billing due to the slow meter, therefore the POI is empowered to entertain such disputes under Section 38 of the NEPRA Act, 1997. In this regard, the following judgment of the honorable Supreme Court of Pakistan reported in *PLD 2012 SC 371* is relevant to cite:

“P L D 2012 Supreme Court 371

“In case, the theft alleged is by means other than the tampering or manipulation of the metering equipment, etc., the matter would fall exclusively under Section 26-A of the Act, the Electricity Act, outside the scope of powers of the Electric Inspector. Since the Electric Inspector possesses special expertise in examining the working of the metering equipment and other related apparatus, it makes sense that any issue regarding their working, functioning, or correctness, whether or not deliberately caused, be examined by him. It may be added that Section 26-A is an enabling provision empowering the licensee to charge the consumer for dishonest extraction or consumption of electricity. It does not provide any procedure for resolving any dispute between the consumer and the



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licensee on a charge of theft. It should be, therefore be read in conjunction with the other relevant provisions including section 26(6) of the Act. ”

In view of the above, the objection of the Appellant in this regard is overruled.

7.1 Detection bill of Rs.1,536,071/- for 64,827 units for eight (08) months for the period from May 2019 to December 2019

Reportedly, one phase of the impugned billing meter of the Respondent was found dead stop during checking dated 23.01.2020, therefore, a detection bill amounting to Rs.1,536,071/- for 64,827 units for eight (08) months for the period from May 2019 to December 2019 was debited to the Respondent @ 33% slowness of the meter, which was challenged before the POI.

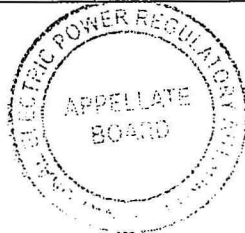
7.1 During the POI joint checking dated 23.09.2020, 33% slowness in the impugned billing meter was established, hence the period of slowness needs to be determined. It is observed that the Appellant charged the detection bill for eight months to the Respondent on account of 33% slowness of the impugned 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 LESCO 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 LESCO 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.”

Type of fault Defect	Cost of replacement of meter	Mode of determination of consumption	Competent Authority	Appellate Authority	Period of Loss	Remarks
Defective/ damaged/ burnt meter not due to	Cost to be borne by LESCO	As given above at 4.4(e)	The Competent Authority to	On meter being declared as defective-	Defective charging to a maximum	Nil

11-09



consumer fault			determine the type of fault/defect shall be the respective load sanctioning authority	Next higher office, Review Committee, POI, NEPRA in the order of appearance	of two billing cycles for regular bills. No previous charging on defective code	
Slowness owing to age/other reasons not related to illegal abstraction/stealing	Cost to be borne by LESCO	Through previous consumption data. Check meter, Slowness through check/Rotary Substandard, Grid meter/power analyzer	Do	Do	Do	Test check Proforma to be signed by the consumer/ his authorized representative or POI at the time of inspection
Meter defective/burnt due to the Consumer's fault including overloading, internal writing defect	Consumer to pay	Verification of load, Check meter, Rotary Substandard, another meter in series, Or at Grid meter/power analyzer	Do	Do	Do	Do

7.2 The above-referred table of Clause 4.4(e) of the CSM-2010 restricts the Appellant to charge the detection bill maximum for two months to the Respondent in case of slow meter. Under these circumstances, the contention of the Appellant for recovery of the detection bill of Rs.1,536,071/- for 64,827 units for eight (08) months for the period from May 2019 to December 2019 @ 33% slowness of the meter is not correct being contrary to the facts and violative of the foregoing clause of the CSM-2010 and the above detection bill is set aside. The impugned decision is liable to be maintained to this extent.

7.3 Since the meter under dispute was found 33% slow during the checking dated 23.01.2020, the impugned decision for revision of the detection bill for two retrospective months i.e. November 2019 and December 2019 @ 33% slowness of the meter is correct being consistent with Clause 4.4(e) of the CSM-2010 and the same is upheld to this extent.



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

8. Foregoing in view, this appeal is dismissed.

Abid Hussain
Member

Muhammad Irfan-ul-Haq
Member

Naweed Illahi Sheikh
Convener

Dated: 20-11-2023

