



**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](http://www.nepra.org.pk) E-mail: [office@nepra.org.pk](mailto:office@nepra.org.pk)

No. NEPRA/Appeal/114/2021/669


November 20, 2023

- |   |   |
|---|---|
| 1. Asad Ali Minhas,<br>S/o. Talib Hussain,<br>R/o. P-123, Hussain Bukhsh Park,<br>Main China Road, Lahore   | 2. Chief Executive Officer<br>LESCO Ltd,<br>22-A, Queens Road,<br>Lahore                          |
| 3. Saeed Ahmed Bhatti,<br>Advocate High Court,<br>66-Khyber Block, Allama Iqbal Town,<br>Lahore   | 4. Sub Divisional Officer (Operation),<br>LESCO Ltd,<br>Kot Khawaja Saeed Sub Division,<br>Lahore |
| 5. POI/Electric Inspector,<br>Lahore Region, Energy Department,<br>Govt. of Punjab, Block No. 1,<br>Irrigation Complex, Canal Bank,<br>Dharampura, Lahore |   |

**Subject: Appeal Titled LESCO Vs. Asad Ali Minhas Against the Decision Dated 21.04.2021 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 (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.114/POI-2021

Lahore Electric Supply Company Limited

.....Appellant

Versus

Asad Ali Minhas, S/o. Talib Hussain,

R/o. P-123, Hussain Bukhsh Park, Main China Road, 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

Mr. Nauman Siddique SDO

#### For the Respondent:

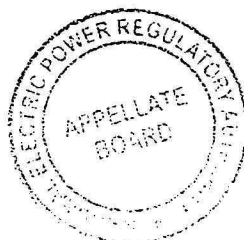
Mr. M. Yasir General Manager

### 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 21.04.2021 of the Provincial Office of Inspection, Lahore Region, Lahore (hereinafter referred to as the "POI") is being disposed of.
2. Briefly speaking, Mr. Asad Ali Minhas (hereinafter referred to as the "Respondent") is a commercial consumer of the Appellant bearing Ref No.46-11351-146702-U with sanctioned load of 5 kW and the applicable Tariff category is A-2C. Billing meter of the Respondent became defective and it was replaced with a new meter by the Appellant in February 2018. Subsequently, the removed meter was checked by the Metering & Testing ("M&T") team on 05.04.2018 and reportedly, it was found 33% slow due to one dead phase. Resultantly, a detection bill of Rs.80,865/- for 4,143 units for nine (09) months for the period from May 2017 to January 2018 was charged by the Appellant to the Respondent @ 33% slowness of the meter and added to the bill for July 2018.

Appeal No.114/POI-2021

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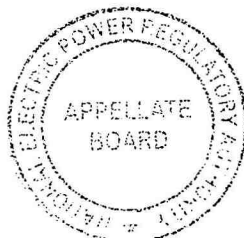
3. Being aggrieved, the Respondent initially filed civil suit against the excessive billing of the Appellant, which was subsequently withdrawn by him. Later on, the Respondent filed a complaint before the POI and challenged the arrears of Rs.612,789/- till June 2020 which included the above detection bill and the bills for the period from December 2017 to June 2020. The complaint of the Respondent was disposed of by the POI vide the decision dated 21.04.2021, wherein the arrears of Rs.612,789/- till June 2020 were cancelled and the Appellant was allowed to charge the revise the bills w.e.f. December 2017 to June 2020 to the Respondent on the basis of average consumption of the year 2016 as per Clause 4.3.3(c) of the CSM-2021.
4. Through the instant appeal, the afore-referred decision dated 21.04.2021 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 that *inter alia*, on the main grounds, (1) the POI misconstrued the real facts of the case and erred in declaring the arrears of Rs.612,789/- for the period from December 2017 to June 2020 as null and void and allowed the Appellant to charge revised bills for December 2017 to June 2020 as per average consumption of the year 2016 as per Clause 4.3.3(c) of the CSM-2021; (2) the POI failed to analyze the consumption data in true perspective; (3) the POI did not record the evidence and decided the petition of the Respondent on mere surmises and conjectures; (4) the impugned decision was announced after expiry of 90 days, which is violative of Section 26(6) of Electricity Act, 1910; (7) the POI has failed to appreciate that the complaint could not be entertained as notice as required under Section 26(6) of the Electricity Act, 1910 was served upon the Appellant before filing the same; (8) 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 05.11.2021 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 was conducted at NEPRA Regional Office Lahore on 08.09.2023, which was attended by both parties. Learned counsel for the Appellant contended that the billing meter



of the Respondent was found running 33% slow during checking dated 05.04.2018, as such the recovery of detection bill of Rs.80,865/- from the Respondent is justified. Learned counsel for the Appellant further contended that the impugned decision for revision of the bills for the period from December 2017 to June 2020 as per average consumption of the year is inconsistent with the provisions of the CSM-2010. Learned counsel for the Appellant prayed for setting aside the impugned decision.

6.2 On the contrary, the representative for the Respondent repudiated the stance of the Appellant regarding the above detection bill and arrears of Rs.612,789/- accumulated till June 2020 and argued that the Appellant debited the irregular, excessive billing since the year 2017 against which the Appellant was approached time and again but all in vein. As per Respondent, the above-mentioned arrears were assailed before the POI, who after correct perusal of record rendered the impugned decision. He prayed that the impugned decision is liable to be maintained.

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

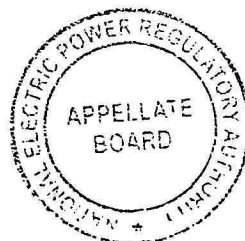
7.1 Objection regarding the time limit for POI to decide the complaint:

As per the record, the Respondent filed a complaint before the POI on 11.08.2020 under Section 38 of the NEPRA Act. POI pronounced its decision on 21.04.2021 after 90 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, 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 Respondent is rejected.

7.2 The Respondent filed a complaint before the POI and challenged the arrears of Rs.612,789/- till June 2020, which included;

- The detection bill of Rs.80,865/- for 4,143 units for nine (09) months for the period from May 2017 to January 2018 charged @ 33% slowness of the meter.
- The bills for the period from December 2017 to June 2020.

7.3 In order to reach just conclusion, billing statement of the Respondent is reproduced below:



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Billing statement of the Respondent					
Month	Units	Remarks	Month	Units	Remarks
Dec-16	650	New connection	Oct-18	-3000	Disconnected
Jan-17	3166	Active	Nov-18	0	Disconnected
Feb-17	2143	Active	Dec-18	0	Disconnected
Mar-17	3094	Active	Jan-19	0	Disconnected
Apr-17	0	Same Read	Feb-19	0	Reconnection
May-17	627	Active	Mar-19	0	Same Read
Jun-17	193	Active	Apr-19	0	Same Read
Jul-17	1440	Active	May-19	0	Same Read
Aug-17	1257	Active	Jun-19	0	Disconnected
Sep-17	14	Same Read	Jul-19	0	Disconnected
Oct-17	10	Same Read	Aug-19	0	Disconnected
Nov-17	0	Same Read	Sep-19	0	Reconnection
Dec-17	1706	Defective	Oct-19	0	Same Read
Jan-18	3166	Defective	Nov-19	0	Same Read
Feb-18	20	Replaced	Dec-19	13	Same Read
Mar-18	30	Active	Jan-20	3510	Disconnected
Apr-18	40	Active	Feb-20	0	Disconnected
May-18	389	Active	Mar-20	0	Disconnected
Jun-18	336	Active	Apr-20	0	Reconnection
Jul-18	547	Active	May-20	0	Same Read
Aug-18	4542	Active	Jun-20	0	Same Read
Sep-18	9	Same Read			

7.4 As per above billing record, the impugned billing meter of the Respondent became defective in December 2017 and it was replaced with a new meter in February 2018. Subsequently, removed meter of the Respondent was found 33% during checking dated 05.04.2018, therefore, a detection bill of Rs.80,865/- for 4,143 units for nine (09) months for the period from May 2017 to January 2018 was debited to the Respondent @ 33% slowness of the meter. Clause 4.4(e) 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*



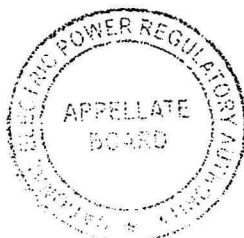
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*energy meter and the LESCO will get the meter checked at the site with a check meter or a rotary sub-standard or digital power analyzer accompanied by an engineer of the metering and testing laboratory free of cost."*

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 consumer fault	Cost to be borne by LESCO	As given above at 4.4(e)	The Competent Authority to determine the type of fault/defect shall be the respective load sanctioning authority	On meter being declared as defective-Next higher office, Review Committee, POI, NEPRA in the order of appearance	Defective charging to a maximum of two billing cycles for regular bills. No previous charging on defective code	Nil
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

7.5 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/defective meter. However, the Appellant debited the detection bill beyond two billing cycles, which is violation of above-referred clause of the CSM-2010. Under these circumstances, the



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contention of the Appellant for recovery of the detection bill of Rs.80,865/- for 4,143 units for nine (09) months for the period from May 2017 to January 2018 @ 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.

7.6 Since the impugned meter of the Respondent became defective in December 2017, the Respondent was billed 1,706 units by the Appellant in the said month, which is much higher than 650 units recorded in December 2016 and 1,086 average units recorded in last eleven months. The Appellant is under obligation to feed the defective code as per Clause 4.4(e) of the CSM-2010, which in the instant case was not done. Hence we are of the view that the bill of December 2017 be revised for 1,086 units as recorded during last eleven undisputed months being higher in accordance with Clause 4.4(e) of the CSM-2010. However, the bill of January 2018 billed against 3,166 units to the Respondent is rightly based on the consumption of January 2017 being higher and the same is recoverable from the Respondent.

7.7 Perusal of above billing statement revealed that the new meter installed in February 2018, which remained active till September 2018, the Appellant debited total 5,913 units to the Respondent during the period from February 2018 to September 2018 out of which 3,000 units were credited in October 2018 as per detail shown below:

Month	Units	Remarks
Feb-18	20	Replaced
Mar-18	30	Active
Apr-18	40	Active
May-18	389	Active
Jun-18	336	Active
Jul-18	547	Active
Aug-18	4542	Active
Sep-18	9	Same Read
Total	5913	
Oct-18	-3000	Disconnected
Balance	2913	

As evident from the above, the Appellant has already redressed the grievance of the Respondent till September 2018 and afforded a relief by crediting 3,000 units in October 2018 against the excessive billing done during the period from February 2018 to September 2018.





## National Electric Power Regulatory Authority

7.8 As regards the bill of 3,510 units debited to the Respondent by the Appellant in January 2020, it is observed that the connection of the Respondent re-energized in February 2019 and remain connected till May 2019 (4 months) but the Appellant debited the bills for the period from February 2019 to May 2019 with same to same reading without any reasoning. Thereafter, the connection of the Respondent was disconnected by the Appellant in June 2019, which remained unenergized till August 2019. In September 2019, the connection of the Respondent was once again reconnected but the Appellant charged the bills with same to same reading for further four months i.e. September 2019 to December 2019. In January 2020, electricity of the Respondent was disconnected by the Appellant and 3,510 units were debited in the said month. This whole scenario shows that the Appellant failed to take reading of the meter on monthly basis, which is failure on their part to adhere the provisions of the Chapter 6 of the CSM-2010.

7.9 To counter their negligence, the Appellant debited accumulated 3,510 units pertaining to eight months i.e. February 2019 to May 2019 and September 2019 to December 2019 during which connection of the Respondent remained energized. In consideration of foregoing discussion, we are of the opinion that 3,510 units debited in January 2020 be segregated equally in eight months and the recovery be made @  $[3,510 \text{ units} \div 8 \text{ months} = 639 \text{ units/month}]$  in eight equal installments along with current bills as per Clause 6.2(b) of the CSM-2010. Impugned decision is liable to be modified to this extent.

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

8. Foregoing in view, this appeal is disposed of.

Abid Hussain  
Member

Muhammad Irfan-ul-Haq  
Member

Naweed Illahi Sheikh  
Convener

Dated: 20-11-2023

