



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

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No. NEPRA/Appeal/132/2020/106

February 15, 2023

- | | |
|---|---|
| 1. Asim Shahzad,
S/o. Muhammad Mansha,
R/o. Sundar Road, Near Telephone Exchange,
Raiwind Road, 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. Sub Divisional Officer (Operation),
LESCO Ltd,
Raiwind 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. Asim Shahzad Against the Decision Dated 27.09.2019 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 13.02.2023, 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.132/POI-2020

Lahore Electric Supply Company Limited

.....Appellant

Versus

Asim Shahzad, S/o. Muhammad Mansha,
R/o Sundar Road, Near Telephone Exchange,
Raiwind Road, Lahore

.....Respondent

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

For the Appellant:

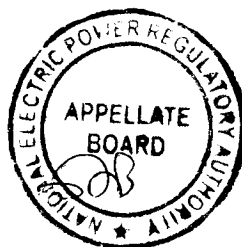
Mr. Saeed Ahmed Bhatti Advocate
Mr. Usman Yaqoob Court Clerk

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 27.09.2019 of the Provincial Office of Inspection, Lahore Region, Lahore (hereinafter referred to as the “POI”) is being disposed of.
2. Briefly speaking, Mr. Asim Shahzad (hereinafter referred to as the “Respondent”) is a domestic consumer of the Appellant bearing Ref No.07-112223-0508502 having a





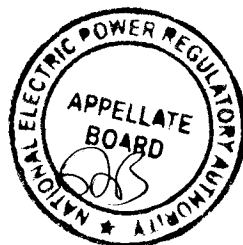
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sanctioned load of 1 kW and the applicable Tariff category is A-1(a). The Appellant has claimed that the electricity connection of the Respondent was disconnected on 20.12.2017 due to non-payment of the electricity charges amounting to Rs.63,111/-, but the meter was not physically removed and remained running at the site, therefore 3,717 units accumulated till September 2018. Thereafter, the re-connection was processed in October 2018 and a bill of Rs.184,529/- was debited to the Respondent by the Appellant in November 2018, which contained (i) the detection bill of 3,126 units for the period from May 2017 to August 2017 charged on account of display wash of the old meter + (ii) unpaid arrears of Rs.63,111/- till December 2017 + (iii) 3,717 accumulated units debited for the period December 2017 to September 2018.

3. Being aggrieved, the Respondent approached the POI on 20.12.2018 and challenged the arrears of Rs.184,529/- added to the bill for November 2018, The complaint of the Respondent was disposed of by the POI vide the decision dated 27.09.2019 with the following conclusion:

“Summing up the foregoing discussion, it is held that the impugned detection bill amounting to Rs.184,529/- is void, unjustified, and of no legal effect; therefore the petitioner is not liable to pay the same. The respondents are directed to overhaul the account of the petitioner accordingly and any excess amount recovered be adjusted in future bills after the implementation of proper RCO. They are also directed to install an accurate meter at the petitioner's premises for future billing to avoid any further litigation.”

4. Through the instant appeal, the afore-referred decision dated 27.09.2019 of the POI has been impugned by the Appellant before the NEPRA. In its appeal, the Appellant





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objected to the maintainability of the impugned decision, *inter alia*, on the main grounds, (1) the impugned decision was rendered by the POI after the expiry of the statutory period of ninety (90) days, hence it is ex-facie, coram non-judice, void, ab-initio without lawful authority and jurisdiction; (2) the POI erred in holding that the bill of Rs.184,529/- for November 2019 is null and void; (3) the impugned decision is the result of misreading and non-reading of the documents placed on record; (4) the POI neither recorded consumption nor perused the evidence and rendered the impugned decision illegally; (5) the impugned decision is based on surmises and conjectures and the same is liable to be set aside.

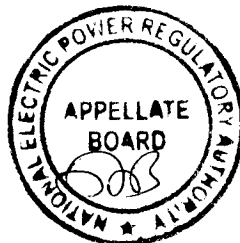
5. Proceedings by the Appellate Board

5.1 Upon filing of the instant appeal, a notice dated 05.01.2021 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 subject appeal was conducted at NEPRA Regional Office Lahore on 13.10.2022, which was adjourned till the next date due to the non-appearance of the Respondent. The hearing of the Appeal was conducted at NEPRA Regional Office Lahore on 24.11.2022, which was attended by a counsel along with an official for the Appellant whereas no one appeared for the Respondent.

6.2 Learned counsel for the Appellant reiterated the same version as contained in the memo of the appeal and contended that the electricity connection of the Respondent was





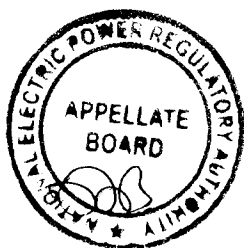
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disconnected on 20.12.2017 due to non-payment of arrears of Rs.63,111/- till December 2017, which was subsequently restored in September 2018. Learned counsel for the Appellant further contended that nil consumption was charged during the period December 2017 to September 2018 to the Respondent due to disconnection on paper due to which 3,717 units were accumulated during the above-said period and a detection bill of 3,126 units for four months for the period from May 2017 to August 2017 was debited to the Respondent on account of vanished display of the old meter. He prayed to allow the Appellant to recover arrears amounting to Rs.184,529/- increased till November 2018 from the Respondent.

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

7.1 Preliminary Objection regarding the time limit for POI for deciding Complaint

As per the record, the Respondent filed his complaint before the POI on 20.12.2018 under Section 38 of the NEPRA Act. The POI pronounced its decision on 27.09.2019 i.e. after 281 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





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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.

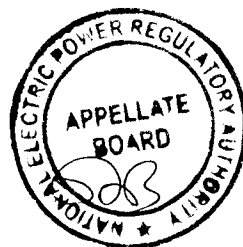
7.2 Dispute of arrears of Rs.184,529/- accumulated till November 2018

The Respondent assailed the arrears of Rs.184,529/- increased till November 2018 before the POI on 20.12.2018, which contained the following bills:

- i. Detection bill of 3,126 units for the period May 2017 to August 2017 on account of washed display of the old meter and added to the bill for October 2018.
- ii. Arrears of Rs.63,111/- added till December 2017.
- iii. Bill of October 2018 charged on account of accumulated 3,717 units.

7.3 Detection bill of 3,126 units for the period May 2017 to August 2017 on account of washed display of the old meter and added to the bill for October 2018.

The Appellant admitted to have found the display of the billing meter of the Respondent dead stop on 23.08.2017. The dead stop display can easily be noticed with bare eyes and cannot go unnoticed during monthly meter readings by the concerned staff. If the display of the meter of the Respondent washed out in May 2017, then why the meter reader failed to notice the same before the checking dated 23.08.2017. Therefore, the Appellant's action to raise the detection bill for previous months based on the display washed out noticed on 23.08.2017 is completely unjustified.





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7.4 After having found the defect in the impugned meter, the Appellant was required to replace the same with the correct one immediately. As regards charging on account of meter defect, Clause 4.4(e) of the CSM-2010 allows the Appellant to charge the bills for maximum of two billing cycles. However, the Appellant charged the detection bill of 3,126 units for the period May 2017 to August 2017 to the Respondent based on 20% load factor of the connected load due to a defective meter with vanished display, which is violative of the foregoing clause of the CSM-2010.

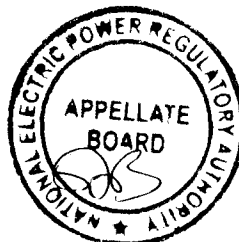
7.5 According to Clause 4.4 of the CSM-2010, the Respondent is liable to be charged the revised bill for two months i.e. July 2017 and August 2017, if actual consumption was not recorded by the impugned meter during the disputed months. In this regard, consumption data is analyzed in the below table:

Period before dispute		Disputed period	
Month	Units	Month	Units
Jul-16	3862	Jul-17	2914
Aug-16	1298	Aug-17	2998
Total	5160	Total	5912

As evident above, healthy consumption charged by the Appellant during the disputed months i.e. July 2017 and August 2017 viz-a-viz consumption of corresponding months of the period before the dispute. In view of the foregoing discussion, we hold that the detection bill of 3,126 units for the period May 2017 to August 2017 charged to the Respondent is illegal, and unjustified and the same is liable to be cancelled.

7.6 Arrears of Rs.63,111/- accumulated till December 2017

POI vide impugned decision declared the arrears of Rs.63,111/- till December 2017 as





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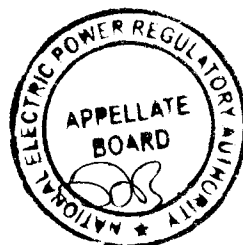
justified and payable by the Respondent against which the Respondent neither raised any objection by preferring an appeal nor appeared before us. Thus, we are of the considered view that the arrears of Rs.63,111/- accumulated till December 2017 are justified and payable by the Respondent.

7.7 Bill of October 2018 charged on account of accumulated 3,717 units

The Appellant debited 3,717 units to the Respondent on the ground that the connection of the Respondent was disconnected on paper in December 2017 but it remained connected physically during the period December 2017 to September 2018 due to which accumulated units were charged to him. To confirm the veracity of the claim of the Appellant, the disputed consumption was compared with the corresponding consumption of the previous year in the below table:

Period before dispute		Disputed period	
Month	Units	Month	Units
Dec-16	247	Dec-17	3,717
Jan-17	0	Jan-18	
Feb-17	0	Feb-18	
Mar-17	0	Mar-18	
Apr-17	594	Apr-18	
May-17	2037	May-18	
Jun-17	2459	Jun-18	
Jul-17	2914	Jul-18	
Aug-17	2998	Aug-18	
Sep-17	2373	Sep-18	
Average	1362	Average	372

The above comparison of the consumption data clearly shows that the Respondent was charged as per meter reading, which is evident from the reading shown on the new meter





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of the Respondent. Thus the bill of 3,717 units charged to the Respondent in October 2018 is justified and payable by him.

8 Summing up the aforesaid discussion, it is concluded that:

- 8.1 The detection bill of 3,126 units for four months for the period from May 2017 to August 2017 charged by the Appellant is unjustified and the same should be cancelled.
- 8.2 The arrears of Rs.63,111/- accumulated till December 2017 are justified and payable by the Respondent.
- 8.3 Similarly, the bill of 3,717 units charged to the Respondent in October 2018 on account of accumulated consumption is justified and the Respondent should pay the same.
- 8.4 The billing account of the Respondent may be overhauled after adjustment of the payments made against the above bills.
- 9 The impugned decision is modified in the above terms.

Muhammad Irfan-ul-Haq
Member

Abid Hussain
Convener

Dated: 13/02/2023

