



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

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No. NEPRA/Appeal/015/2021/301

March 08, 2024

1. SDO WASA LDA,
Mr. Abid Raza Syed,
Through Muhammad Waheed Gul,
Ex-MPAS at Bao Wala Village,
Lahore Cantt

2. Chief Executive Officer,
LESCO Ltd,
22-A, Queens Road,
Lahore

3. Syed Kashif Ali Bukhari,
Advocate High Court,
170-Ravi Park, Lahore
Cell No. 0300-4450697

4. A. D. Bhatti,
Advocate High Court,
First Floor, Rehmat Tower,
13-Fane Road, Lahore
Cell No. 0300-9431653

5. Sub Divisional Officer,
LESCO Ltd,
BRB 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 No.015/2021 (LESCO Vs. SDO WASA LDA) Against the Decision Dated 14.10.2020 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 08.03.2024 (05 pages), regarding the subject matter, for information and necessary action accordingly.

Encl: As Above


(Ikram Shakeel)
Deputy Director
Appellate Board

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.015/POI-2021

Lahore Electric Supply Company Limited

.....Appellant

Versus

SDO WASA LDA Syed Abid Raza Through Muhammad Waheed Gul,
Ex-MPA at Bao Wala Village, Lahore Cantt

.....Respondent

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

For the Appellant:

Syed Kashif Ali Bukhari Advocate
Mr. Atiq-ur-Rehman SDO

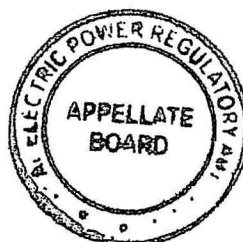
For the Respondent:

Mr. A.D Bhatti Advocate

DECISION

1. Through this decision, the appeal filed by the Appellant (the "Lahore Electric Supply Company Limited" or "LESCO") against the decision dated 14.10.2020 of the Provincial Office of Inspection, Lahore Region, Lahore (hereinafter referred to as the "POI") is being disposed of.
2. Brief facts of the case are that SDO WASA (hereinafter referred to as the "Respondent") is a general supply consumer of the Appellant bearing Ref No.24-11547-1753811-U with sanctioned load of 160 kW and the applicable tariff category is A-3. The Respondent approached the POI vide a complaint dated 16.01.2020 and challenged the bills for the period from July 2019 to November 2019. Subsequently, the M&T team of the Appellant checked the metering equipment of the Respondent on 27.04.2020, and reportedly, both the billing and backup meters of the Respondent were found defective with display open error. Later on, the Respondent filed another complaint dated 18.02.2020 before the POI and assailed the bill for July 2020. Both complaints of the Respondent were clubbed and disposed of by the POI

Appeal No.015/POI-2021 /c-



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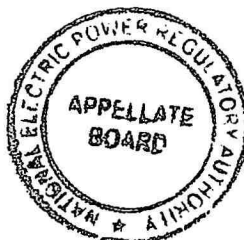
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vide single consolidated decision dated 14.10.2020, the operative portion of which is reproduced below:

"Summing up the aforesaid discussion, it is held that charging of bills w.e.f. 07/2019 to 06/2020 are null, void, and illegal and the Petitioner is not liable to pay the same and further the entire excessive bills charged w.e.f. 02/2017 to 06/2019 are also held as refunded null, void unlawful, and liable to be adjusted in future billing. Respondents are directed to refund excessively charged amounts or adjust future bills and overhaul the account of the petitioner accordingly. Respondents are also directed to replace immediately the defective billing meters and backup meters with newly installed accurate meters (as the request has already been made by Executive Engineer Cantt Division LESCO Limited, Lahore vide his memo No. 5695-96 dated 06.05.2020) and 'till that time, the Respondents are directed to charge the Petitioner as per meter readings being recorded by AMI meter (Government of Punjab) to keep up the actual consumption and spirit of MOU signed between the LESCO and Government of Punjab accordingly. Respondents are also directed not to discontinue the electric supply of the Petitioner as the connection is being utilized for supplying drinkable water through the Changa Pani Programme in the Public interest. The case is disposed of in the above terms."

3. The Appellant has filed the instant appeal against the afore-said decision dated 14.10.2020 of the POI (hereinafter referred to as the "impugned decision") before the NEPRA u/s 38 of the NEPRA Act. In its appeal, the Appellant contended that the impugned decision is erroneous as the AMR meter cannot be made basis to determine the fate of billing as neither the AMR meter is the billing meter nor it was installed by the Appellant. The Appellant further contended that the display of the impugned billing and backup meters became defective, therefore the bills for the period from July 2019 to November 2019 were debited to the Respondent based on healthy consumption of the previous year. As per the Appellant, the POI neither checked the impugned metering equipment nor considered the fact that the billing was charged on estimated basis. According to the Appellant, the POI did not apply judicial mind and has not thrashed out the consisting reason of the Appellant and rendered the impugned decision. The Appellant prayed that the impugned decision is liable to be set aside in the interest of justice.

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4. Proceedings by the Appellate Board

Upon the filing of the instant appeal, notice dated 29.01.2021 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days, which however were not submitted.

5. Hearing

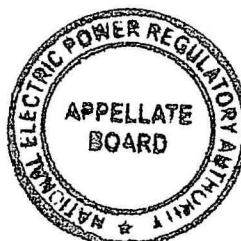
5.1 Hearings in the matter were initially conducted on 13.10.2022, 24.11.2022, 02.06.2023, and 08.09.2023, which however were adjourned on the request of either the Appellant or the Respondent. Finally, the hearing was held at NEPRA Regional Office Lahore on 15.12.2023, wherein both the Appellant and the Respondent tendered appearance. Learned counsel for the Appellant averred that the impugned meter of the Respondent became defective with vanished display due to which the bills w.e.f July 2019 and onwards were debited on the DEF-EST code as per the provisions of the CSM-2010. He raised the objection that the Respondent disputed the bills for the period from July 2019 to November 2019 and the bill for July 2020 before the POI, who erroneously cancelled the billing for the period from February 2017 to June 2019 and July 2019 to June 2020 and directed the Appellant to refund the excessive amount in the future bills. Learned counsel for the Appellant prayed that the impugned decision is liable to be struck down being illegal, and incorrect as the POI afforded relief beyond the prayer of the Respondent.

5.2 On the other hand, learned counsel for the Respondent repudiated the version of the Appellant and argued that the MOU was signed between the Energy Department and the Appellant on 22.08.2016 and AMR meter was installed in series with the impugned metering equipment of the Respondent in February 2017. Learned counsel for the Respondent submitted that the impugned metering equipment has been defective for long and the Appellant neither considered the reading of the AMR meter nor replaced the defective meter and debited the excessive billing w.e.f February 2017 and onwards, which shows malafide intention on their part. He defended the impugned decision and prayed that the same be maintained and the appeal be dismissed with cost.

6. Arguments were heard and the record was perused. Following are our observations:

6.1 It is observed that the Respondent filed two complaints before the POI and challenged the bills for the period from July 2019 to November 2019 and the bill for July 2020, whereas the

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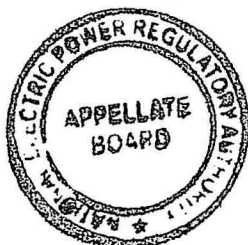
POI decided the fate of undisputed bills i.e. February 2017 to June 2019 and for the period from January 2020 to June 2020 along with the abovesaid disputed bills. The Respondent did not bring on record that the bills for the period from February 2017 to June 2019 and the bills from January 2020 to June 2020 were challenged before the lower forum. Hence, the determination of the POI for cancellation of the bills from February 2017 to June 2019 and from January 2020 to June 2020 is illegal, unjustified, incorrect, and beyond the prayer of the Respondent. Hence impugned decision to this extent is liable to be set aside.

6.2 As regards the disputed bills for the period from July 2019 to November 2019 and July 2020, the POI relied its determination on consumption recorded by the AMR meter installed in series with the impugned metering equipment of the Respondent by the Energy Department, Government of Punjab. NEPRA Consumer Service Manual 2010 (the "CSM-2010") is the applicable document to determine the disputes with regard to the billing in case of defective meter. Clause 4.4 of the CSM-2010 prescribes the procedure for DISCOs for the replacement of defective meters as well as for the billing on the DEF-EST code. In the instant case, the Appellant neither replaced the impugned billing meter timely nor could retrieve the data to ascertain the grievance of the Appellant regarding excessive billing.

6.3 The Appellants are of the view that the bills for the disputed months i.e. July 2019 to November 2019 and July 2020 were debited on DEF-EST code, to ascertain their contention, consumption data is analyzed in the below table:

Average of the last eleven months		Corresponding undisputed months		Disputed month	
Period	Units	Month	Units	Month	Units
Aug-2018 to Jun-2019	27802	Jul-18	42720	Jul-19	53840
		Aug-18	32640	Aug-19	40960
		Sep-18	34560	Sep-19	28000
		Oct-18	15120	Oct-19	30362
		Nov-18	3424	Nov-19	45118
		Jul-19	53840	Jul-20	53840

6.4 As evident from the above table, units charged by the Appellant during the disputed months i.e. July 2019 to November 2019 and July 2020 are much higher than the units charged in corresponding months of the previous year as well as the average consumption of the last eleven months. Thus, we are convinced with the contention of the Respondent that the excessive billing was done by the Appellant during the aforementioned disputed months.







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- 6.5 In view of the foregoing discussion, the bills for the disputed months i.e. July 2019 to November 2019 and July 2020 are unjustified and the same are declared null and void.
- 6.6 The Respondent is liable to be charged the revised bills for disputed months i.e. July 2019 to November 2019 and July 2020 as per consumption recorded by the AMR installed by the Energy Department, Government of Punjab. The impugned decision is liable to be modified to this extent.
7. In view of what has been stated above, it is concluded that:
- 7.1 The impugned decision regarding the cancellation of undisputed bills for the period from February 2017 to June 2019 and the bills from January 2020 to June 2020 are unjustified, beyond the prayer of the Respondent, and the same is set aside to this extent.
- 7.2 Similarly, the bills for the disputed months i.e. from July 2019 to November 2019 and July 2020 are unjustified and the same are cancelled as already decided by the POI.
- 7.3 The Respondent may be charged the revised bills for disputed months i.e. July 2019 to November 2019 and July 2020 as per consumption recorded by the AMR installed by the Energy Department, Government of Punjab.
- 7.4 The billing account of the Respondent may be overhauled after adjusting payments made against the disputed bills.
8. The impugned decision is liable to be modified to this extent.

On leave
Abid Hussain
Member/Advisor (CAD)

Dated: 08-03-2024


Naweed Illahi Sheikh
Convener/DG (CAD)


Muhammad Irfan-ul-Haq
Member/ALA (Lic.)

