



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

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No. NEPRA/Appeal/031/2022/308

March 08, 2024

1. Naveed Nazar,
S/o. Sheikh Zafar Saleem,
R/o. Sui Gas Society, Flat No.98-A,
Lahore Cantt
Cell No. 0321-8422401

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
Cell No. 0300-4350899

4. Assistant Manager (Operation),
LESCO Ltd,
Engineering University 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 No.031/2022 (LESCO Vs. Naveed Nazar) Against the Decision Dated 28.12.2021 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 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.031/POI-2022

Lahore Electric Supply Company Limited

.....Appellant

Versus

Naveed Nazar, S/o. Sheikh Zafar Saleem, R/o. Sui Gas
Society, Flat No.98-A, Lahore Cantt

.....Respondent

APPEAL UNDER SECTION 38(3) OF THE REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997

For the Appellant:

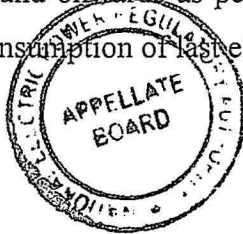
Mr. Saeed Ahmed Bhatti Advocate

For the Respondent:

Nemo

DECISION

1. As per the facts of the case, Mr. Naveed Nazar (hereinafter referred to as the "Respondent") is a domestic consumer of Lahore Electric Supply Company Limited (hereinafter referred to as the "Appellant") bearing Ref No.01-11353-0070600 having a sanctioned load of 02 kW and the applicable tariff category is A-1(a). The Respondent initially filed an application before the Appellant on 03.07.2017 and requested to replace the defective meter with display error. Subsequently, the defective billing meter of the Respondent was replaced with a new meter by the Appellant in September 2017 and sent to the metering and testing (M&T) laboratory for checking. Subsequently, the M&T team of the Appellant vide report dated 25.09.2018 declared the billing meter as defective with phases found dead and recommended to charge 10,345 units to the Respondent being the difference of final reading retrieved and the units charged till July 2017. Resultantly, a detection bill of Rs.263,705/- for 10,345 units was debited to the Respondent by the Appellant and added to the bill for September 2018.
2. Being aggrieved, the Respondent filed a complaint before the Provincial Office of Inspection, Lahore Region, Lahore (hereinafter referred to as the "POI") and challenged the above detection bill. The complaint of the Respondent was disposed of by the POI vide decision dated 28.12.2021, wherein it was held that the detection bill of Rs.263,705/- for 10,345 units is void, unjustified, and of no legal effect and the Appellant is allowed to charge revised bills w.e.f May 2017 and onwards as per consumption of corresponding month of the previous year or average consumption of last eleven months, whichever is higher.



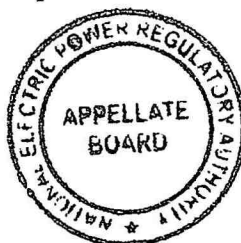


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3. Being dissatisfied, the Appellant has filed the instant appeal before NEPRA and assailed the decision dated 28.12.2021 of the POI (hereinafter referred to as the “impugned decision”). In its appeal, the Appellant opposed the maintainability of the impugned decision, *inter-alia*, on the following grounds that the billing meter was replaced with a new meter in September 2017 and checked in M&T lab; that 10,345 units were found uncharged due to dead phases of the impugned meter; that the impugned decision is against the law and facts of the case; that the POI misconceived and misconstrued the real facts of the case and erred in declaring the detection bill of Rs. 263,705/- for 10,345 units as null and void; that the POI failed to consider the consumption data in true perspective and revise the bills w.e.f May 2017 and onwards; that the POI failed to decide the matter within 90 days, which is violative of Section 26(6) of the Electricity Act, 1910; that the Respondent failed to serve notice to the Appellant prior filing complaint before the POI as per Section 24 of the Electricity Act, 1910; and that the impugned decision is liable to be set aside.
4. Notice dated 06.04.2022 of the appeal was issued to the Respondent for filing reply/para-wise comment, which were filed on 22.04.2022. In the reply, the Respondent submitted that the the impugned meter became defective on 03.07.2017 due to heavy rain and it was immediately communicated to the concerned official of the Appellant. The Respondent further submitted that the impugned meter was replaced with a new meter by the Appellant and after sixteen months of the incident; the detection bill of Rs.332,579/- was charged in violation of Clause 4.3.2(d) of the Consumer Service Manual (the “CSM”). The Respondent prayed that the detection bill of Rs.263,705/- for 10,345 units charged in October 2018 be declared void, unjustified, and of no legal effect.

5. Hearing

- 5.1 Hearing of the appeal was conducted at NEPRA Regional Office Lahore on 15.12.2023, wherein learned counsel appeared for the Appellant and the Respondent did not tender appearance. Learned counsel for the Appellant contended that the billing meter of the Respondent was found defective, therefore it was replaced with a new meter by the Appellant in September 2017 and subsequently checked by the M&T team on 25.09.2018, wherein phases of the impugned meter were found dead, the detection bill of Rs.263,705/- for 10,345 units was debited to the Respondent. Learned counsel for the Appellant argued that the POI did not consider the real aspects of the case and erroneously declared the above





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detection bill as null and void. Learned counsel for the Appellant prayed that the impugned decision is unjustified and liable to be struck down.

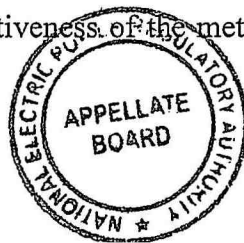
6. Having heard the arguments and record perused. Following are our observations:

6.1 While addressing the objection of the Appellant regarding the jurisdiction of the POI, the Respondent filed his complaint before the POI on 05.08.2021 under Section 38 of the NEPRA Act. POI pronounced its decision on 28.12.2021 i.e. after ninety (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, 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 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.

6.2 As regards another objection of the Appellant for not issuing notice as per the Electricity Act, 1910 by the Respondent before filing a complaint to the POI, it is elucidated that the matter was adjudicated by the POI under Section 38 of the NEPRA Act, 1997 and as per procedure laid down in Punjab (Establishment and Powers of Office of Inspection) Order, 2005, which do not require for service of any notice before approaching the POI. The above objection of the Appellant is not valid and, therefore overruled.

6.3 As per the available record, the defective meter of the Respondent became defective in July 2017 and it was replaced with a new meter by the Appellant in September 2017 and checked by the M&T team of the Appellant. As per the M&T report dated 25.09.2018, the phases of the billing meter were found dead. Therefore, the Appellant charged a detection bill of Rs. 263,705/- for 10,345 units to the Respondent, which was assailed by him before the POI.

6.4 It is observed that the impugned meter was replaced in September 2017 and the Appellant kept it in their custody till M&T checking dated 25.09.2018 almost a year. It is further observed that the Appellant neither produced the impugned meter before the POI for verification of defectiveness nor could justify the charging of 10,345 units through authentic documents. Clause 4.4(e) of the Consumer Service Manual 2010 (the "CSM-2010") empowers the Appellant to recover their revenue loss by debiting the detection bill maximum for two months in case of defectiveness of the metering equipment. Whereas the Appellant





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debited the detection bill on account of uncharged units for indefinite period, which is violative of Clause 4.4(e) of the CSM-2010.

6.5 To further verify the contention of the Appellant regarding the impugned detection bill, the consumption data as provided by the Appellant is placed below:

Period before dispute		Disputed period		Period after dispute	
Month	Units	Month	Units	Month	Units
Jan-17	1138	Jul-17	1461	Oct-17	0
Feb-17	1417	Aug-17	1522	Nov-17	789
Mar-17	1437	Sep-17	1524	Dec-17	1128
Apr-17	1488			Jan-18	228
May-17	2375			Feb-18	398
Jun-17	2743			Mar-18	321
				Apr-18	596
				May-18	935
				Jun-18	1797
				Jul-18	2073
				Aug-18	1605
				Sep-18	1874
Average	1766	Average	1502	Average	979

The above table shows that the normal average consumption charged by the Appellant during the disputed period i.e. July 2017 to September 2017 is slightly lesser than the average consumption of the period before the dispute and higher than the average consumption of the period after the dispute. Moreover, the consumption recorded by the impugned meter during May 2017 and June 2017 is the highest ever as per the above billing statement of the Respondent, which supports the version of the Respondent that the impugned meter was functioning correctly till June 2017 and it became defective in July 2017, hence there is no justification to debit any detection to the Respondent.

6.6 In view of the foregoing discussion, it is concluded that the detection bill of Rs.263,705/- for 10,345 units debited to the Respondent is unjustified and the same is liable to be cancelled as already determined by the POI.

6.7 Admittedly, the impugned billing meter of the Respondent became defective on 03.07.2017, therefore, the Respondent is liable to be charged the revised bills from July 2017 to September 2017 @ 1,766 units/month as recorded during the period before the dispute i.e. January 2017 to June 2017. The impugned decision is liable to be modified to this extent.

7. In view of what has been stated above, it is concluded that:





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7.1 the detection bill of Rs.263,705/- for 10,345 units debited to the Respondent is unjustified and the same is cancelled.

7.2 The Respondent may be charged the revised detection bill for bills from July 2017 to September 2017 @ 1,766 units/month as recorded during the period before the dispute i.e. January 2017 to June 2017.

7.3 The billing account of the Respondent be overhauled after making the adjustment of payments made against the impugned detection bill.

8. The impugned decision is modified in the above terms.

On leave

Abid Hussain
Member/Advisor (CAD)

Naweed Illahi Sheikh
Convener/DG (CAD)

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

Dated: 08-03-2024

