



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

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No. NEPRA/Appeal/166/2021/306

March 08, 2024

1. The Administrative Officer,
Government Engineering Academy,
Punjab, Thokar Niaz Baig,
Lahore
Cell No. 0333-4747221

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. Amjad Ali,
Advocate High Court,
Office # 1, Ground Floor,
Al-Rehman Centre, 13-Fane Road,
Lahore
Cell No. 0300-4906990

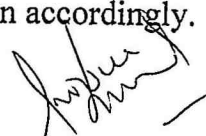
5. Assistant Manager (Operation),
LESCO Ltd,
Niaz Baig Sub Division,
Lahore

6. POI/Electric Inspector
Lahore Region, Energy Department,
Govt. of Punjab, Block No. 1,
Irrigation Complex, Canal Bank,
Dharampura, Lahore

Subject: Appeal No.166/2021 (LESCO Vs. Government Engineering Academy Punjab) Against the Decision Dated 17.03.2021 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. 166/POI-2021

Lahore Electric Supply Company Limited

.....Appellant

Versus

The Administrative Officer,
Government Engineering Academy Punjab,
Thokar Niaz Baig, Lahore

.....Respondent

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

For the Appellant:

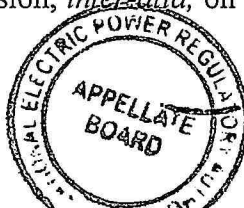
Mr. Saeed Ahmed Bhatti Advocate

For the Respondent:

Mr. Amjad Ali Advocate
Mr. Muhammad Arif Admin Officer

DECISION

1. As per facts of the case, the Respondent namely, Government Engineering Academy Punjab is a general supply consumer of the Lahore Electric Supply Company Limited (hereinafter referred to as the "Appellant") bearing Ref No.46-11262-1480700 having sanctioned load of 19 kW and the applicable tariff category is A-3. The Respondent filed a complaint before the Provincial Office of Inspection Lahore Region, Lahore (hereinafter referred to as the "POI") on 26.08.2020 whereby the bills for the period from August 2018 to June 2020 were assailed. The complaint of the Respondent was disposed of by the POI vide the decision dated 17.03.2021, wherein the bills for the period August 2018 to June 2020 were declared null and void. As per the POI decision, the Appellant was directed to revise the bills for the aforesaid period @ 3,467 units per month calculated based on 25% load factor of the sanctioned load. The Appellant was further directed to install a new meter on the premises of the Respondent to avoid any future litigation.
2. Subject appeal was filed against the afore-referred decision of the POI (hereinafter referred to as the "impugned decision") by the Appellant before the NEPRA. In the appeal, the Appellant opposed the impugned decision, *inter-alia*, on the following main grounds that the



impugned decision is against the facts and law; that the POI misconceived and misconstrued the real facts of the case and erred in declaring the bills for the period from August 2018 to June 2020 as null and void; that the POI failed to consider the consumption data in true perspective and revised the bills for the aforesaid period @ 3,467 units/month; that the above bills charged to the Respondent are justified and payable by the Respondent; 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.

3. Proceedings by the Appellate Board

Upon the filing of the instant appeal, a Notice dated 04.01.2021 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days which were filed on 08.06.2022. In the reply, the Respondent opposed the maintainability of the appeal, *inter-alia*, on the following grounds that the appeal is based on misconception of law and is the result of mere surmises and conjectures; that the POI decided the case based on 25% load factor of the sanctioned load; that the impugned meter was defective since July 2019 and the Appellant charged the excessive bills without reading from August 2018 to June 2020; that the Appellant was approached time and again for replacement of the meter but no action was taken; that the impugned decision was rendered after correct perusal of record and providing an opportunity of hearing to both parties and that the appeal is liable to be dismissed with costs in the interest of justice.

4. Hearing

- 4.1. Hearing of the subject appeal was held at NEPRA Regional Office Lahore on 15.12.2023 in which both parties were in attendance. Learned counsel for the Appellant contended that the defective meter of the Respondent was replaced with a new meter in February 2019 and thereafter the bills were debited as per actual consumption and the Respondent made payment accordingly without raising any dispute; that the impugned decision for revision of the bills for the period August 2018 to June 2020 @ 3,467 units/month is not based on merits as the consumption of the Respondent increased during the disputed period due to extension of AC load. He prayed that the impugned decision be set aside and the bills for the period from August 2018 to June 2020 be declared as justified and payable by the Respondent.
- 4.2. The Respondent rebutted the version of the counsel for the Appellant and stated that the



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impugned meter became defective in December 2018 for which the Appellant was approached time and again vide applications dated 07.12.2018, 02.01.2019, 08.10.2019, 21.01.2020 but the impugned meter was not replaced timely and excessive billing was carried out by the Appellant based on fictitious readings. The representative for the Respondent denied the allegation of the Appellant for extension of load through the installation of AC equipment and averred that the ACs were procured in the year 2022 after the disputed period. The representative finally prayed that the appeal be dismissed being devoid of merits.

5. Arguments were heard and the record placed before us was examined. Following are our findings:

5.1 Objection regarding the time limit for POI to decide the complaint

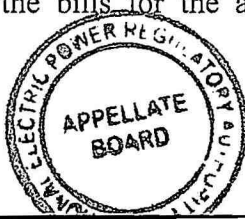
As per the record, the Respondent filed his complaint before the POI on 26.08.2020 under Section 38 of the NEPRA Act. POI pronounced its decision on 17.03.2021 i.e. after 203 days of receipt of the complaint. The Appellant has objected that the POI was bound to decide the matter within 90 days under 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 *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.

5.2 Objection regarding prior notice before filing the complaint before the POI:

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.

5.3 Disputed bills for the period August 2018 to June 2020 charged by the Appellant

As per the record presented before us, the Respondent filed a complaint before the POI on 26.08.2020 and disputed the bills for the period from August 2018 to June 2020. The POI vide impugned decision revised the bills for the aforesaid period @ 3,467 units/month





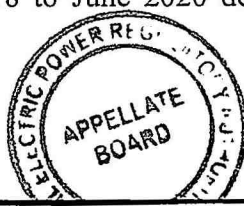
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calculated based on 25% load factor of the sanctioned load i.e. 19 kW. Against which the Appellant filed the instant appeal before the NEPRA.

5.4 To verify the allegation with regard to the excessive billing raised by the Respondent. The billing statement of the Respondent as presented by the Appellant is reproduced below for the sake of convenience:

Period before dispute		Disputed period		Period after dispute	
Month	Units	Month	Units	Month	Units
Aug-17	0	Aug-18	3908	Aug-20	6791
Sep-17	0	Sep-18	3905	Sep-20	8116
Oct-17	0	Oct-18	3010	Oct-20	7595
Nov-17	1498	Nov-18	3990	Nov-20	9172
Dec-17	2614	Dec-18	2911	Dec-20	6075
Jan-18	3196	Jan-19	2930	Jan-21	9198
Feb-18	2087	Feb-19	3835	Feb-21	6627
Mar-18	3377	Mar-19	3440	Mar-21	6815
Apr-18	4071	Apr-19	3645	Apr-21	6949
May-18	3111	May-19	3916	May-21	3467
Jun-18	415	Jun-19	4905	Jun-21	3117
Jul-18	3637	Jul-19	5544	Jul-21	6280
		Aug-19	5539		
		Sep-19	5361		
		Oct-19	3132		
		Nov-19	4390		
		Dec-19	4639		
		Jan-20	4719		
		Feb-20	4475		
		Mar-20	4570		
		Apr-20	4688		
		May-20	4996		
		Jun-20	5800		
Average	2000	Average	4271	Average	6683

The above comparison of consumption data shows that the average consumption charged during the disputed period i.e. August 2018 to June 2020 by the Appellant is much higher than the average consumption of the period before the dispute and much lesser than the average consumption of the period after the dispute. This indicates that the actual consumption was not charged by the Appellant during the disputed period from August 2018 to June 2020. In view of the foregoing discussion, we are of the considered view that the bills for the period from August 2018 to June 2020 debited to the Respondent are unjustified





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being excessively charged and the same are declared null and void. The impugned decision is liable to be maintained to this extent.

5.5 Admittedly, the impugned meter of the Respondent's connection remained defective during the period from August 2018 to June 2020 against which the Respondent approached the Appellant time and again but the Appellant failed to replace the impugned metering equipment timely, which resulted in the irregular billing. Hence, we are inclined to agree with the determination of the POI for revision of the bills for the period from August 2018 to June 2020 @ 3,467 units per month on the basis of 25% load factor of the sanctioned load i.e. 19 kW of the Respondent.

6. Foregoing in view, the appeal is dismissed.

On leave

Abid Hussain
Member/Advisor (CAD)

Naweed Illahi Sheikh
Convener/DG (CAD)

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

Dated: 08-03-2024

