



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 E-mail: office@nepra.org.pk

No. NEPRA/Appeal/014/2023/449


May 13, 2024

- | | |
|---|--|
| 1. Naveed Khaliq,
S/o. Muhammad Khaliq,
R/o. House No. 2/10-A, Toheed Park,
Near Mor Samanabad, Gulshan-e-Ravi,
Lahore
Cell No. 0323-4431339 | 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. Sub Divisional Officer (Operation),
LESCO Ltd,
Shadbagh 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.014/2023 (LESCO Vs. Naveed Khaliq) Against the Decision Dated 10.10.2022 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 13.05.2024 (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.014/POI-2023

Lahore Electric Supply Company Limited

.....Appellant

Versus

Naveed Khaliq S/o. Muhammad Khaliq,
R/o. House No.2/10-A, Toheed Park, near
More Samanabad, Gulshan-e-Ravi, Lahore

.....Respondent

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

For the Appellant:

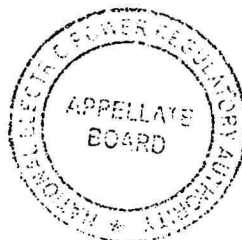
Mr. Saced Ahmed Bhatti Advocate

For the Respondent:

Mr. Naveed Khaliq

DECISION

1. As per facts of the case, Mr. Naveed Khaliq (hereinafter referred to as the "Respondent") is an industrial consumer of Lahore Electric Supply Company Limited (hereinafter referred to as the "Appellant") bearing Ref No.24-11152-0364900 having a sanctioned load of 30 kW and the applicable tariff category is B-2(b). The metering equipment of the Respondent was checked by the M&T team of the Appellant on 15.01.2021, and reportedly the billing meter was found dead stop. Subsequently, a detection bill of Rs.828,458/- for 39,659 units + 53 kW MDI for six (06) months i.e. from July 2020 to December 2020 was debited to the Respondent on the basis of 50% load factor of connected load i.e.23.9 kW along with 1 ton AC unit and added to the bill for February 2022.
2. Being aggrieved, the Respondent filed a complaint before the Provincial Office of Inspection, Lahore Region, Lahore (hereinafter referred to as the "POI") on 25.03.2022 and challenged the above detection bill. The complaint of the Respondent was disposed of by the POI vide decision dated 10.10.2022, wherein it was held that the detection bill of Rs.828,458/- for 39,659 units+53 kW MDI for six (06) months i.e. from July 2020 to December 2020 is void, unjustified and of no legal effect and the Appellant is allowed to charge revised bills w.e.f November 2020 and onwards as per consumption of corresponding month of the previous year or average consumption of last eleven months, whichever is higher.



1/11/23



National Electric Power Regulatory Authority

3. Being dissatisfied, the Appellant has filed the instant appeal before NEPRA and assailed the decision dated 10.10.2022 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 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.828,458/- for 39,659 units+53 kW MDI for six (06) months i.e. from July 2020 to December 2020 as null and void; that the POI failed to consider the consumption data in true perspective and revise the bills w.e.f. November 2020 and onwards till the replacement of the impugned meter as per consumption of corresponding month of the previous year or average consumption of last eleven months, whichever is higher; that Clause 4.3.3c(ii) of the CSM-2020 could not be made applicable in the instant case; 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.

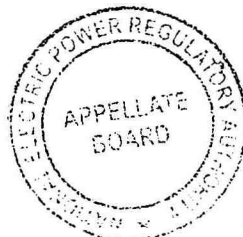
4. Notice dated 08.02.2023 of the appeal was issued to the Respondent for filing reply/para-wise comment, which however were not filed.

5. Hearing

5.1 Hearing of the appeal was conducted at NEPRA Regional Office Lahore on 19.01.2024, wherein learned counsel appeared for the Appellant and the Respondent appeared in person. Learned counsel for the Appellant contended that the billing meter of the Respondent was found dead stop during the M&T checking dated 15.01.2021, therefore a detection bill of Rs.828,458/- for 39659 units+53 kW MDI for six (06) months i.e. from July 2020 to December 2020 was debited to the Respondent on the basis of connected load. Learned counsel for the Appellant argued that the POI did not consider the real aspects of the case and erroneously declared the above detection bill as null and void. Learned counsel for the Appellant prayed that the impugned decision is unjustified and liable to be struck down.

5.2 Conversely, the Respondent repudiated the version of the Appellant and contended that the billing meter was found dead stop but instead of downloading the data of the impugned meter debited the above detection bill on the basis of connected load, which is contrary to the provisions of the CSM-2020, hence the POI has rightly allowed the Appellant to recover the

11.
SD





National Electric Power Regulatory Authority

bills w.e.f. November 2020 and onwards as per consumption of the corresponding month of the previous year or average consumption of the last eleven months, whichever is higher. The Respondent finally prayed for upholding the impugned decision.

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

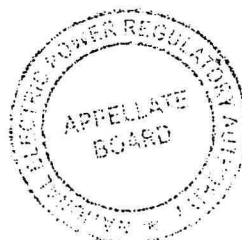
6.1 While addressing the objection of the Appellant regarding the jurisdiction of the POI, the Respondent filed his complaint before the POI on 25.03.2022 under Section 38 of the NEPRA Act. POI pronounced its decision on 10.10.2022 i.e. after ninety (90) days of receipt of the complaint. The Appellant 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, 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 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 prior 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 billing meter of the Respondent was found dead stop during the M&T team of the Appellant on 15.01.2021. Therefore, the Appellant charged a detection bill of Rs.828,458/- for 39659 units+53 kW MDI for six (06) months i.e. from July 2020 to December 2020 to the Respondent based on the connected load, which was assailed by him before the POI.

6.4 According to Clause 4.3.1(b) of the CSM-2020, the Respondent is liable to be charged the detection bill maximum for two months in case of a defective meter and the basis of said detection bill be made as per 100% consumption of the corresponding month of the previous year or average consumption of last eleven months, whichever is higher. It is observed that the Appellant debited the detection bill for six retrospective months on the basis of connected load, which is violative of Clause 4.3.1(b) of the CSM-2020. It is further observed that the Appellant

M. 60





National Electric Power Regulatory Authority

neither produced the impugned meter before the POI for checking nor downloaded the data before charging the impugned detection bill, this shows gross negligence on the part of the Appellant for non-adhering with the provisions of the CSM-2020 in case of defective meter.

6.5 In view of the foregoing discussion, it is concluded that the detection bill of Rs.828,458/- for 39659 units+53 kW MDI for six (06) months i.e. from July 2020 to December 2020 debited to the Respondent is unjustified and the same is liable to be cancelled as determined by the POI.

6.6 Reportedly, the impugned billing meter of the Respondent was found dead stop by the M&T team of the Appellant on 15.01.2021. However, to check the authenticity of bills charged during the disputed period July 2020 to December 2020, consumption data is reproduced below:

Corresponding undisputed period		Disputed period		Last eleven months	
Month	Units	Month	Units	Month	Units
Jul-19	308	Jul-20	0	Aug-19	43
Aug-19	43	Aug-20	363	Sep-19	550
Sep-19	550	Sep-20	0	Oct-19	31
Oct-19	31	Oct-20	0	Nov-19	0
Nov-19	0	Nov-20	1396	Dec-19	513
Dec-19	513	Dec-20	712	Jan-20	466
				Feb-20	553
				Mar-20	0
				Apr-20	0
				May-20	178
				Jun-20	588
Average	241	Average	412	Average	266

The above consumption data shows that the normal bills charged during the disputed period are higher than the average consumption of the corresponding months of the previous year as well as the average consumption of the last eleven months. Thus the determination of the POI for revision of the normal bills w.e.f. November 2020 and onwards as per consumption of the corresponding month of the previous year or average consumption of the last eleven months, whichever is higher is incorrect, beyond the pleadings of the Respondent, and the same is liable to be withdrawn to this extent.

6.7 It is observed that the bills charged during the months i.e. November 2020 and December 2020 to the Respondent seems justified and payable by him, whereas the bills for the period from July 2020 to October 2020 are liable to be revised as per 100% consumption of corresponding month of the previous year or average consumption of last eleven months, whichever is higher

11/08





National Electric Power Regulatory Authority

as per Clause 4.3.1(b) of the CSM-2020. 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 detection bill of Rs.828,458/- for 39659 units+53 kW MDI for six (06) months i.e. from July 2020 to December 2020 debited to the Respondent as well as the determination of the POI for revision of the normal bills w.e.f. November 2020 and onwards as per consumption of corresponding month of the previous year or average consumption of last eleven months are cancelled.

7.2 The Respondent may be charged the revised bills for the period from July 2020 to October 2020 on DEF-EST code as per Clause 4.3.1(b) of the CSM-2020.


7.3 The bills already charged during the disputed period from November 2020 to December 2020 charged are justified and payable by the Respondent.


7.4 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.


Abid Hussain
Member/Advisor (CAD)

Dated: 13-05-2024


Naweed Illahi Sheikh
Convener/DG (CAD)


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

