



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

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No. NEPRA/Appeal/070/2022/ 453


May 17, 2024

1. Asif Shahzada,  
S/o. Shahzad Rafi,  
R/o. House No. 28-K,  
DHA Phase-I, Lahore  
Cell No. 0321-8440795
2. Chief Executive Officer,  
LESCO Ltd,  
22-A, Queens Road,  
Lahore
3. Ch. Abdul Razzaq,  
Advocate High Court,  
M/s. Conifer & Pines International,  
Suit No. 4, 1<sup>st</sup> Floor, Sajjad Mansion,  
4-Mozang Road, Lahore  
Cell No. 0300-4159972
4. Assistant Manager (Operation),  
LESCO Ltd,  
Gulshan-e-Ravi 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.070/2022 (LESCO Vs. Asif Shahzada) Against the Decision Dated 10.02.2022 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 17.05.2024 (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. 070/POI-2022

Lahore Electric Supply Company Limited

.....Appellant

Versus

Asif Shahzada S/o. Shahzad Rafi  
R/o. House No.28-K, DHA Phase-I, Lahore

.....Respondent

For the Appellant:

Ch. Abdul Razzaq Advocate

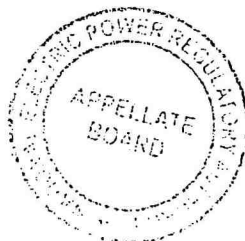
For the Respondent:

Mr. Asif Shahzada

## DECISION

1. Briefly speaking, Mr. Asif Shahzada (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.24-11111-9904000-U with sanctioned load of 67 kW and the applicable tariff category is B-2(b). During M&T checking of the Appellant dated 17.09.2018, the impugned meter of the Respondent was found tampered for stealing electricity, therefore FIR No.461/2018 was registered against the Respondent and the electricity of the premises was disconnected. Thereafter, a detection bill amounting to Rs.1,271,802/- against 93,275 units +239 kW MDI for nine months for the period from December 2017 to August 2018 was charged to the Respondent by the Appellant on the basis of 30% load factor of the connected load and added to the bill for January 2021.
2. Being aggrieved with the abovementioned actions of the Appellant, 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 matter was disposed of by the POI vide decision dated 10.02.2022, wherein the above detection bill Rs.1,271,802/- against 93,275 units+239 kW MDI for nine months for the period from December 2017 to August 2018 was declared as null and void. The Appellant was directed to revise the bills from March 2018 to August 2018 as per consumption of the corresponding month of the previous year or average consumption of the last eleven months, whichever is higher.
3. Being dissatisfied, the Appellant filed the instant appeal before the NEPRA against the afore-referred decision of the POI (hereinafter referred to as the "impugned decision"). In its appeal,

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the Appellant opposed the impugned decision *inter alia*, on the following grounds that the POI was bound to decide the matter within 90 days under Section 26(6) of the Electricity Act 1910; that the POI did not consider the checking report of the Appellant; that the M&T team declared the impugned meter as tampered; that the FIR No.461/2018 was registered against the Respondent involved in theft of electricity; that the POI failed to consider the evidence available with him and passed the impugned decision, which is not sustainable under the law.

4. Notice dated 23.06.2022 was sent to the Respondent for reply/para-wise comments to the appeal, which however were not filed.

5. **Hearing:**

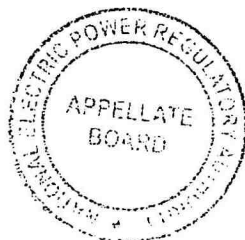
5.1 After issuing notices to both parties, the hearing was conducted at the NEPRA Regional Office Lahore on 19.01.2024 wherein both parties were present. Learned counsel for the Appellant averred that the detection bill of Rs.1,271,802/- against 93,275 units+239 kW MDI for nine months for the period from December 2017 to August 2018 was debited to the Respondent on account of theft of electricity committed through tampering with the meter as declared by the M&T vide report dated 17.09.2018. Learned counsel for the Appellant stated that the above detection bill was cancelled by the POI vide the impugned decision without consideration of facts and perusal of the record. He prayed to allow the entire detection bill.

5.2 On the contrary, the Respondent denied the allegation of theft of electricity and argued that the entire actions including the charging of the above detection bill are illegal, unlawful, and not in line with provisions of CSM-2010. The Respondent stated that the Appellant neither followed the procedure as laid down in Chapter 9 of the CSM-2010 nor could produce the impugned meter before the POI for verification of alleged tampering. He prayed that the impugned detection bill be set aside in the best interest of justice, which is also the determination of the POI.

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

6.1 While addressing the preliminary objection of the Appellant regarding the jurisdiction of the POI, it is observed that the Respondent filed his complaint before the POI under Section 38 of the NEPRA Act and the POI pronounced its decision on 10.02.2022 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, of 1910. Reliance in this regard is placed on

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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 During M&T checking of the Appellant dated 17.09.2018, the impugned meter of the Respondent was found tampered for stealing electricity, therefore FIR No.461/2018 was lodged against him and the electricity of the premises was disconnected by the Appellant. Thereafter, a detection bill of Rs.1,271,802/- against 93,275 units+239 kW MDI for nine months for the period from December 2017 to August 2018 was charged to the Respondent based on connected load, which was challenged before the POI.

6.3 Having found the above discrepancies, the Appellant was required to follow the procedure stipulated in Clause 9.1(c) of the CSM-2010 to confirm the illegal abstraction of electricity by the Respondent and thereafter charge the detection bill to the Respondent, accordingly. However, in the instant case, the Appellant has not followed the procedure as stipulated under the ibid clause of the CSM-2010. From the submissions of the Appellant, it appears that the billing meter of the Respondent was checked and removed by the Appellant in the absence of the Respondent.

6.4 As per the judgment of the Supreme Court of Pakistan reported in PLD 2012 SC 371, the POI is the competent forum to check the metering equipment, wherein theft of electricity was committed through tampering and decide the fate of the disputed bill, accordingly. However, in the instant case, the Appellant did not produce the impugned meter before the POI for checking. To check the authenticity of the impugned detection bill, consumption of the disputed period will be compared below with the consumption of the corresponding months of the previous year:

Undisputed		Disputed	
Month	Units	Month	Units
Dec-16	1340	Dec-17	0
Jan-17	1680	Jan-18	34
Feb-17	1440	Feb-18	1620
Mar-17	1720	Mar-18	1720
Apr-17	1620	Apr-18	1689
May-17	1540	May-18	1618
Jun-17	540	Jun-18	1433
Jul-17	1180	Jul-18	1533
Aug-17	800	Aug-18	1574
Average	1318	Average	1247

## Detection units charged @ 11,607 units/month

Perusal of the consumption data of the Respondent shows that the average consumption of the Respondent recorded during the disputed period is much less than the average consumption of the Respondent during the corresponding period before the dispute. However, the detection bill charged @ 11,607 units per month for the disputed period December 2017 to August 2018 is much higher than the consumption of the corresponding period before the dispute. It is further observed that the detection bill was charged beyond six billing cycles to the Respondent, which is contrary to Clause 9.1c(3) of the CSM-2010.

- 6.5 In view of the foregoing discussion, we are of the considered view that the detection bill amounting to Rs.1,271,802/- against 93,275 units+239 kW MDI for nine months for the period from December 2017 to August 2018 charged to the Respondent is unjustified and the same is liable to be cancelled, which is also the determination of the POI.
- 6.6 It is noticed that the impugned meter of the Respondent remained defective from February 2018 to August 2018. To verify that the billing already done during the disputed period i.e. February 2018 to August 2018 by the Appellant is compatible with the normal consumption of the corresponding month of the previous year or the average consumption of the last eleven months, consumption data is reproduced below:

Undisputed		Disputed		Last eleven months	
Month	Units	Month	Units	Month	Units
Feb-17	1440	Feb-18	1620	Mar-17	1720
Mar-17	1720	Mar-18	1720	Apr-17	1620
Apr-17	1620	Apr-18	1689	May-17	1540
May-17	1540	May-18	1618	Jun-17	540
Jun-17	540	Jun-18	1433	Jul-17	1180
Jul-17	1180	Jul-18	1533	Aug-17	800
Aug-17	800	Aug-18	1574	Sep-17	1400
				Oct-17	0
				Nov-17	0
				Dec-17	0
				Jan-18	0
<b>Average</b>	<b>1263</b>	<b>Average</b>	<b>1598</b>	<b>Average</b>	<b>800</b>

From the above table, it is observed that the normal average consumption already charged during the disputed period from February 2018 to August 2018 is much higher than the normal average consumption of corresponding months of the previous year as well as the normal average consumption of the last eleven months, hence there is no justification to revise the



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bills for the period from February 2018 to August 2018. The impugned decision is liable to be modified to this extent.

7. Summing up the foregoing discussion, it is concluded that:

7.1 The detection bill of Rs.1,271,802/- against 93,275 units+239 kW MDI for nine months for the period from December 2017 to August 2018 charged to the Respondent is unjustified and the same is cancelled.

7.2 Similarly, the impugned decision for revision of the bills from March 2018 to August 2018 as per consumption of the corresponding month of the previous year or average consumption of the last eleven months is not correct being contrary to the facts of the case and the same is set aside to this extent.

7.3 However, the normal bills already charged during the disputed period from December 2017 to August 2018 are justified and payable by the Respondent.

7.4 The billing account of the Respondent may be overhauled after adjusting payments made against the impugned detection bill.

8. The appeal is disposed of in the above terms.

Abid Hussain  
Member/Advisor (CAD)

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

Naweed Illahi Sheikh  
Convener/DG (CAD)

Dated: 17-05-2024

