



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

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No. NEPRA/Appeal/078/2023/ 452

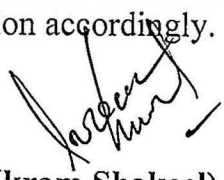
May 13, 2024

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| 1. Liaqat Ali,
S/o. Lal Din,
R/o. House No. 02, Street No. 02,
Mohallah Abubakar Park,
Masoom Shah Road, Badami Bagh,
Lahore
Cell No. 0322-4574933 | 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. A. D. Bhatti,
Advocate High Court,
First Floor, Rehmat Tower,
13-Fane Road, Lahore
Cell No. 0300-9431653 |
| 5. Assistant Manager (Operation),
LESCO Ltd,
Data Nagar Sub Division,
Lahore | 6. POI/Electric Inspector
Lahore Region-I, Energy Department,
Govt. of Punjab, Block No. 1,
Irrigation Complex, Canal Bank,
Dharampura, Lahore |

Subject: **Appeal No.078/2023 (LESCO Vs. Liaqat Ali) Against the Decision Dated 04.07.2023 of the Provincial Office of Inspection to Government of the Punjab Lahore Region-I, Lahore**

Please find enclosed herewith the decision of the Appellate Board dated 13.05.2024 (06 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.078/POI-2023

Lahore Electric Supply Company Limited

.....Appellant

Versus

Liaquat Ali S/o. Lal Din, R/o. House No.02, Street No.02,
Mohallah Abu Bakar Park, Masoom Shah Road,
Badami Bagh, Lahore

.....Respondent

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

For the Appellant:

Mr. Saeed Ahmed Bhatti Advocate

For the Respondent:

Mr. A.D Bhatti Advocate

DECISION

1. Brief facts leading to the filing of instant appeal are that Mr. Liaquat Ali (hereinafter referred to as the "Respondent") is a consumer of Lahore Electric Supply Company Limited (hereinafter referred to as the "Appellant") having the following three connections:

Connection type	Ref No.	Sanctioned Load	Tariff
Commercial	44-11151-0943801	05 kW	A-2
Commercial	44-11151-0943802	05 kW	A-2
Commercial	44-11151-0943805	04 kW	A-2(a)

Reportedly, the Metering and Testing (M&T) team of the Appellant checked the metering equipment of connection bearing Ref No.44-11151-0943805 (the "disputed connection") of the Respondent on 04.01.2019, wherein the disputed connection was found as P-DISC but the electricity was being used at the site and the billing meter of the disputed connection was found the dead stop. Notice dated 04.01.2019 was issued to the

Appeal No.078/POI-2023

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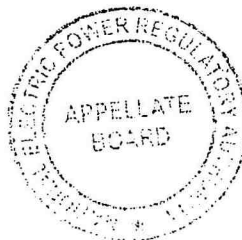
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Respondent and the impugned meter was sent to M&T lab for downloading data. Thereafter, a detection bill amounting to Rs.2,931,069.73/- against 111,331 units for nine (09) months for the period from April 2018 to December 2018 was charged by the Appellant to the disputed connection of the Respondent on the basis of 30% load factor of connected load i.e. 19.22 kW along with AC and added to the bill for January 2019.

2. Being aggrieved, the Respondent filed a complaint before the Provincial Office of Inspection, Lahore Region, Lahore (hereinafter referred to as the "POI") on 29.03.2022 and challenged the above detection bill. The matter was disposed of by the POI vide the decision dated 04.07.2023, wherein the detection bill of Rs.2,931,069.73/- against 111,331 units for nine (09) months for the period from April 2018 to December 2018 was cancelled.
3. Subject appeal has been filed against the afore-referred decision dated 04.07.2023 of the POI (hereinafter referred to as the "impugned decision") by the Appellant before the NEPRA, wherein it is contended that during M&T checking dated 04.01.2019, the billing meter of the disputed connection of the Respondent was found dead stop, the connection was found P-DISC and electricity was being used through the disputed connection, therefore a detection bill of Rs.2,931,069.73/- against 111,331 units for nine (09) months for the period from April 2018 to December 2018 was charged to the disputed connection of the Respondent. As per the Appellant, the POI misconceived the real facts of the case and neither recorded evidence nor perused the relevant record/consumption data and other authentic documents in true perspective and accepted the petition of the Respondent on mere surmises and conjectures. According to the Appellant, the POI failed to decide the matter within 90 days from the date of receipt of the complaint as required under Section 26(6) of the Electricity Act, 1910, hence the impugned decision became ex-facie, *corum non-judice*, and void. The Appellant further submitted that the POI failed to appreciate that the complaint could not be entertained as no notice as required under Section 26(6) of the Electricity Act, 1910 was served upon the Appellants before filing the same. The Appellant prayed that the impugned decision is not sustainable in law and the same is liable to be set aside.

4. **Proceedings by the Appellate Board**

Upon filing of the instant appeal, a Notice dated 25.09.2023 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days, which were filed on 20.01.2024. In the reply, the Respondent prayed for dismissal of the appeal on the





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following grounds that the Appellant acted in violation of CSM-2021 that the disputed connection was permanently disconnected, therefore no bill could be charged on account of bill adjustment and the same is violative of Clause 8.4 of the CSM-2021; that he deliberately with malafide intention contravened the provisions of the Consumer Service Manual; that the POI after providing the complete opportunity to both parties, consider all legal and factual aspects of the case; that the impugned decision being well reasoned, comprehensive is liable to be upheld.

5. Hearing

- 5.1 Hearing was fixed for 20.01.2024 at NEPRA Regional Office Lahore, the learned counsels appeared for both the Appellant and the Respondent sides. During the hearing, learned counsel for the Appellant reiterated the same version as contained in memo of the appeal and contended that the billing meter of the disputed connection of the Respondent was checked by the M&T team on 04.01.2019, wherein it was declared dead stop, electricity was running on the P-DISC connection and the detection bill amounting to Rs.2,931,069/- against 111,331 units for nine (09) months for the period from April 2018 to December 2018 was debited to the disputed connection of the Respondent on the basis of the connected load. As per learned counsel for the Appellant, the POI neither checked the disputed meter nor perused the consumption data and cancelled the above detection bill. Learned counsel for the Appellant defended the charging of the impugned detection bill and prayed that the same be declared as justified and payable by the Respondent.
- 5.2 On the contrary, learned counsel for the Respondent refuted the allegation of theft of electricity levelled by the Appellant and averred that the Appellant failed to produce the documentary evidence. As per learned counsel for the Respondent, the detection bill of Rs.2,931,069.73/- against 111331 units for nine (09) months for the period from April 2018 to December 2018 was debited by the Appellant with malafide intention, which was cancelled by the POI after due consideration of facts and record of the case. Learned counsel for the Respondent finally prayed for dismissal of the appeal being devoid of merits.





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

6.1 Objection regarding the time limit for POI to decide the complaint:

As per the record, the Respondent filed his complaint before the POI on 29.03.2022 under Section 38 of the NEPRA Act. POI pronounced its decision on 04.07.2023 after the expiry of 90 days from the date 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 *PLJ 2017 Lahore 627* and *PLJ 2017 Lahore 309*. Keeping in view the overriding effect of the NEPRA Act being later in time, and the above-referred decisions of the honorable High Court, hence the objection of the Appellant is rejected.

6.10 Detection bill of Rs.2,931,069.73/- against 111331 units for nine (09) months for the period from April 2018 to December 2018:

In the instant case, the Appellant claimed that M&T on 04.01.2019 detected that the impugned meter of the disputed connection of the Respondent was dead stop and electricity was being used for the P-DISC connection. Thereafter, the Appellant debited a detection bill of Rs.2,931,069.73/- against 111,331 units for nine (09) months for the period from April 2018 to December 2018 to the disputed connection of the Respondent based on 30% load factor of the connected load, which was challenged by the Respondent before the POI.

6.11 Having found the above discrepancies, the Appellant was required to follow the procedure stipulated in Clause 9.2 of the CSM-2021 to confirm the illegal abstraction of electricity by the Respondent and thereafter charge the Respondent accordingly. However, in the instant case, the Appellant has not followed the procedure as stipulated under the ibid clause of the CSM-2021. From the submissions of the Appellant, it appears that the billing meter of the disputed connection of the Respondent was checked and removed by the Appellant in the absence of the Respondent.

6.12 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 with the meter and decide the fate of the disputed bill,





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accordingly. However, in the instant case, the Appellant did not produce the impugned meter before the POI for checking.

6.13 It is observed that the Appellant debited the detection bill for nine months to the disputed connection of the Respondent due to the theft of electricity, which is in contravention with Clause 9.2.3c (iii) of the CSM-2021. Said clause of the CSM-2021 restricts the Appellant to debit the detection bill maximum for six billing cycles. It is further observed that the Appellant assessed the detection bill on the basis of 30% load factor of the connected load of 19.22 kW in addition to the AC load, whereas the connection under dispute was sanctioned against 4 kW load only.

6.14 To further verify the contention of the Appellant regarding the illegal abstraction of electricity, the consumption data of three connections of the Respondent as provided by the Appellant is examined in the below table:

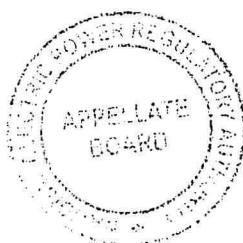
Period before dispute					Disputed period					Period After dispute				
Month	C-1	C-2	C-3	Total	Month	C-1	C-2	C-3	Total	Month	C-1	C-2	C-3	Total
Apr-17	59	1248	0	1307	Apr-18	0	1076	1	1077	Apr-19	0	2803	0	2803
May-17	0	1468	3	1471	May-18	0	641	0	641	May-19	0	320	2736	3083
Jun-17	215	593	0	808	Jun-18	0	730	1	731	Jun-19	0	1204	1257	2461
Jul-17	10	1385	0	1395	Jul-18	0	660	950	1610	Jul-19	0	950	1180	2130
Aug-17	352	0	5	357	Aug-18	0	1804	0	1804	Aug-19	0	2276	1750	4026
Sep-17	439	2161	0	2600	Sep-18	0	822	0	822	Sep-19	0	676	925	1601
Oct-17	556	148	0	704	Oct-18	0	282	0	282	Oct-19	0	346	717	1063
Nov-17	709	1616	0	2325	Nov-18	0	1185	0	1185	Nov-19	0	1330	1794	3124
Dec-17	851	1359	0	2213	Dec-18	0	1148	0	1148	Dec-19	0	1153	2762	3915
Total	3194	9978	8	13180	Total	0	8348	952	9300	Total	0	11058	13148	24206

Detection bill = Total 119,482 units

Perusal of the consumption data of the Respondent reveals that the total consumption of three connections of the Respondent during the disputed period is much less than the total consumption of the corresponding periods of the preceding and succeeding years. This shows that actual consumption was not recorded by the impugned meter of the Respondent due to unforeseen reasons, however, the detection bill against total 119,482 units was debited to the disputed connection of the Respondent, which has never been recorded in the billing history of all three connections.

6.15 In view of the foregoing discussion, we are of the considered view that the detection bill amounting to Rs.2,931,069.73/- against 111,331 units for nine (09) months for the period from April 2018 to December 2018 charged by the Appellant to the disputed connection of

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the Respondent is unjustified and the same is liable to be cancelled as already determined by the POI.

6.16 The discrepancy in the metering equipment was observed by the Appellant on 04.01.2019, thus, it would be fair and appropriate to debit the revised bills for the disputed period from April 2018 to December 2018 to the Respondent as per combined healthy consumption of three connections recorded during the corresponding period after the dispute i.e. April 2019 to December 2019. The impugned decision is liable to be modified to this extent.


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


7.1 The detection bill of Rs.2,931,069.73/- against 111,331 units for nine (09) months for the period from April 2018 to December 2018 charged to the disputed connection of the Respondent is unjustified and the same is cancelled.


7.2 The disputed connection of the Respondent may be charged the revised bills for the disputed period from April 2018 to December 2018 as per combined healthy consumption of three connections recorded during the corresponding period after the dispute i.e. April 2019 to December 2019.

7.3 The billing account of the Respondent be overhauled, accordingly.

7. Impugned decision is modified in the above terms.


Abid Hussain
Member/Advisor (CAD)


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


Naweed Illahi Sheikh
Convener/DG (CAD)

Dated: 13-05-2024

