



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

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No. NEPRA/Appeal/106/2022/ 938

May 10, 2024

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| 1. Muhammad Imran Butt,
S/o. Muhammad Afzal Butt,
R/o. House No. 171/2, Haji Street,
Gunj Bukhsh Colony,
Molana Ahmad Ali Road,
Qilla Muhammadi, Lahore
Cell No. 0335-8283310 | 2. Chief Executive Officer,
LESCO Ltd,
22-A, Queens Road,
Lahore |
| 3. Ali Aman Shamsi,
Advocate High Court,
4-Link Farid Kot Road,
Lahore
Cell No. 0323-8331245 | 4. Assistant Manager (Operation),
LESCO Ltd,
Qilla Muhammadi 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.106/2022 (LESCO Vs. Muhammad Imran Butt) Against the Decision Dated 21.12.2021 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 10.05.2024 (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. 106/POI-2022

Lahore Electric Supply Company Limited

.....Appellant

Versus

Muhammad Imran Butt S/o. Muhammad Afzal Butt,
R/o. House No.171/2, Haji Street, Guunj Bukhsh Colony,
Molana Ahmed Ali Road Qila Muhammadi, Lahore

.....Respondent

For the Appellant:

Mr. Ali Aman Shamsi Advocate

For the Respondent:

Mr. M. Imran Butt Advocate

DECISION

1. Briefly speaking, Mr. Muhammad Imran Butt (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.04-11141-0294400-U with sanctioned load of 02 kW and the applicable tariff category is A-1(a). During M&T checking of the Appellant dated 28.01.2019, the impugned meter of the Respondent was found tampered (body repasted) for stealing electricity, and the connected load was observed as 5.459 kW. Therefore FIR#281/2019 dated 13.03.2019 was registered against the Respondent due to theft of electricity. Thereafter, a detection bill amounting to Rs.169,316/- against 5,874 units for six months for the period from July 2018 to December 2018 was charged to the Respondent by the Appellant on the basis of connected load and added to the bill for June 2019.
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 21.12.2021, wherein the above detection bill of Rs.169,316/- against 5,874 units for six months for the period from July 2018 to December 2018 was declared null and void. The Appellant was directed to revise the bills w.e.f November 2018 and onwards till the replacement of the impugned meter of the Respondent as per consumption of the corresponding month of the previous year or average consumption of the last eleven

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months, whichever is higher. The Appellant was further directed to overhaul the account of the Respondent, accordingly.

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, the Appellant opposed 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 did not apply his independent and judicious mind while passing the impugned decision on illegal assumptions and presumptions; that the Appellants have no personal grudge or grouse against the Respondent to issue an excessive bill; that the POI has not thrashed out the consisting reasons while rendering the impugned decision and the same is liable to be set aside being filed after lapse of 90 days.

4. Notice dated 26.09.2022 was sent to the Respondent for filing 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 reiterated preliminary objection regarding the jurisdiction of the POI with the ground that the matter was to be decided within 90 days as required in Section 26(6) of the Electricity Act, 1910 but the POI failed to do so, hence the impugned decision became void. Learned counsel for the Appellant averred that the detection bill of Rs.169,316/- against 5,874 units for six months for the period from July 2018 to December 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 28.01.2019. 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 appearing in person 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.

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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 21.12.2021 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 During M&T checking of the Appellant dated 28.01.2019, the impugned meter of the Respondent was found tampered for stealing electricity, and the connected load was observed higher than the sanctioned load, therefore FIR No.281/2019 dated 13.03.2019 was lodged against him and a detection bill of Rs.169,316/- against 5,874 units for six months for the period from July 2018 to December 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, the consumption of the Respondent charged during the disputed period will be compared below with the consumption of the corresponding months of the succeeding year:

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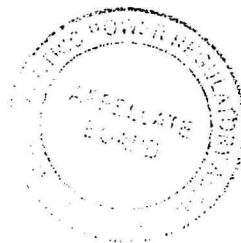


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Disputed		Undisputed	
Month	Units	Month	Units
Jul-18	1118	Jul-19	973
Aug-18	372	Aug-19	779
Sep-18	795	Sep-19	601
Oct-18	0	Oct-19	367
Nov-18	0	Nov-19	188
Dec-18	223	Dec-19	92
Average	418	Average	500

Perusal of the above 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 after the dispute. This indicates that the actual consumption was not recorded by the meter during the disputed period. According to Clause 9.1c(3) of the CSM-2010, the Respondent being a general supply consumer i.e. A-I is liable to be charged the detection bill maximum for three billing cycles in the absence of approval from the Chief Executive Officer, however, the Appellant debited the detection bill for six months to the Respondent contrary to the foregoing clause of the CSM-2010. The Appellant did not give just reasoning for charging the detection bill beyond three billing cycles to the Respondent. Moreover, healthy consumption was recorded by the meter till September 2018, thereafter nil consumption charged in October 2018 and November 2018, and minimum consumption in December 2018, hence there is no justification to include the months from July 2018 to September 2018 in the impugned detection bill.


- 6.5 In view of the foregoing discussion, we are of the considered view that the detection bill amounting to Rs.169,316/- against 5,874 units for six months for the period from July 2018 to December 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 Since the discrepancy of the tampered meter was observed by the Appellant on 28.01.2019, hence it would be fair and appropriate to debit the revised detection bill for three retrospective billing cycles i.e. October 2018 to December 2018 as per Clause 9.1c(3) of CSM-2010. The 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.169,316/- against 5,874 units for six months for the period from July 2018 to December 2018 charged to the Respondent is unjustified and the same is cancelled.







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- 7.2 The Respondent may be charged the revised detection bill for three months i.e. October 2018 to December 2018, according to Clause 9.1c(3) of the CSM-2010.
- 7.3 The billing account of the Respondent be overhauled, accordingly.
8. The impugned decision is modified in the above terms.


Abid Hussain
Member/Advisor (CAD)

Dated: 10-05-2024


Naweed Illahi Sheikh
Convener/DG (CAD)


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

