



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

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No. NEPRA/Appeal/128/2021/ & 131/2021/ 5/5

May 29, 2024

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| 1. Shuja-ud-Din,
through Adnan Shuja-ud-Din,
S/o. Shuja-ud-Din,
M/s Moon Light Dying Industry,
Stop No.25, near Gourmet Bakery,
Allah Hoo Darbar, Jia Musa, Shandara,
Lahore | 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,
0333-4350899 | 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,
Begum Kot 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.128/2021 & 131/2021 (LESCO Vs. Shuja-ud-Din) Against the Decision Dated 15.12.2020 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 29.05.2024 (08 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 Nos.128/POI-2021 & 131/POI-2021

Lahore Electric Supply Company Limited

.....Appellant

Versus

Shuja-ud-Din, Through Adnan Shuja-ud-Din,
S/o. Shuja-ud-Din, M/s. Moon Light Dying Industry Stop No.25,
near Gourmet Bakery, Allah Hoo, Darbar Jia Musa,
Shandara, 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

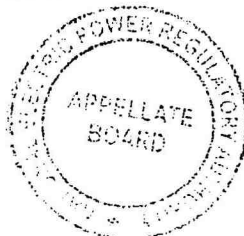
DECISION

1. Through this decision, the appeal filed by the Lahore Electric Supply Company Limited (hereinafter referred to as the "Appellant") against the decision dated 15.12.2020 of the Provincial Office of Inspection, Lahore Region, Lahore (hereinafter referred to as the "POI") is being disposed of.
2. Briefly speaking, Mr. Shuja-ud-Din (hereinafter referred to as the "Respondent") is an industrial consumer of the Appellant bearing Ref No.24-11135-2400820-U with sanctioned load of 315 kW and the applicable Tariff category is B-2(b). Metering & Testing ("M&T") team of the Appellant replaced the defective billing meter with a new billing meter on 26.09.2012. Subsequently, the M&T team of the Appellant checked the metering equipment of the Respondent on 09.06.2016, 18.04.2018, 15.03.2017, and 22.11.2019 and observed the following discrepancies in the metering equipment:

Appeal Nos.128/POI-2021 & 131/POI-2021

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Checking	Discrepancies	Remarks
09.06.2016	Billing meter was found defective with disturbed date & time and erratic behavior of display, whereas the backup meter was found ok.	AM(O) is advised to shift billing on the backup meter
15.03.2017	The billing meter was found defective with disturbed date & time and erratic behavior of display, whereas the backup meter was found ok.	AM(O) is advised to shift billing on the backup meter
18.04.2018	Billing meter was found defective with disturbed date & time and erratic behavior of display, whereas the backup meter was found ok.	AM(O) is advised to shift billing on the backup meter
22.11.2019	The billing meter was found defective with disturbed date & time and erratic behavior of display, whereas the backup meter was found ok.	The billing was shifted on the backup meter and charge difference of 180,992 units

3. Therefore, a detection bill of Rs.4,131,110/- against 180,992 units for the period from 26.09.2012 to 22.11.2019 (86 months) was debited to the Respondent due to the difference in readings between the billing and backup meters and added to the bill for December 2019. Later on, the M&T team of the Appellant replaced the impugned billing and backup meters of the Respondent with new billing and backup meters on 06.02.2020 and the onward billing was shifted to the new metering equipment by the Appellant.
4. Being aggrieved, the Respondent filed a complaint dated 19.02.2020 before the POI and challenged the above detection bill. The Respondent filed another complaint before the POI on 20.03.2020 and challenged the bill of Rs.2,659,183/- against the total of 182,648 units debited by the Appellant in February 2020. Both complaints of the Respondent were clubbed and disposed of by the POI vide the single/consolidated decision dated 15.12.2020, wherein the Appellant was directed to refund 251,637 units excessively charged by the Respondent.
5. The Appellant filed two appeals before the NEPRA against the afore-referred decision of the POI, which were registered as Appeal No.128/POI-2021 and Appeal No.131/POI-2021. As the subject matter of both appeals is same, hence both are clubbed and are being disposed



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of single/consolidated decision.

6. In its appeals, the Appellant objected to the maintainability of the impugned decision, *inter alia*, on the main grounds that the detection bill of Rs.4,131,110/- against 180,992 units for the period from 26.09.2012 to 22.11.2019 (86 months) was debited to the Respondent due to the difference in readings between the billing and backup meters and added to the bill for December 2019; that the POI misconstrued the real aspects of the case and directed the Appellant to refund 251,637 units excessively charged; that the POI failed to appreciate that the complaint was filed by unauthorized person; that the bill of Rs.2,659,183/- against total 182,648 units debited to the Respondent in February 2020 is as per actual consumption recorded by the meter; that the POI neither recorded consumption data in true perspective and decided the complaint of the Respondent on mere surmises and conjectures; that the impugned decision is liable to be set aside.

7. **Proceedings by the Appellate Board**

Upon filing of the instant appeal, a notice dated 29.11.2021 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days, which were filed on 18.03.2022. In the reply, the Respondent contended that the Appellant debited a detection bill of Rs.4,131,110/- against 180,992 units for the period from 26.09.2012 to 22.11.2019 (86 months) in December 2019 is void, unjustified and of no legal effect. The Respondent further contended that the Appellant neither issued notice nor associated during the checking, and entire proceedings were done by the Appellant in violation of the Consumer Service Manual (CSM), Rules, and Regulations, therefore the Appellants are not entitled to get any relief from the NEPRA and the appeal required dismissal with cost. As per Respondent, the Appellant debited the bill of February 2020 with excessive units, which was rightly set aside by the POI. The Respondent finally defended the impugned decision and prayed for upholding the same.

8. **Hearing**

- 8.1 Hearing of the subject appeals was conducted at NEPRA Regional Office Lahore on 01.03.2024, which was attended by the counsels for both the Appellant and the Respondent. Learned counsel for the Appellant contended that the billing meter of the Respondent was found running slow as compared to the backup meter during checkings dated 09.06.2016, 18.04.2018, and 22.11.2019, therefore the detection bill amounting to Rs.4,131,110/- against 180,992 units for the period from 26.09.2012 to 22.11.2019 was debited to the

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Respondent due to the difference of readings between the billing and backup meters to recover the revenue loss sustained by the Appellant. As per learned counsel for the Appellant, the above detection bill was cancelled by the POI without perusing the documentary evidence. According to the learned counsel for the Appellant, the POI afforded relief beyond the prayer of the Respondent and directed the Appellant to refund, 251,637 units excessively charged to the Respondent. According to learned counsel for the Appellant, the bill of Rs.2,659,183/- against the total of 182,648 units debited by the Appellant in February 2020 was debited to the Respondent as per consumption recorded by the billing meter and the Respondent is responsible to pay the same. Learned counsel for the Appellant finally prayed that the impugned decision is liable to be set aside.

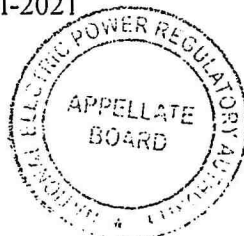
8.2 On the contrary, learned counsel for the Respondent repudiated the version of the Appellant and argued that the entire proceedings including checking were carried out by the Appellant unilaterally and the detection bill of Rs.4,131,110/- against 180,992 units for the period from 26.09.2012 to 22.11.2019 was debited without any justification. Learned counsel for the Respondent further contended that if presumed that the impugned billing meter had been defective since September 2016 as to why the Appellant failed to replace the impugned meter within two billing cycles as required in CSM-2010. Learned counsel for the Respondent rebutted the version of the learned counsel for the Appellant regarding the bill of February 2020 and averred that 81000 units were excessively charged for just three days based on consumption of old meter. As per learned counsel for the Respondent, the impugned decision for refund of 251,637 units is based on merits and the appeal is liable to be dismissed with cost.

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

9.1 The Respondent filed two complaints before the POI and challenged the following bills before the POI with the plea that the excessive billing was done by the Appellant with malafide intention:

- Detection bill of Rs.4,131,110/- against 180,992 units for the period from 26.09.2012 to 22.11.2019 (86 months) debited to the Respondent due to the difference of readings between the billing and backup meters.
- the bill of Rs.2,659,183/- against total 182,648 in February 2020, which contained the consumption recorded by the old removed meter as well as the new meter.

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9.2 Detection bill of Rs.4,131,110/- against 180,992 units for the period from 26.09.2012 to 22.11.2019 (86 months) debited to the Respondent due to the difference of readings between the billing and backup meters:

The Appellant has claimed that the billing meter of the Respondent was found running slow/defective with erratic behavior as compared to the backup meter as observed during the various checking dated 09.06.2016, 15.03.2017, 18.04.2018 and 22.11.2019. Resultantly, the Appellant charged the detection bill amounting to Rs.4,131,110/- against 180,992 units for the period from 26.09.2012 to 22.11.2019 to the Respondent due to the difference of readings between the billing and backup meters.

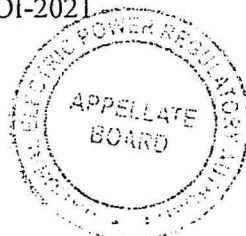
9.3 Metering equipment of the Respondent was initially checked by the Appellant on 09.06.2016, wherein the TOU billing meter was found defective with upset date and time, whereas the backup meter was found working within permissible limits. AM(O) of the Appellant was advised to shift the billing of the Respondent on the backup meter immediately but no action was taken by the Appellant. According to Clause 4.4 of the CSM-2010, the Appellant is required to replace the defective meter within two billing cycles and the bills in these months be recovered on DEF-EST code.

9.4 During another checking dated 15.03.2017, the same discrepancy of defective display with upset date and time of the TOU billing meter was witnessed by the M&T team of the Appellant but no action was taken by the Appellant either to replace the impugned meter or shift the billing on the backup meter.

9.5 Subsequently, third checking dated 18.04.2018 was carried out by the Appellant, wherein the impugned billing meter was found defective with vanished display, whereas the backup meter was found working within specified limits. The Appellant again failed to rectify the fault of the metering equipment or shift the billing on the backup meter.

9.6 Finally, the billing was shifted to the backup meter of the Respondent by the Appellant on 22.11.2019. This whole scenario indicates that the Appellant took more than seven years to shift the billing on the backup meter of the Respondent despite being pointed out by their M&T team four times. This shows their gross negligence, which resulted the gross negligence on the part of the Appellant. In furtherance, the Appellant did not produce the impugned meter before the POI for verification of alleged discrepancies. To further ascertain the contention of the Appellant regarding the difference of readings between the billing and backup meters, the readings of both the impugned billing and backup meters were compared in the below table for the sake of convenience;

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Period : 26.09.2012 to 22.11.2019 (86 months)							
Billing Meter	(A)	(B)	©=B-A	Backup Meter	(A)	(B)	©=B-A
	MCO dated 26.09.2012	Checking dated 22.11.2019	Difference		MCO dated 26.09.2012	Checking dated 22.11.2019	Difference
Reading	1.026	46442	46441	Reading	136677	1088114	951437
MF	160	160	160	MF	8	8	8
Total units			7430555	Total units			7611496

As evident from the above table, the billing meter recorded much less consumption as compared to the backup meter during the period from 26.09.2012 to 22.11.2019 (86 months). However, the Appellant showed gross negligence for not adhering to the provisions of the CSM-2010. It is further observed that the billing was shifted on the backup meter w.e.f 22.11.2019 and onwards but the consumption charged in the month of February 2020 based on said backup meter was also disputed by the Respondent. Under these circumstances, we cannot rely on the reading of the backup meter, as such the detection bill of Rs.4,131,110/- against 180,992 units for the period from 26.09.2012 to 22.11.2019 debited by the Appellant to the Respondent on account of the difference of readings between the billing and backup meters is unjustified and the same is liable to be declared as null and void.

9.7 In such cases, NEPRA has given clarification vide letter No. NEPRA/DG(CAD)/TCD-10/17187-13 dated 26.03.2021 that recovery of the difference bill be made within one year of the discrepancy noticed and maximum for six billing cycles, calculation in this regard is done below:

Period: June 2019 to November 2019

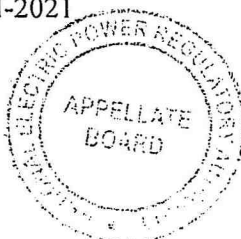
$$\begin{aligned}
 \text{A. Units to be charged} &= \frac{\text{Total difference units} \times \text{No. of allowed months}}{\text{Total No. of months}} \\
 &= \frac{180,992 \times 06}{86} = 12,627 \text{ units}
 \end{aligned}$$

The Respondent is liable to be charged net 12,627 units as difference bill. The impugned decision is liable to be modified to this extent.

9.8 Bill of Rs.2,659,183/- against 81,368 units debited by the Appellant in February 2020

It is observed that the Appellant replaced the old billing and backup meters of the Respondent with new billing and backup meters vide MCO dated 06.02.2020. Subsequently, the Appellant debited the bill of Rs.2,659,183/- against total 182,648 units in February 2020 as per the reading dated 02.03.2020, which contained 101,280 units debited on the new billing

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meter and 81,368 units debited on the old billing meter. The Respondent agitated the bill for February 2020 with the plea that the last reading for January 2020 was taken on 03.02.2020 and the old meter was replaced with a new meter on 06.02.2020. As such, 81,368 units debited for the period from 04.02.2020 to 06.02.2020 are much higher. To ascertain the contention of the Appellant, the difference of readings noted on 02.02.2020 for the bill of January 2020 and the reading noted on MCO dated 06.02.2020 is worked out below:

	(A)	(B)	C=B-A	D	F=CxD
Backup Meter	03.02.2020 (January 2020)	MCO dated 06.02.2020	Difference	MF	Units recorded
Off-peak	91443	99580	8137	8	65096
Peak	22516	24550	2034	8	16272
Total units					81368

The above table shows that the Appellant debited 81,368 units for three days from the reading dated 03.02.2020 to MCO dated 06.02.2020, which are neither compatible with the sanctioned load nor the healthy consumption of the Respondent. We are of the considered view that 81,368 units added to the bill for February 2020 based on reading of the old meter are unjustified and the same are liable to be declared null and void.

- 9.9 It would be fair and appropriate to revise the bill for three days from 03.02.2020 to 06.02.2020 as per the sanctioned load i.e. 315 kW, calculation in this regard is done below:

Period: 03.02.2020 to 06.02.2020

$$\begin{aligned}\text{Total units to be charged} &= \text{Sanctioned Load (kW)} \times \text{LF} \times \text{No. of days} \\ &= 315 \times 0.5 \times 24 \times 3 = 11,340 \text{ units}\end{aligned}$$

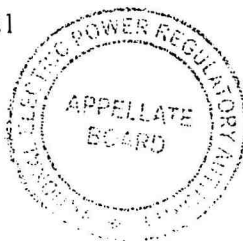
The Respondent is liable to be charged 11,340 units for three days as calculated in the above table. The impugned decision is liable to be modified to this extent.

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

- 10.1 the detection bill of Rs.4,131,110/- against 180,992 units for the period from 26.09.2012 to 22.11.2019 (86 months) charged on account of the difference of readings between the billing and backup meters and the bill of Rs.2,659,183/- against total 182,648 units charged in February 2020 are unjustified and the same are cancelled.

- 10.2 The Respondent may be charged the revised bills as per the detail given in below table:

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Bill Type	No. of Months/days	Units to be charged	Remarks
Difference bill	06 months	12,627	As per clarification of the revised CSM-2021
Normal Bill	03.02.2020 to 06.02.2020	11,340	As per the sanctioned load
Bill	06.02.2020 to 03.03.2020	101,280 units	As per the new meter

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

11. Both appeals are disposed of in the above terms.

Abid Hussain
Member/Advisor (CAD)

Naweed Illahi Sheikh
Convener/DG (CAD)

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

Dated: 29-05-2024

