



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

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No. NEPRA/Appeal/077/2023/ *522*

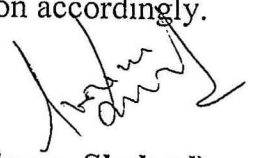
June 06, 2024

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|--|---|
| 1. Ms. Sehar Choudhry,
R/o. Kothi No. 39, Canal Colony,
Kattar Bund Road, Thokar Niaz Baig,
Multan Road, Lahore
Cell No. 0300-4309013 | 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. Assistant Manager,
LESCO Ltd,
Niaz Baig 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.077/2023 (LESCO Vs. Sehar Choudhary) Against the Decision Dated 19.06.2023 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 06.06.2024 (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.077/POI-2023

Lahore Electric Supply Company Limited

.....Appellant

Versus

Ms. Sehar Choudhary,
R/o. Kothi No.39, Canal Colony, Kattar Bund Road,
Thokar Niaz Baig, Multan Road, Lahore

.....Respondent

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

For the Appellant:

Mr. Saeed Ahmed Bhatti Advocate

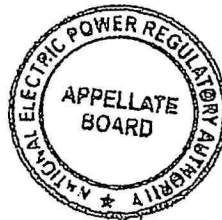
For the Respondent:

Ms. Sehar Choudhary

DECISION

1. As per the facts of the case, Sehar Choudhary (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.07-11262-0652800-U having sanctioned load of 09 kW and the applicable tariff category is A-1b. The electricity connection of the Respondent was disconnected by the Appellant on 15.11.2021, which was subsequently restored vide ROC dated 16.03.2022. Later on, the billing meter of the Respondent became defective in July 2022, therefore the Respondent was charged the bills for July 2022 and August 2022 on the DEF-EST code. Thereafter, the defective meter of the Respondent was replaced with a new meter by the Appellant vide MCO dated 09.09.2022.
2. Being aggrieved, the Respondent filed a complaint before the Provincial Office of Inspection, Lahore Region, Lahore (hereinafter referred to as the "POI") on 14.10.2022 and challenged the arrears of Rs.78,217/- accumulated till September 2022 containing the bills for

Appeal No.077/POI-2023



Page 1 of 5

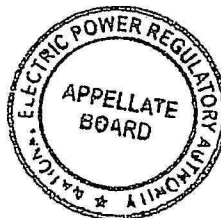
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National Electric Power Regulatory Authority

the months July 2022 and August 2022. The complaint of the Respondent was disposed of by the POI vide decision dated 12.04.2023, wherein the arrears of Rs.78,217/- charged till September 2022 were cancelled.

3. Being dissatisfied, the Appellant has filed the instant appeal before NEPRA and assailed the decision dated 19.06.2023 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 arrears of Rs.78,217/- as null and void; that the POI miserably failed to analyze the consumption data in true perspective; that the POI decided the matter after expiry of 90 days, which is violative of Section 26(6) of the Electricity Act, 1910; that the POI has failed to appreciate that the complaint could not be entertained as no notice as required u/s 26(6) of Electricity Act, 1910 was ever served upon the Appellants before filing the same and that the impugned decision is liable to be set aside.
4. Notice dated 25.09.2023 of the appeal was issued to the Respondent for filing reply/para-wise comment, which were filed on 14.10.2023. In the reply, the Respondent rebutted the version of the Appellant and submitted that the meter under dispute became defective in July 2022 due to heavy rainfall, which was replaced with a new meter by the Appellant in September 2022. The Respondent further submitted that the Appellant charged the excessive bills for the period from July 2022 to September 2022 although the premises is vacant since March 2022 to date. As per Respondent, the bills for the aforementioned period were charged in violation of provisions of the CSM-2021 to recover their line losses, which were rightly cancelled by the POI after the correct perusal of the record. The Respondent finally prayed for the dismissal of the appeal with cost.
5. Hearing
 - 5.1 Hearing of the appeal was conducted at NEPRA Regional Office Lahore on 01.03.2024, wherein learned counsel appeared for the Appellant, whereas the Respondent tendered appearance in person. Learned counsel for the Appellant contended that the impugned meter became defective in July 2022, therefore the Appellant fed the DFE-EST code for the onward billing. Learned counsel for the Appellant further contended that the impugned meter was replaced with a new meter by the Appellant vide MCO dated 09.09.2022. As per learned counsel for the Appellant, the Respondent defaulted in making payment of regular bills, due



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National Electric Power Regulatory Authority

to which the arrears accumulated to the tune of Rs.78,217/- till September 2022. According to the learned counsel for the Appellant, the POI neither considered the real fact of the case nor consumption data and cancelled the legitimate arrears. Learned counsel for the Appellant prayed for setting aside the impugned decision.

5.2 On the contrary, the Respondent repudiated the version of the Appellant that the premises is vacant since March 2022 to date but the Appellant did exaggerated billing during the period from July 2022 to September 2022 on account of defective meter. In support of her contention, the Respondent submitted copies of gas bills for the years 2022 and 2023. The Respondent supported the impugned decision and prayed for the dismissal of the appeal.

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

6.1 Preliminary objection regarding the time limit for POI to decide the complaint:

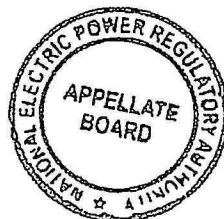
As per the record, the Respondent filed his complaint before the POI on 14.10.2022 under Section 38 of the NEPRA Act. POI pronounced its decision on 12.04.2023 after the expiry of 90 days from the date of receipt of the complaint. The Appellant has objected that the POI was bound to decide the matter 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.

6.2 Objection regarding prior notice before filing the complaint before the POI:

As regards another objection of the Appellant for not issuing notice as per the 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 notice before approaching the POI. The above objection of the Appellant is not valid and, therefore overruled.

6.3 Arrears of Rs.78,217/- accumulated till September 2022:

As per the available record, the Respondent was allotted the premises by the Irrigation Department, Government of Punjab vide order dated 29.07.2021, since then the premises is



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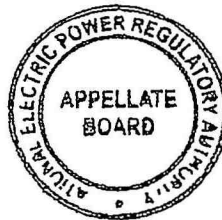
National Electric Power Regulatory Authority

under the occupancy of the Respondent. To reach a just decision, the billing history of the connection under dispute of the Respondent is reproduced below:

A	B	C	D	E	F=D+E	G	H=F-G
Month	Status	Units	Amount (Rs.)	Arrears (Rs.)	Total (Rs.)	Payment (Rs.)	Net Balance (Rs.)
Mar-22	Disconnected	0	42939	57	42996	42939	57
Apr-22	Reconnected	0	211	57	268	211	57
May-22	Same Read	0	211	57	268	211	57
Jun-22	Same Read	0	211	57	268	211	57
Jul-22	Defective	680	18003	57	18060	1513	19573
Aug-22	Active	848	30538	19573	50111	0	50111
Sep-22	Replaced	585	22265	55951	78216	0	80146
Oct-22	Active	1	303	80354	80657	26143	54514
Nov-22	Active	7	211	54570	54781	0	54781
Dec-22	Same Read	0	211	54781	54992	0	54992
Jan-23	Same Read	0	212	54992	55204	0	55204
Feb-23	Same Read	0	212	55204	55416	0	55416
Mar-23	Same Read	0	212	55416	55628	0	55628
Apr-23	Same Read	0	212	55628	55840	0	55840
May-23	Same Read	0	212	55840	56052	0	56052

6.4 Perusal of the above billing statement of the Respondent shows that the electricity connection of the Respondent was disconnected by the Appellant due to non-payment of arrears of Rs. 42,996/-, which was subsequently restored vide ROC dated 16.03.2022 after payment of arrears of Rs. 42,939/- by the Respondent. Later on, the billing meter of the Respondent became defective in July 2022, therefore the Respondent was charged the bills for July 2022 and August 2022 on estimated basis. Thereafter, the defective meter of the Respondent was replaced with a new meter by the Appellant vide MCO dated 09.09.2022. The Respondent did not make payment against the bills for the period from July 2022 to September 2022 due to which the arrears of Rs.78,216/- accumulated till September 2022.

6.5 The Appellants took plea that the bills for the period from July 2022 to September 2022 were charged on DEF-EST code due to a defective meter, however, the above billing statement of the Respondent does not support the contention of the Appellant regarding the billing for the disputed months. On the other hand, the Respondent took the stance that the premises have been vacant since March 2022 and onwards and submitted copies of gas bills for the years 2022 and 2023, which are placed below:



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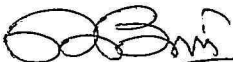


National Electric Power Regulatory Authority


Month	Gas units (HM3)	Amount (Rs.)	Month	Gas units (HM3)	Amount (Rs.)
Jul-21	0	255	Jul-22	0	249
Aug-21	0	506	Aug-22	0	240
Sep-21	0	257	Sep-22	0	257
Oct-21	0	257	Oct-22	0	257
Nov-21	0	257	Nov-22	0	257
Dec-21	0	257	Dec-22	0	240
Jan-22	0	240	Jan-23	0	257
Feb-22	0	257	Feb-23	0	242
Mar-22	0	240	Mar-23	0	30
Apr-22	0	257	Apr-23	0	191
May-22	0	249	May-23	0	185
Jun-22	0	257	Jun-23	0	185


The statement showing "Nil" gas billing of the premises of the Respondent even indicates that the premises is lying vacant for a long and the gas bills with minimum charges were debited to the Respondent. Under these circumstances, we are convinced with the contention of the Respondent and declare the charging of the bills for the period from July 2022 to September 2022 as null and void, which is also determined by the POI. The Respondent may be charged the bills for July 2022 and August 2022 with minimum charges as per general terms and conditions of NEPRA Tariff which states that there shall be minimum monthly customer charge if no energy is consumed under tariff category A-1, whereas the bill for September 2022 be charged as per healthy consumption recorded by the new meter.

7. Foregoing in view, we do not find any reason to interfere with the impugned decision, the same is upheld and consequently, the appeal is dismissed.


Abid Hussain
Member/Advisor (CAD)

Dated: 06-06-2024


Naweed Illahi Sheikh
Convener/DG (CAD)


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

