



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

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No. NEPRA/Appeal/071/2022/ 601

July 24, 2024

1. Muhammad Rizwan,
S/o. Khalid Masood,
R/o. House No. 330, Street No. 01,
Cavalry Ground Extension,
Lahore Cantt, Lahore
2. Chief Executive Officer,
LESCO Ltd,
22-A, Queens Road,
Lahore
3. Rana Sardar Ali,
Advocate High Court,
Shehryar Law Associates,
Office No. 56, 5th Floor, C. M. Centre,
Link Farid Kot Road, Lahore
Cell No. 0300-4462711
4. Assistant Manager (Operation),
LESCO Ltd,
Hamza Town Sub Division,
Lahore
5. POI/Electric Inspector
Lahore Region, Energy Department,
Govt. of Punjab, Block No. 1,
Irrigation Complex, Canal Bank,
Dharampura, Lahore
Phone No. 042-99250191

Subject: Appeal No.071/2022 (LESCO Vs. Muhammad Rizwan) Against the Decision Dated 31.12.2021 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 24.07.2024 (04 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.071/POI-2022

Lahore Electric Supply Company Limited

.....Appellant

Versus

Muhammad Rizwan S/o. Khalid Masood,
R/o. House No.330, Street No.01, Cvalalry, Ground Extension,
Lahore Cantt, Lahore

.....Respondent

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

For the Appellant:

Rana Safdar Ali Advocate

For the Respondent:

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DECISION

1. Brief facts of the case are that Mr. Muhammad Rizwan (hereinafter referred to as the "Respondent") is a commercial consumer of Lahore Electric Supply Company Limited (hereinafter referred to as the "Appellant") bearing Ref No.44-11531-9994080-U having sanctioned load of 16 kW and the applicable tariff category is A-2(c). Metering equipment of the Respondent was checked by the M&T team of the Appellant on 25.11.2020 and reportedly the billing meter was found 59% slow. Resultantly, a detection bill of Rs.1,350,866/- for 49,041 units for the period from April 2020 to October 2020 (seven months) was debited to the Respondent @ 59% slowness of the meter and added to the bill for February 2021.
2. Being aggrieved with the abovementioned action 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 impugned detection bill. The matter was decided by POI vide decision dated 31.12.2021, wherein the detection bill of Rs.1,350,866/- for 49,041 units for the period from April 2020 to October 2020 (seven months) was declared null and void and the Appellant was allowed to debit the revised bill w.e.f September 2020 and onwards till the replacement of the impugned meter as per consumption of corresponding month of the previous year or average consumption of last eleven months, whichever is higher.

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National Electric Power Regulatory Authority

3. Being dissatisfied, the Appellant has filed the instant appeal before NEPRA and assailed the decision dated 31.12.2021 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 POI did not apply his judicious mind and passed the impugned decision on illegal assumptions and presumptions; that the impugned decision is passed after expiry of 90 days, which is a clear violation of Section 26(6) of the Electricity Act 1910, that the POI has not thrashed out the consisting reasons; that the detection bill of Rs.1,350,866/- for 49,041 units for the period from April 2020 to October 2020 (seven months) was charged on account of 59% slowness of the meter; and that the impugned decision is liable to be set aside.

4. Notice dated 23.06.2022 of the appeal was issued to the Respondent for filing reply/para-wise comment, which however were not filed.

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 and no one tendered appearance for the Respondent. Learned counsel for the Appellant contended that the billing meter of the Respondent was found 59% slow during M&T checking dated 25.11.2020, therefore a detection bill of Rs.1,350,866/- for 49,041 units for the period from April 2020 to October 2020 was debited to the Respondent. Learned counsel for the Appellant argued that the POI did not consider the real aspects of the case and erroneously declared the above detection bill as null and void. Learned counsel for the Appellant prayed that the impugned decision is unjustified and liable to be struck down.

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

6.1 While addressing the objection of the Appellant regarding the jurisdiction of the POI, the Respondent filed his complaint before the POI under Section 38 of the NEPRA Act. POI pronounced its decision on 31.12.2021 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, 1910. Reliance in this regard is placed on the judgments of the honorable

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National Electric Power Regulatory Authority

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 As per the available record, the billing meter of the Respondent was found 59% slow during checking dated 25.11.2020. Therefore, the Appellant charged a detection bill of Rs.1,350,866/- for 49,041 units for the period from April 2020 to October 2020 (seven months) to the Respondent, which was challenged before the POI.

6.3 The Appellant neither produced the impugned meter before the POI for verification of the alleged 59% slowness nor could produce the consumption data before this forum to substantiate their contention regarding the impugned detection bill. Even otherwise, the Appellant debited the impugned detection bill for seven months, which is contrary to Clause 4.3.3c(ii) of the CSM-2020. Said clause of the CSM-2020 restricts the Appellant to debit the slowness maximum for two months to the Respondent.

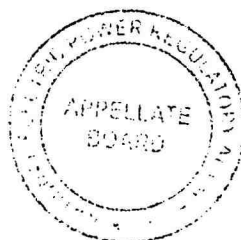
6.4 To further check the authenticity of the above detection bill, consumption data is analyzed in the below table:

period before dispute		disputed period		period after dispute	
Month	Units	Month	Units	Month	Units
Apr-19	2508	Apr-20	2765	Apr-21	3277
May-19	7245	May-20	4472	May-21	3363
Jun-19	1478	Jun-20	5243	Jun-21	6002
Jul-19	3242	Jul-20	6283	Jul-21	7063
Aug-19	3757	Aug-20	6779	Aug-21	2348
Sep-19	4332	Sep-20	5556	Sep-21	3272
Oct-19	4053	Oct-20	2981	Oct-21	3102
Total	26615	Total	34079	Total	28427

The above table shows that the consumption during the disputed period is much higher than the total consumption of corresponding months of the preceding and succeeding years, hence there is no justification to debit the detection bill for seven months. Under these circumstances, we are inclined to agree with the determination of the POI for the cancellation of the detection bill of Rs.1,350,866/- for 49,041 units for the period from April 2020 to October 2020 (seven months).

6.5 Perusal of consumption data shows that the impugned meter recorded healthy consumption till September 2020 as compared to the consumption of corresponding months of the years 2019 and 2021, however, the consumption of the Respondent significantly declined in October 2020,

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National Electric Power Regulatory Authority

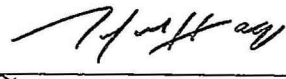
which indicates that the impugned meter became defective in October 2020, therefore it would be fair and appropriate to debit the revised bills w.e.f October 2020 and onwards till the replacement of the impugned meter as per consumption of corresponding months of the previous year or average consumption of last eleven months, whichever is higher being in line with the provisions of the CSM-2020.

7. In view of what has been stated above, it is concluded that the detection bill of Rs.1,350,866/- for 49,041 units for the period from April 2020 to October 2020 (seven months) is cancelled. The Respondent may be charged the revised bills w.e.f October 2020 and onwards till the replacement of the impugned meter on DEF-EST code as per provisions of the CSM-2020.
8. The impugned decision is modified in the above terms.


Abid Hussain
Member/Advisor (CAD)

Dated: 24-07-2024


Naweed Illahi Sheikh
Convener/DG (CAD)


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

