



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

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No. NEPRA/Appeal/086/2023/ 6//

July 24, 2024

1. Faisal Hashmi,
S/o. Ghulam Mustafa,
R/o. House No. 15, Street No. 23-A,
Mohallah Qureshian, Shalimar,
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
4. Assistant Manager (Operation),
LESCO Ltd,
Shalimar 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.086/2023 (LESCO Vs. Faisal Hashmi) Against the Decision Dated 26.06.2023 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 24.07.2024 (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.086/POI-2023

Lahore Electric Supply Company Limited

.....Appellant

Versus

Faisal Hashmi S/o. Ghulam Mustafa,

R/o. House No.15, Street No.23-A, Mohallah Qureshian,

Shalimar, 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:

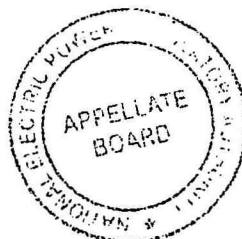
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DECISION

1. Brief facts leading to the filing of instant appeal are that Faisal Hashmi (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.05-11314-0420200-U with a sanctioned load of 0.96 kW and the applicable Tariff category is A-1. The metering and Testing (M&T) team of the Appellant checked the metering equipment of the Respondent on 11.03.2019 and reportedly, the Respondent was found stealing electricity through tampering with the meter, therefore electricity of the Respondent was disconnected and a letter dated 11.03.2019 was written to the police station for registration of FIR. Resultantly, a detection bill of Rs.886,142/- against 39,470 units for twelve (12) months for the period from February 2018 to January 2019 was charged by the Appellant to the Respondent @ 40% load factor of the connected load i.e. 12 kW and added to the bill for March 2019.
2. Being aggrieved, the Respondent filed a complaint before the Provincial Office of

Appeal No.086/POI-2023

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Inspection, Lahore Region, Lahore (hereinafter referred to as the "POI") on 02.11.2020 and challenged the above detection bill. The complaint of the Respondent was disposed of vide the POI decision dated 26.06.2023, wherein the detection bill of Rs.886,142/-for 39,470 units for twelve (12) months for the period from February 2018 to January 2019 was cancelled and the Appellant was allowed to charge the bills w.e.f November 2018 and onwards till the replacement of the impugned meter on DEF-EST code.

3. Subject appeal has been filed against the afore-referred decision dated 26.06.2023 of the POI (hereinafter referred to as the "impugned decision") by the Appellant before the NEPRA, wherein it is contended that the billing meter of the Respondent was found tampered during the M&T checking dated 11.03.2019 for the dishonest abstraction of electricity, therefore a detection bill of Rs.886,142/- against 39,470 units for twelve (12) months was charged to the Respondent. As per the Appellant, the POI misconceived the real facts of the case as the above detection bill was debited to the Respondent on account of dishonest abstraction of energy under Section 26-A of the Electricity Act, 1910, reliance in this regard was placed on the various judgments of the honorable Supreme Court of Pakistan reported in PLD 2012 SC 371, PLD 2006 SC 328 and 2004 SCMR Page 1679. According to the Appellant, the POI failed to consider the consumption data and did not peruse the documentary evidence in true spirit. The Appellant submitted that 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, coram 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.

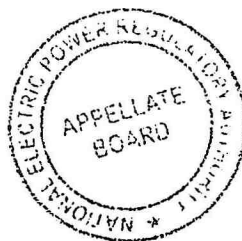
4. **Proceedings by the Appellate Board**

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 however were not filed.

5. **Hearing**

- 5.1 Hearing was fixed for 01.03.2024 at NEPRA Regional Office Lahore, wherein learned counsel tendered appearance for the Appellant and no one appeared for the Respondent.

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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 Respondent was checked by the M&T team on 11.03.2019, wherein it was declared tampered, therefore, a detection bill amounting to Rs.886,142/- against 39,470 units for twelve (12) months was debited to the Respondent. As per learned counsel for the Appellant, the POI neither checked the impugned meter nor consulted the consumption data of the Respondent. 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.

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

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

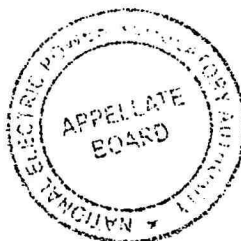
As per the record, the Respondent filed his complaint before the POI on 02.11.2020 under Section 38 of the NEPRA Act. POI pronounced its decision on 26.06.2023 after the expiry of 90 days from the date of receipt of the complaint. The Appellant has objected that the POI was bound to decide the matter 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 approaching 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. Detection bill of Rs.886,142/- against 39,470 units for twelve (12) months for the period from February 2018 to January 2019

In the instant case, the Appellant claimed that M&T on 11.03.2019 detected that the impugned meter of the Respondent was intentionally tampered. Thereafter, the Appellant





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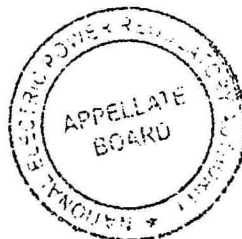
debited a detection bill of Rs.886,142/- against 39,470 units for twelve (12) months for the period from February 2018 to January 2019 was charged to the Respondent, which was challenged by the Respondent before the POI.

- 6.4. Having found the above discrepancies, the Appellant was required to follow the procedure stipulated in Clause 9.1(b) of the CSM-2010 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-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.
- 6.5. 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, accordingly. However, in the instant case, the Appellant did not produce the impugned meter before the POI for verification of the allegation regarding tampering.
- 6.6. To further check the authenticity of the impugned detection bill, the consumption data of the Respondent is compared with the corresponding consumption of the preceding year in the below table:

period before dispute		disputed period	
Month	Units	Month	Units
Feb-17	53	Feb-18	131
Mar-17	36	Mar-18	106
Apr-17	242	Apr-18	178
May-17	409	May-18	56
Jun-17	201	Jun-18	362
Jul-17	170	Jul-18	279
Aug-17	389	Aug-18	196
Sep-17	251	Sep-18	158
Oct-17	140	Oct-18	150
Nov-17	146	Nov-18	620
Dec-17	141	Dec-18	172
Jan-18	125	Jan-19	170
Average	192	Average	215

The above table shows that the average consumption charged during the disputed period is higher as compared to the average consumption of corresponding months of the preceding

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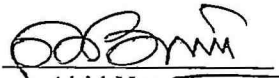






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year. This does not support the version of the Appellant regarding the illegal abstraction of electricity through tampering with the meter by the Respondent

- 6.7. In view of the foregoing discussion, we are of the considered view that the detection bill of Rs.886,142/- against 39,470 units for twelve (12) months for the period from February 2018 to January 2019 is unjustified and the same is cancelled.
- 6.8. Similarly, the determination of the POI for revision of the bills w.e.f November 2018 and onwards on DEF-EST code is not correct as the bills already charged during the said months are higher as compared to the consumption of the corresponding month of the previous year as well as the average consumption of last eleven months.
7. The appeal is disposed of in the above terms.


Abid Hussain
Member/Advisor (CAD)


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


Naweed Illahi Sheikh
Convener/DG (CAD)

Dated: 24-07-2024

