



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

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No. NEPRA/Appeal/101/2022/ 602

July 24, 2024

1. S. Nadeem-ud-Din Lutfi,
On behalf of Muhammad Nasir Bhatti,
S/o. Fakeer Hussain Bhatti,
R/o. Khewat No. 123, Khatoni No. 4511,
Moza Chandri, House No. 104,
Street No. 4, Gunj Kalan, Bilal Gunj,
Lahore
Cell No. 0321-4998467
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.101/2022 (LESCO Vs. S. Nadeem-ud-Din Lutfi) Against the Decision Dated 22.04.2022 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.101/POI-2022

Lahore Electric Supply Company Limited

.....Appellant

Versus

S. Nadeem-ud-Din Lutfi,
R/o. Khewat No.123, Khatoni No.4511, Moza Chandri, House No.104,
Street No.04. Gunj Kalan, Bilal Gunj, Lahore

.....Respondent

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

For the Appellant:

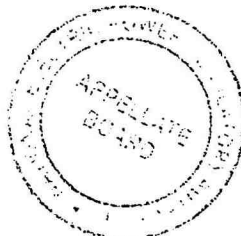
Rana Sardar Ali Advocate

For the Respondent:

Mr. S. Nadeemuddin Lutfi

DECISION

1. Brief facts of the case are that S. Nadeem-ud-Din Lutfi (hereinafter referred to as the "Respondent") is an industrial consumer of Lahore Electric Supply Company Limited (hereinafter referred to as the "Appellant") bearing Ref No.46-11531-9996003-U having sanctioned load of 18 kW and the applicable tariff category is B-1(b). Metering equipment of the Respondent was checked by the M&T team of the Appellant on 22.09.2019 and reportedly the billing meter was found 33% slow. Resultantly, a detection bill of Rs.399,982/- for 19,667 units for the period from March 2019 to August 2019 (six months) was initially debited to the Respondent based on connected load, which was subsequently revised against 13,909 units for four months.
2. Being aggrieved with the above-mentioned 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 impugned detection bill. The matter was decided by POI vide decision dated 22.04.2022, wherein the detection bill of Rs.399,982/- for 19,667



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units for the period from March 2019 to August 2019 (six months) and subsequent revised detection bill of 13,909 units was declared null and void and the Appellant was allowed to debit the revised bill w.e.f July 2019 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.

3. Being dissatisfied, the Appellant has filed the instant appeal before NEPRA and assailed the decision dated 22.04.2022 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.399,982/- for 19,667 units for the period from March 2019 to August 2019 (six months) was charged on account of 33% slowness of the meter as observed on 22.09.2019; and that the impugned decision is liable to be set aside.

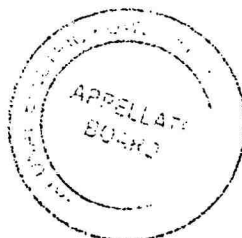
4. Notice dated 26.09.2022 of the appeal was issued to the Respondent for filing reply/para-wise comment, which however were not filed.

5. Hearing

- 5.1 Hearing of the appeal was conducted at NEPRA Regional Office Lahore on 01.03.2024, wherein both parties tendered appearance. Learned counsel for the Appellant contended that the billing meter of the Respondent was found 33% slow during M&T checking dated 22.09.2019, therefore a detection bill of Rs.399,982/- for 19,667 units for the period from March 2019 to August 2019 was debited to the Respondent, which was subsequently revised against 13,909 units. 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.

- 5.2 On the contrary, the representative for the Respondent rebutted the contention of the learned counsel for the Appellant and argued that the impugned detection bill of Rs.399,982/- for 19,667 units for the period from March 2019 to August 2019 was debited by the Appellant without adhering the procedure as laid down in Chapter 4 of the CSM-2010. The representative

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for the Respondent defended the impugned decision for cancellation of the above detection bill and prayed for upholding the same.

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

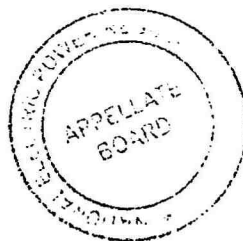
6.1 While addressing the objection of the Appellant regarding the jurisdiction of the POI, the Respondent filed his complaint before the POI under Section 38 of the NEPRA Act. POI pronounced its decision on 22.04.2022 i.e. after ninety (90) days of receipt of the complaint. The Appellant has objected 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 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 33% slow during checking dated 22.09.2019. Therefore, the Appellant charged a detection bill of Rs.399,982/- for 19,667 units for the period from March 2019 to August 2019 (six months) to the Respondent on the basis of connected load, which was subsequently revised for four months. The Respondent challenged the above detection bill before the POI, who vide impugned decision cancelled the same against which the Appellant filed the instant appeal before the NEPRA.

6.3 The Appellant neither produced the impugned meter before the POI for verification of the alleged 33% slowness nor could adhere to the procedure as laid down in Chapter 4 of the CSM-2010. To further check the justification of the detection bill, consumption data is analyzed in the below table:

period before dispute		disputed period		% Slowness
Month	Units	Month	Units	
Mar-18	447	Mar-19	616	37.807606
Apr-18	550	Apr-19	949	72.545455
May-18	804	May-19	1107	37.686567
Jun-18	824	Jun-19	551	-33.131068
Jul-18	4088	Jul-19	470	-88.502935
Aug-18	85	Aug-19	292	243.52941
Total	6798	Total	3985	

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The above consumption analysis shows that the impugned meter recorded considerably less consumption as compared to the consumption of corresponding months of the preceding years. However, it is observed that the impugned meter recorded healthy consumption till May 2019, thereafter, it became defective from June 2019 and onwards. Clause 4.4(e) of the CSM-2010 restricts the Appellant to debit the slowness/defectiveness maximum for two months to the Respondent, whereas the Appellant debited the detection bill for seven months in contravention of the provisions of the foregoing clause of the CSM-2010. Under these circumstances, we are inclined to agree with the determination of the POI for cancellation of the detection bill amounting to Rs.399,982/- for 19,667 units for six months for the period from March 2019 to August 2019.

6.4 According to clause 4.4(e) of the CSM-2010, the Respondent is liable to be charged the detection bill maximum for two months in case of a defective meter, hence the determination of the POI for revision of the bills w.e.f July 2019 and onwards till the replacement of the impugned meter as per consumption of corresponding months of the previous year or average consumption of the last eleven months is correct and maintained to this extent.

7. Foregoing in view, the appeal is dismissed.

Abid Hassain
Member/Advisor (CAD)

Dated: 24-07-2024

Naweed Illahi Sheikh
Convener/DG (CAD)

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

