



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

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No. NEPRA/Appeal/108/2022/ 604

July 24, 2024

1. Tariq Niaz,
S/o. Niaz Ahmad,
R/o. Yazdani Road,
Near Pepsi Godwon, Lahore
Cell No. 0324-4475849
2. Chief Executive Officer,
LESCO Ltd,
22-A, Queens Road,
Lahore
3. Syed Kashif Ali Bukhari,
Advocate High Court,
170-Ravi Park, Lahore
Cell No. 0300-4450697
4. Assistant Manager (Operation),
LESCO Ltd,
Altaf Colony 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.108/2022 (LESCO Vs. Tariq Niaz) Against the Decision Dated 15.02.2022 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 (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.108/POI-2022

Lahore Electric Supply Company LimitedAppellant

Versus

Tariq Niaz S/o. Niaz Ahmed, R/o. Yazdani Road,
Near Pepsi Godwon, LahoreRespondent

APPEAL U/S 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997

For the Appellant:

Syed Kashif Ali Bukhari Advocate
Mr. Atiq-ur-Rehman

For the Respondent:

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DECISION

1. Brief facts leading to the filing of instant appeal are that Tariq Niaz (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.08-11552-04401822-U with a sanctioned load of 1 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 14.10.2021 and reportedly, the Respondent was found stealing electricity through the installation of a bogus meter. Resultantly, a detection bill of Rs.105,439/- against 2,679 units for six months for the period from April 2021 to September 2021 was charged by the Appellant to the Respondent @ 20% load factor of the connected load i.e. 4.23 kW along with 1.5 ton AC unit and added to the bill for November 2021.
2. Being aggrieved, the Respondent filed a complaint before the Provincial Office of Inspection, Lahore Region, Lahore (hereinafter referred to as the "POI") on 02.12.2021 and challenged the above detection bill. The complaint of the Respondent was disposed of ex-parte vide the POI decision dated 15.02.2022, wherein the detection bill of

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Rs.105,439/- against 2,679 units for six months for the period from April 2021 to September 2021 was cancelled.

3. Subject appeal has been filed against the afore-referred decision dated 15.02.2022 of the POI (hereinafter referred to as the “impugned decision”) by the Appellant before the NEPRA, wherein it is contended that the impugned decision is bad in law against the facts of the case as no notice was received from the POI. The Appellant further contended that the case be remanded back to POI for deciding on merits after hearing both parties. As per the Appellant, the cases are to be decided on merits instead of technical grounds, reliance in this regard is placed on the judgment of the superior court placed on PLJ 2010 Pesh-1 DB, PLD 1976 Kar-1098, and 2004 MLD 159. According to the Appellant, the Respondent defaulted in making payment of bills, which resulted in the accumulation of the arrears to the tune of Rs.88,886/- till August 2021 against which the Respondent got five installments but showed bogus receipt of payment of Rs.50,000/- due to which a complaint was filed with police for registration of FIR and electricity of the premises was disconnected. The Appellant submitted that during subsequent checking dated 14.10.2021 of the M&T team, the Respondent was found stealing electricity through the installation of a bogus meter, therefore a detection bill of Rs.105,439/- against 2,679 units for six months for the period from April 2021 to September 2021 was charged to the Respondent to recover the revenue loss sustained. The Appellant further submitted that the POI misconceived the real facts of the case. The Appellant stated 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 18.10.2022 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 premises of the Respondent was checked by the M&T team on 14.10.2021, wherein the Respondent was involved in illegal abstraction of electricity through the bogus meter, therefore a detection bill of Rs.105,439/- against 2,679 units for six months for the period from April 2021 to September 2021 was debited to the Respondent. As per learned counsel for the Appellant, the POI neither checked the impugned meter nor intimated the Appellant and rendered the ex-parte decision. 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 02.12.2021 under Section 38 of the NEPRA Act. POI pronounced its decision on 15.02.2022 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.





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6.3. Detection bill of Rs.105,439/- against 2,679 units for six months for the period from April 2021 to September 2021

In the instant case, the Appellant claimed that M&T on 14.10.2021 detected that the Respondent was using electricity through the bogus meter. Thereafter, the Appellant debited a detection bill of Rs.105,439/- against 2,679 units for six months for the period from April 2021 to September 2021 was charged to the Respondent, which was challenged by the Respondent before the POI.

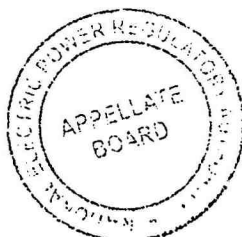
6.4. In the instant appeal, the Appellant prayed for setting aside the impugned decision and remanding back the matter to POI for redetermination. In this regard, the decision of the POI was pursued, wherein it is revealed that several opportunities of hearings as well as for submission of reply were afforded by the lower forum to the Appellant but they neither submitted reply nor appeared before the POI to defend the charging of the impugned detection bill. Hence, the pleading of the Appellant for remanding back the matter has no force and dismissed. The fate of the impugned detection bill will be determined on the basis of available record and consideration of arguments adduced by the Appellants in their defense.

6.5. To check the justification of the impugned detection bill, the consumption data of the Respondent is examined in the below table:

Corresponding period of the year 2019		Corresponding period of the year 2020		Disputed period	
Month	Units	Month	Units	Month	Units
Apr-19	741	Apr-20	363	Apr-21	335
May-19	84	May-20	223	May-21	427
Jun-19	1889	Jun-20	724	Jun-21	905
Jul-19	993	Jul-20	329	Jul-21	770
Aug-19	526	Aug-20	413	Aug-21	816
Sep-19	476	Sep-20	213	Sep-21	773
Total	4709	Total	2265	Total	4,026

The above consumption data shows that the total consumption recorded during the disputed period is higher than the total consumption of the corresponding months of the year 2020 and compatible with the total consumption of the corresponding months of the year 2019. The Appellant debited the detection bill of total of 6,705 units to the Respondent, which is much higher than the total undisputed consumption of corresponding months of the years 2019 and 2020.


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- 6.6. In view of the foregoing discussion, we are of the considered view that the detection bill of Rs.105,439/- against 2,679 units for six months for the period from April 2021 to September 2021 is unjustified and the same is cancelled, which is also the determination of the POI.
7. Foregoing in view, the appeal is dismissed.


Abid Hussain
Member/Advisor (CAD)

Dated: 24-07-2024


Naweed Illahi Sheikh
Convener/DG (CAD)


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

