



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

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No. NEPRA/Appeal/047/2023/ 625

August 12, 2024

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|--|---|
| 1. Imran Butt,
S/o. Mian Muhammad Asif,
R/o. House No. 11, Mohallah/Ahata Ganga Das,
Urdu Bazar, 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. Khizer Butt,
Advocate High Court,
1-2 Ghani Chambers, 13-Fane Road,
Lahore
Cell No. 0332-4485594 |
| 5. Sub Divisional Officer (Operation),
LESCO Ltd,
Bhati Gate Sub Division,
Lahore | 6. POI/Electric Inspector,
Lahore Region-I, Energy Department,
Govt. of Punjab, Block No. 1,
Irrigation Complex, Canal Bank,
Dharampura, Lahore
Phone No. 042-99250191 |

Subject: Appeal No.047/2023 (LESCO Vs. Imran Butt) Against the Decision Dated 26.12.2022 of the Provincial Office of Inspection to Government of the Punjab Lahore Region-I, Lahore

Please find enclosed herewith the decision of the Appellate Board dated 12.08.2024 (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.047/POI-2023

Lahore Electric Supply Company Limited

.....Appellant

Versus

Imran Butt S/o. Mian Muhammad Asif,
R/o. House No.11, Mohallah Ganga Das, Urdu Bazar, 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

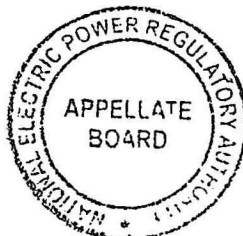
For the Respondent:

Mr. Khizar Butt Advocate

DECISION

1. As per the facts of the case, Imran Butt (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.46-11144-1665010-U having sanctioned load of 05 kW and the applicable tariff category is B-1(b). During M&T checking dated 02.05.2018 of the Appellant, the billing meter was found 66% slow, therefore, a detection bill (the "first detection bill") of Rs.209,165/- for 10,935 units for the period from October 2017 to March 2018 (6 months) was charged to the Respondent in July 2018. Subsequently, the M&T team of the Appellant checked the impugned meter of the Respondent on 01.03.2019 and reportedly, it was found the dead stop, therefore another detection bill (the "second detection bill") of Rs.193,411/- against 9,925 units for seven (07) months for the period from August 2018 to February 2019 was charged to the Respondent on the basis of connected load i.e.4.857 kW and added to the bill for April 2019.

Appeal No.047/POI-2023



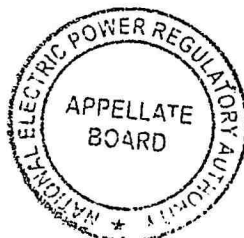
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2. Being aggrieved, the Respondent filed a complaint before the Provincial Office of Inspection, Lahore Region, Lahore (hereinafter referred to as the "POI") on 18.03.2022 and challenged the first and second detection bills. The complaint of the Respondent was disposed of by the POI vide decision dated 26.12.2022, wherein it was held that the first detection bill of Rs.209,165/- for 10,935 units for the period from October 2017 to March 2018 (6 months) and the second detection bill of Rs.193,411/- against 9,925 units for seven (07) months were cancelled and the Appellant is allowed to charge revised bills w.e.f March 2018 and onwards till the replacement of the impugned meter on the basis of consumption of corresponding months 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 26.12.2022 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 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 impugned detection bill as null and void; that Clause 4.3.3c(ii) of the CSM-2021 could not be made applicable in the instant case; that the POI miserably failed to analyze the consumption data in true perspective; 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 10.05.2023 of the appeal was issued to the Respondent for filing reply/para-wise comment, which were filed on 14.08.2023. In the reply, the Respondent rebutted the version of the Appellant regarding charging the impugned detection bills and contended that the POI after correct perusal of the record, rightly revised the impugned detection bills as per Clause 4.3.3c(ii) of the CSM-2021. The Respondent supported the impugned decision and prayed for the dismissal of the appeal.
5. Hearing
 - 5.1 Hearing of the appeal was conducted at NEPRA Regional Office Lahore on 01.03.2024, wherein learned counsels appeared for both the Appellant and the Respondent. Learned counsel for the Appellant contended that two phases of the billing meter of the Respondent were found defective on 02.05.2018, therefore, the first detection bill of Rs.209,165/- for 10,935 units for the period from October 2017 to March 2018 (6 months) to account for 66% slowness of the meter. Learned counsel for the Appellant further contended that the impugned





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billing meter was found dead stop during subsequent checking dated 01.03.2019, therefore second detection bill of Rs.193,411/- against 9,925 units for seven (07) months was debited to the Respondent. Learend counsel for the Appellant argued that the POI did not consider the real aspects of the case and erroneously declared the above detection bills as null and void and revised the bills w.e.f February 2018 and onward on DEF-EST code. As per learned counsel for the Appellant, the honorable Supreme Court of Pakistan vide order dated 17.05.2023 in the C.P. No. 691/2020 remanded back the similar nature of the dispute to NEPRA for determination of the period of slowness/defectiveness afresh. According to learned counsel for the Appellant, the Appellate Tribunal (NEPRA) vide order dated 12.12.2023 even remanded back the similar nature of disputes to NEPRA, which are to be decided after revisiting Clause 4.3.3c(ii) of the CSM-2021. 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 Objection regarding prior notice before filing the complaint before the POI:

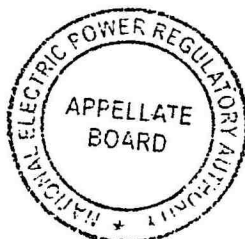
As regards another objection of the Appellant for not issuing notice as per the Electricity Act, 1910 by the Respondent before filing a complaint to the POI, it is elucidated that the matter was adjudicated by the POI under Section 38 of the NEPRA Act, 1997 and as per procedure laid down in Punjab (Establishment 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.

6.2 First detection bill of Rs.209,165/- for 10,935 units for the period from October 2017 to March 2018 (6 months):

As per the available record, the two phases of the billing meter of the Respondent were found defective during checking dated 02.05.2018, therefore, the first detection bill amounting to Rs.209,165/- for 10,935 units for the period from October 2017 to March 2018 (6 months) was debited to the Respondent, which was assailed by the Respondent before the POI.

6.3 During the hearing, the Appellant pointed out that the honorable Supreme Court of Pakistan vide order dated 17.05.2023 remanded back the matter to NEPRA to revisit clause 4.4(e) of the CSM-2010 (existing clause 4.3.3 of the CSM-2021), hence the decision in the subject appeal be rendered after redetermination of the period of slowness by the Authority.

6.4 It is clarified that after detailed deliberation with the stakeholders i.e. distribution companies and consumers, the Authority vide order dated 13.06.2024 retained the period of supplementary/detection bill for two billing cycles in case of the slowness of the metering





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equipment/defective CTs as mentioned in clause 4.4(e) of CSM- 2010 (existing clause 4.3.3 of CSM-2021), the operative portion of which is reproduced below:

"For the reasons stated above, we reject the proposal of the distribution companies and retain the period of the supplementary bills for two (02) billing cycles in the case of the slowness of the metering installation/defective CTs as mentioned in clause 4.4(e) of CSM-2010 (existing clause 4.3 of CSM-2021). In a vigilant system, slowness of the metering installation should be detected timely, hence the distribution companies must bring efficiency in their working and replace the slow meters/defective CTs within the stipulated period as provided in clause 4.3 of the CSM-2021 in true letter and spirit. The distribution companies should ensure the charging of supplementary bills maximum for two billing cycles. If in the cases where the slowness of the metering installation is not pointed out timely and the metering installation is not replaced within maximum period of two (02) billing cycles, the competent authority of the relevant distribution company shall take disciplinary action against the concerned officials and fix the responsibility for negligence in such cases."

6.5 In light of the foregoing order of the Authority, we are of the considered view that charging of the first detection bill of Rs.209,165/- for 10,935 units for the period from October 2017 to March 2018 to the Respondent is violative of the ibid clause of the CSM-2010 and the same is cancelled, which was also the determination of the POI.

6.6 66% slowness in the impugned metering equipment of the Respondent was observed on 02.05.2018 but the impugned meter was not produced before the POI for verification of 66% slowness of the meter, hence the bills for the two retrospective months i.e. March 2018 and April 2018 be compared with corresponding consumption of the previous year prior allowing the detection bill in the below table:

period before dispute		disputed period	
Month	Units	Month	Units
Mar-17	4319	Mar-18	446
Apr-17	510	Apr-18	1349
Total	4829	Total	1795

The above table shows that less consumption was charged during the months i.e. March 2018 and April 2018, which indicates that the impugned meter remained 66% slow during these months. As such, the bills w.e.f March 2018 and April 2018 be revised after adding 66% slowness of the meter under Clause 4.4(e) of the CSM-2010. Further bills for the period from





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May 2018 to July 2018 be revised by raising MF due to 66% slowness of the impugned meter as per Clause 4.4(c) of the CSM-2010. Impugned decision is liable to be modified to this extent.

6.7 Second detection bill of Rs.193,411/- against 9,925 units for seven (07) months for the period from August 2018 to February 2019):

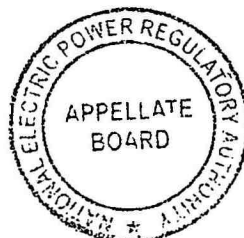
M&T team of the Appellant checked the impugned meter of the Respondent on 01.03.2019 and reportedly, it was found the dead stop, therefore the impugned meter of the Respondent was replaced with a new meter in April 2019 and the second detection bill of Rs.193,411/- against 9,925 units for seven (07) months for the period from August 2018 to February 2019 was charged to the Respondent on the basis of connected load i.e.4.857 kW and added to the bill for April 2019. To verify the justification of the second detection bill, consumption data is compared in the below table:

period before dispute		disputed period		period after dispute	
Month	Units	Month	Units	Month	Units
Aug-17	941	Aug-18	0	Aug-19	407
Sep-17	532	Sep-18	0	May-21	417
Oct-17	902	Oct-18	0	Jun-21	641
Nov-17	860	Nov-18	0	Jul-21	739
Dec-17	1027	Dec-18	0	Aug-21	704
Jan-18	1655	Jan-19	0	Sep-21	674
Feb-18	496	Feb-19	0	Oct-21	638
Total	6413	Total	0	Total	4220

6.8 The above consumption data shows that nil consumption was charged during the disputed period by the Appellant due to a defective meter but this does not warrant the Appellant to debit the second detection bill based on connected load. According to clause 4.4(e) of the CSM-2010, the Appellant may charge the detection bill on 100% consumption of the corresponding month of the previous year, or the average consumption of the last eleven months, whichever is higher. Therefore, we are of the considered view that the impugned decision for cancellation of the second detection bill of Rs.193,411/- against 9,925 units for seven (07) months for the period from August 2018 to February 2019 and revision of the same on DEF-EST code is correct and the same is liable to be maintained to this extent.

7. In view of what has been stated above, we reached the conclusion that:


7.1 the first detection bill of Rs.209,165/- and the second detection bill of Rs.193,411/- are cancelled, which is also the determination of the POI.







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- 7.2 The Respondent may be charged the revised detection bill for two months i.e. March 2018 and April 2018 @ 66% slowness of the impugned meter as per Clause 4.4(e) of the CSM-2010 and the bills for the period from May 2018 to July 2018 by enhancing MF due to 66% slowness of the meter as per Clause 4.4(c) of the CSM-2010.
- 7.3 Further bills for the period w.e.f August 2018 and onward till the replacement of the impugned meter be charged to the Respondent on the DEF-EST code.
- 7.4 The billing account of the Respondent may be overhauled after adjustment of payments made against the impugned detection bills.
8. The impugned decision is modified in the above terms.


Abid Hussain
Member/Advisor (CAD)

Dated: 12-08-2024


Naweed Illahi Sheikh
Convener/DG (CAD)


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

