



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

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No. NEPRA/Appeal/046/2023/ 736


September 19, 2024

- |   |   |
|---|---|
| 1. Zulfiqar Ali,<br>S/o. Muhammad Ali,<br>R/o. House No. 10, Street No. 19/A,<br>Mohallah Mian Sohna, Chah Miran,<br>Lahore | 2. Chief Executive Officer,<br>LESCO Ltd,<br>22-A, Queens Road,<br>Lahore   |
| 3. Saeed Ahmed Bhatti,<br>Advocate High Court,<br>66-Khyber Block, Allama Iqbal Town,<br>Lahore<br>Cell No. 0300-4350899    | 4. C. M. Sarwar,<br>Advocate Supreme Court of Pakistan,<br>1 <sup>st</sup> Floor, Grdee Trust Building No. 2,<br>Thornton Road, Lahore<br>Cell No. 0302-4231163 |
| 5. Sub Divisional Officer,<br>LESCO Ltd,<br>Chah Miran Sub Division,<br>Lahore  | 6. POI/Electric Inspector<br>Lahore Region-I, Energy Department,<br>Govt. of Punjab, Block No. 1,<br>Irrigation Complex, Canal Bank,<br>Dharampura, Lahore      |

**Subject: Appeal No.046/2023 (LESCO Vs. Zulfiqar Ali) Against the Decision Dated 28.02.2023 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 19.09.2024 (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.046/POI-2023

Lahore Electric Supply Company Limited

.....Appellant

Versus

Zulfiqar Ali S/o. Muhammad Ali,  
R/o. House No.10, Street No.19/A, Mohallah Mian Sohna,  
Chah Miran, 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. Muhammad Kashif Advocate

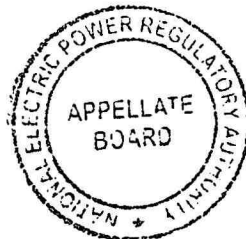
## **DECISION**

1. As per the facts of the case, Zulfiqar Ali (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.46-11153-0255300-U having sanctioned load of 1 kW and the applicable tariff category is B-1. During M&T checking dated 24.05.2019 of the Appellant, the billing meter was found defective (sticky), therefore, a detection bill of Rs.417,905/- against 20,253 units for six (06) months i.e. November 2018 to April 2019 debited to the Respondent on the basis of 40% load factor of the connected load i.e.13.2 kW and added to the bill for May 2019.
2. Being aggrieved, the Respondent initially filed a civil suit before the Senior Civil Judge Lahore and assailed the above detection bill. Subsequently, the honorable Senior Civil Judge Lahore vide order dated 08.11.2022 dismissed the civil suit of the Respondent as withdrawn. Subsequently, the Respondent filed a complaint before the Provincial Office of

Appeal No.046/POI-2023

Page 1 of 4

M. S.





## National Electric Power Regulatory Authority

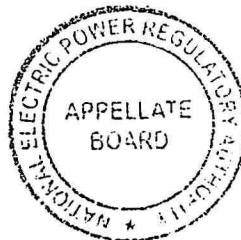
Inspection, Lahore Region, Lahore (hereinafter referred to as the "POI") on 08.12.2022 and challenged the above detection bill. The complaint of the Respondent was disposed of by the POI vide decision dated 28.02.2023, wherein the detection bill of Rs.417,905/- against 20,253 units for six (06) months i.e. November 2018 to April 2019 was cancelled and the Appellant was allowed to charge revised bills w.e.f March 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 28.02.2023 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 application of the Respondent is barred by time under Limitation Act 1908; 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 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 counsels appeared for both the Appellant and the Respondent. Learned counsel for the Appellant contended that the billing meter of the Respondent was found defective on 24.05.2019, therefore a detection bill of Rs.417,905/- against 20,253 units for six (06) months i.e. November 2018 to April 2019 was debited to the Respondent on the basis of the connected load. 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 and revised the bills w.e.f March 2019 and onwards till the replacement of the meter on DEF-EST code. Learned counsel for the Appellant prayed that the impugned decision is unjustified and liable to be struck down.

*M. S.*





## National Electric Power Regulatory Authority

5.2 Learned counsel for the Respondent rebutted the version of the Appellant regarding the charging of the impugned detection bill, supported the impugned decision, and prayed for upholding the same.

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

**6.1 Preliminary objection of the Appellant regarding Limitation:**

The Appellant debited a detection bill of Rs.417,905/- against 20,253 units for six (06) months i.e. November 2018 to April 2019 to the Respondent in May 2019, which was initially challenged before the Senior Civil Judge Lahore. Subsequently, the honorable Senior Civil Judge Lahore vide order dated 08.11.2022 dismissed the civil suit of the Respondent as withdrawn. Thereafter, the Respondent filed a complaint before the POI on 08.12.2022 and assailed the above detection bill. This whole scenario indicates that the dispute remained under trial before the civil court for more than three years from where the civil suit was dismissed due to lack of jurisdiction. Hence the complaint of the Respondent filed before the POI be treated within three years from the disposal of the civil suit by the honorable civil court being consistent with Article 181 of the Limitation Act, 1908. In this regard, reliance is placed on the Lahore High Court, judgment dated 30.11.2015 in respect of writ petition No.17314-2015 in the case "Muhammad Hanif v/s NEPRA and others", wherein it was held as under:

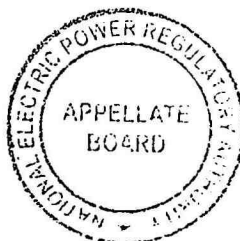
*"The petitioner at the most can invoke Article 181 of The Limitation Act, 1908 which is the residuary provision and caters the issue of limitation where no period of limitation is provided elsewhere in the Schedule of The Limitation Act, 1908 or under Section 48 of The Code of Civil Procedure (V of 1908). Article 181 of The Limitation Act, 1908 prescribes three years for filing an application that applies when the right to apply accrues as prescribed in Article 181 of Limitation Act, 1908."*

Foregoing in view, the argument of the Appellant regarding the time-barred complaint has no force, and the same is set aside.

**6.2 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.

*M. A.*





## National Electric Power Regulatory Authority

**6.3 Detection bill of Rs.417,905/- against 20,253 units for six (06) months i.e. November 2018 to April 2019:**

As per the available record, the billing meter of the Respondent was found defective during checking dated 24.05.2019, therefore a detection bill of Rs.417,905/- against 20,253 units for six (06) months i.e. November 2018 to April 2019 was debited to the Respondent, which was assailed by him before the POI.

6.4 According to Clause 4.4 of the CSM-2010, the Appellant may charge the detection bill maximum for two months in case of a defective meter, whereas in the instant case, the impugned detection bill was debited for five months and the basis of the said detection bill was made on connected load, which is utter violation of the foregoing clause of the CSM-2010. The Appellant even failed to produce the impugned meter before the POI for verification of slowness. As such the detection bill of Rs.417,905/- against 20,253 units for six (06) months i.e. November 2018 to April 2019 charged by the Appellant to the Respondent is violative of ibid clause of the CSM-2010 and the same is cancelled.

6.5 Similarly, the determination of the POI for revision of the bills w.e.f March 2019 and onwards till the replacement of the impugned meter on the DEF-EST code is in line with Clause 4.4(e) of the CSM-2010 and the same is maintained to this extent.

7. Foregoing in view, the appeal is dismissed.

Abid Hussain  
Member/Advisor (CAD)

Dated: 19-09-2024

Naweed Illahi Sheikh  
Convener/DG (CAD)

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

