



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

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No. NEPRA/Appeal/013/2024/84


October 09, 2024

- | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------|
| 1. Abdul Majeed,
S/o. Muhammad Hayat,
R/o. Mouza Fageere Wala,
Tehsil & District Kasur | 2. Chief Executive Officer,
LESCO Ltd,
22-A, Queens Road,
Lahore |
| 3. Mian Muhammad Mudassar Bodla,
Advocate Supreme Court,
Syed Law Chambers,
4-Mozang Road, Lahore
Cell No. 0333-4362312 | 4. Assistant Manager (Operation),
LESCO Ltd,
Niaz Nagar Sub Division,
Kasur |
| 5. POI/Electric Inspector,
Lahore Region-II,
Energy Department, Govt. of Punjab,
342-B, Near Allah Hoo Chowk,
Johar Town, Lahore
Phone No. 042-99333968 | |

Subject: **Appeal No.013/2024 (LESCO Vs. Abdul Majeed) Against the Decision Dated 09.08.2023 of the Provincial Office of Inspection to Government of the Punjab Lahore Region-II, Lahore**

Please find enclosed herewith the decision of the Appellate Board dated 09.10.2024 (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. 013/POI-2024

Lahore Electric Supply Company Limited

.....Appellant

Versus

Abdul Majeed S/o. Muhammad Hayat,
R/o. Mouza Fageere Wala, Tehsil & District Kasur

.....Respondent

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

For the Appellant:

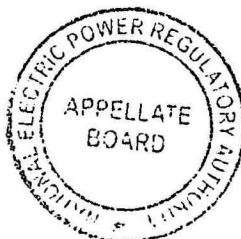
Mian Muhammad Mudassar Bodla Advocate

For the Respondent:

Nemo

DECISION

1. As per the facts of the case, the Respondent namely, Abdul Majeed is an industrial consumer of the Lahore Electric Supply Company Limited (hereinafter referred to as the "Appellant") bearing Ref No.46-11721-3527301-R having sanctioned load of 38 kW and the applicable tariff category is B-2(b). Reportedly, the impugned meter of the Respondent became defective in March 2015 and it was replaced with a new meter by the Appellant on 25.01.2018.
2. Being aggrieved with the above actions of the Appellant, the Respondent initially filed a complaint before the Appellant, whereby the bills for the period from April 2015 to January 2018 were assailed with the plea that the excessive billing was done by the Appellant during the above-mentioned period due to the vanished display of the impugned meter. Meanwhile, the Respondent filed a civil suit on 14.09.2019 against the abovementioned bills charged by the Appellant, which was subsequently returned by the honorable Civil Court on 20.10.2022 with the direction to the Respondent to file the complaint before the Provincial Provincial Office of Inspection Lahore Region-II, Lahore (hereinafter referred to as the "POI") within 30





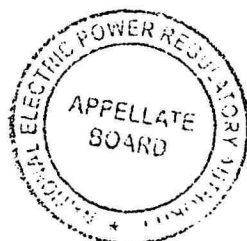
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days. Accordingly, the Respondent approached the POI on 25.11.2022 and challenged the bills for the period from April 2015 to January 2018. The complaint of the Respondent was disposed of by the POI vide the decision dated 09.08.2023, wherein the bills for the period April 2015 to January 2018 were declared null and void. As per the POI decision, the Appellant was directed to revise the bills for the aforesaid period on the basis of consumption of the period from April 2018 to January 2021. The Appellant was further directed to overhaul the billing of the Respondent and any excess amount recovered be adjusted in the future bills.

3. Subject appeal was filed against the afore-referred decision of the POI (hereinafter referred to as the “impugned decision”) by the Appellant before the NEPRA. In the appeal, the Appellant opposed the impugned decision, *inter-alia*, on the main grounds that the impugned decision is against the facts and law; that the POI failed to check the site as well as meter in question; that the POI neither called the relevant record nor considered the comparison of the billing and backup meters; that the POI did not apply judicious mind while passing the impugned decision; that the complaint of the Respondent was filed before the POI on 25.11.2022 after a lapse of seven years against the bills w.e.f March 2015 and onwards, reliance in this regard is placed on the judgment dated 17.11.2015 of honorable High Court in the Writ Petition No.17314/2015; that the maximum period for filing the complaint before the POI is three years as per Article 181 of the Limitation Act, 1908; and that the impugned decision is liable to be set aside.

4. Proceedings by the Appellate Board

Upon the filing of the instant appeal, a Notice dated 09.02.2024 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days which however were not filed. Subsequently, a hearing of the subject appeal was held at NEPRA Regional Office Lahore on 07.06.2024, wherein learned counsel appeared for the Appellant, whereas the Respondent did not appear. Learned counsel for the Appellant raised the preliminary objection regarding limitation and argued that the complaint filed by the Respondent before the POI is barred by time as per Article 181 of the Limitation Act, 1908. Learned counsel for the Appellant further contended that the maximum period for filing a complaint is three years as per the aforementioned Article, whereas the Respondent approached the POI after a lapse of seven years. He submitted that the bills were debited as per actual consumption and the Respondent made payment accordingly without raising any dispute. As per learned counsel for the Appellant, the impugned decision for revision of the bills for the period April 2015 to





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January 2018 on the basis of future consumption is not based on merits. He prayed that the impugned decision be set aside and the bills for the period from April 2015 to January 2018 be declared as justified and payable by the Respondent.

5. Arguments were heard and the record placed before us was examined. Following are our findings:

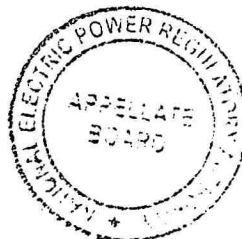
5.1 Objection of the Appellant regarding the time-barred complaint before the POI:

While preliminary objection of the Appellant regarding limitation, it is observed that the Respondent initially filed a complaint before the Appellant, whereby the bills for the period from April 2015 to January 2018 were assailed with the plea that the excessive billing was done by the Appellant during the above-mentioned period due to vanished display of the impugned meter. Meanwhile, the Respondent filed a civil suit on 14.09.2019 against the abovementioned bills charged by the Appellant, which was subsequently returned by the honorable Civil Court on 20.10.2022 with the direction to the Respondent to file the complaint before the POI within 30 days. Accordingly, the Respondent approached the POI on 25.11.2022 and challenged the bills for the period from April 2015 to January 2018. Thus, the time consumed at the wrong forum is excluded as the Respondent availed the remedy by filing the complaint before the POI within three years from the date of order of the honorable Civil Court i.e. 20.10.2022 as envisaged in Article 181 of the Limitation Act, 1908. Even otherwise, the POI is a competent forum to adjudicate the instant dispute of billing raised due to the theft of electricity through tampering with the meter. Reliance in this regard is placed on the judgment of the Honorable Supreme Court of Pakistan reported in *PLD 2012 SC 371*, the relevant excerpt of the said judgment is reproduced below:

"P L D 2012 Supreme Court 371

(a) Electricity Act (IX of 1910)---Ss. 26(6) & 26-A---Detection bill, issuance of--- Theft of energy by consumer, charge of--- Jurisdiction of Electric Inspector and Advisory Board---Scope---Electric Inspector for possessing special expertise in examining the working of metering equipment and other related apparatus had jurisdiction to entertain reference under S.26(6) of Electricity Act, 1910 only in case of dishonest consumption of energy by consumer through deliberate manipulation of or tampering with metering equipment or other similar apparatus---Electric Inspector would have no jurisdiction in matter of theft by means other than tampering or manipulation of metering equipment, etc., falling exclusively under S. 26-A of Electricity Act, 1910---Principles."

In view of the above, the objection of the Appellant in this regard bears no force and is overruled.





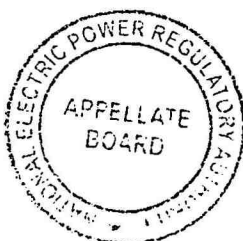
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5.2 Disputed bills for the period April 2015 to January 2018 charged by the Appellant

The Respondent filed a complaint before the POI and disputed the bills for the period from April 2015 to January 2018 with the plea that the Appellant debited the excessive bills during the aforementioned period due to a defective meter with vanished display. The POI vide impugned decision revised the bills for the aforesaid period on the basis of average consumption of the period from April 2018 to January 2021. Against which the Appellant filed the instant appeal before the NEPRA.

5.3 To verify the allegation with regard to the excessive billing raised by the Respondent. The billing statement of the Respondent as presented by the Appellant is reproduced below for the sake of convenience:

Period before dispute		Disputed period		Period after dispute	
Month	Units	Month	Units	Month	Units
May-13	0	Apr-15	2960	Apr-18	4980
Jun-13	2712	May-15	14140	May-18	2840
Jul-13	2540	Jun-15	7420	Jun-18	3200
Aug-13	500	Jul-15	7880	Jul-18	3860
Sep-13	540	Aug-15	8820	Aug-18	2360
Oct-13	2440	Sep-15	4420	Sep-18	2040
Nov-13	980	Oct-15	1160	Oct-18	1080
Dec-13	720	Nov-15	0	Nov-18	740
Jan-14	0	Dec-15	20	Dec-18	40
Feb-14	220	Jan-16	100	Jan-19	100
Mar-14	108	Feb-16	300	Feb-19	100
Apr-14	345	Mar-16	5880	Mar-19	1900
May-14	651	Apr-16	5300	Apr-19	4700
Jun-14	857	May-16	6960	May-19	4280
Jul-14	980	Jun-16	7720	Jun-19	8040
Aug-14	0	Jul-16	3760	Jul-19	6880
Sep-14	0	Aug-16	8040	Aug-19	3400
Oct-14	0	Sep-16	1800	Sep-19	1680
Nov-14	0	Oct-16	900	Oct-19	80
Dec-14	0	Nov-16	720	Nov-19	0
Jan-15	0	Dec-16	740	Dec-19	0
Feb-15	0	Jan-17	0	Jan-20	40
Mar-15	0	Feb-17	0	Feb-20	100
		Mar-17	6260	Mar-20	1460
		Apr-17	6400	Apr-20	1240





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		May-17	4600	May-20	1180
		Jun-17	4960	Jun-20	2140
		Jul-17	4840	Jul-20	1580
		Aug-17	4640	Aug-20	1720
		Sep-17	1000	Sep-20	1520
		Oct-17	3856	Oct-20	3560
		Nov-17	4197	Nov-20	420
		Dec-17	4575	Dec-20	244
		Jan-18	409	Jan-21	0
Average	591	Average	3964	Average	1985

The above comparison of consumption data shows that the average consumption charged during the disputed period i.e. April 2015 to January 2018 by the Appellant is much higher than the average consumption of the periods before and after the dispute. This indicates that the actual consumption was not charged by the Appellant during the disputed period from April 2015 to January 2018. In view of the foregoing discussion, we are of the considered view that the bills for the period from April 2015 to January 2018 debited to the Respondent are unjustified being excessively charged and the same are declared null and void. The impugned decision is liable to be maintained to this extent.


5.4 Admittedly, the impugned meter of the Respondent's connection remained defective due to vanished display during the period from April 2015 to January 2018 against which the Respondent approached the Appellant time and again but the Appellant failed to replace the impugned metering equipment timely, which resulted in the irregular billing. Hence, we are of the considered view that the bills for the period April 2015 to January 2018 be revised @ 1985 units per month as recorded by the new meter during the period after the dispute i.e. April 2018 to January 2021, which is also the determination of the POI.


6. Foregoing in view, the appeal is dismissed.

On leave
Abid Hussain
Member/Advisor (CAD)

Dated: 09-10-2024

Appeal No.013/POI-2024


Naweed Illahi Sheikh
Convener/DG (CAD)


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

