



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

NEPRA Office , Ataturk Avenue (East), G5/1, Islamabad
Tel. No.+92 051 2013200 Fax No. +92 051 2600030
Website: www.nepra.org.pk E-mail: office@nepra.org.pk

No. NEPRA/Appeal/041/2024/1017

December 04, 2024

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| 1. Muhammad Saleem Akhtar,
S/o. Muhammad Sharif,
For Muhammad Usman,
S/o. Muhammad Sharif, M/s. Sharif & Sons,
Situated at Street Darul Aloom Sharifa
Meharpura, Baradari Road, Shahdara,
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. Wahid Hameed,
Advocate High Court,
Syed Law Chamber, 4-Mozang Road,
Lahore
Cell No. 0314-7171000 |
| 5. Assistant Manager (Operation),
LESCO Ltd,
Jia Musa Sub Division,
Lahore | 6. POI/Electric Inspector
Lahore Region-I, Energy Department,
Govt. of Punjab, Block No. 1,
Irrigation Complex, Canal Bank,
Dharampura, Lahore |

Subject: **Appeal No.041/2024 (LESCO Vs. Muhammad Saleem Akhtar) Against the Decision Dated 03.04.2024 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 04.12.2024 (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 of the Appellate Board on the NEPRA website



National Electric Power Regulatory Authority

Before The Appellate Board

In the matter of

Appeal Nos.041/POI-2024

Lahore Electric Supply Company Limited

.....Appellant

Versus

Muhammad Saleem Akhtar S/o. Muhammad Sharif,
M/s. Sharif & Sons situated at Street Darul Aloom Sharifa Meharpura,
Baradari Road, Shahdara, Lahore

.....Respondent

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

For the Appellant:

Mr. Saeed Ahmed Bhatti Advocate
Mr. Ehsan ullah Farooq SDO

For the Respondent:

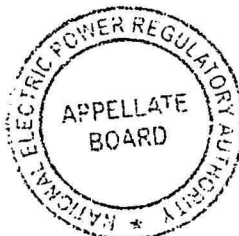
Mr. Wahid Hameed Advocate

DECISION

1. Through this decision, the appeal filed by the Lahore Electric Supply Company Limited (hereinafter referred to as the "Appellant") against the decision dated 03.04.2024 of the Provincial Office of Inspection, Lahore Region, Lahore (hereinafter referred to as the "POI") is being disposed of.
2. Brief facts of the case are that Muhammad Saleem Akhtar (hereinafter referred to as the "Respondent") is an industrial consumer of the Appellant bearing Ref No.24-11132-2401650 with a sanctioned load of 1,050 kW and the applicable Tariff category is B-3. The metering equipment of the Respondent was initially checked by the M& team of the Appellant on 06.07.2021 and the billing meter was found 17.78% slow, whereas the display of the backup meter was found defective. During another checking dated 20.07.2023 of the Appellant, the billing meter was found 1.59% slow, whereas the backup meter was found dead stop. Thereafter, a detection bill of Rs.12,208,627/- against 254,040 units for the

Appeal Nos.041/POI-2024

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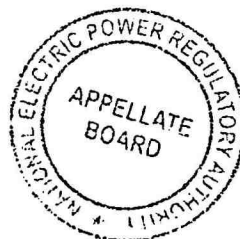
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period from 06.07.2021 to 20.07.2023 was debited to the Respondent due to the difference in readings between the billing and backup meters and added to the bill for August 2023.

3. Being aggrieved, the Respondent filed a complaint before the POI on 25.09.2023 and challenged the above detection bill. During joint checking dated 22.11.2023 of the POI, both billing and backup meters of the Respondent were found working within BSS limits, joint checking report was signed by both parties without raising any objection. The complaint of the Respondent was disposed of by the POI vide the decision dated 03.04.2024, wherein the detection bill of Rs.12,208,627/- against 254,040 units for the period from 06.07.2021 to 20.07.2023 debited to the Respondent in August 2023 was cancelled.
4. Subject appeal was filed by the Appellant before the NEPRA against the above-referred decision of the POI. In its appeals, the Appellant objected to the maintainability of the impugned decision, *inter alia*, on the main grounds that the detection bill of Rs.12,208,627/- against 254,040 units for the period from 06.07.2021 to 20.07.2023 was debited to the Respondent due to the difference in readings between the backup and billing meters as observed on 20.07.2023; that the impugned decision is against the law and facts of the case; that the POI misconstrued the real facts of the case and erred in declaring the detection bill of Rs.12,208,627/- as null and void; that the aforesaid detection bill was fully proved through authentic documents and consumption data; that the POI decided the matter after expiry of 90 days, which is violative of Section 26(6) of the Electricity Act, 1910; 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 ever served upon the Appellant before filing the same; and that the impugned decision is liable to be set aside..
5. **Proceedings by the Appellate Board**
Upon the filing of the instant appeal, a notice dated 24.06.2024 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days, which were not filed.
6. **Hearing**
6.1 Hearing was conducted at NEPRA Regional Office Lahore on 01.11.2023, which was attended by counsels for both parties. Learned counsel for the Appellant contended that the billing meter was found slow as compared to the backup meter during the checkings dated





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06.07.2021 and 20.07.2023 of the Appellant, as such the detection bill of Rs.12,208,627/- against 254,040 units for the period from 06.07.2021 to 20.07.2023 debited to the Respondent in August 2023 to recover the revenue loss sustained by the Appellant. As per learned counsel for the Appellant, the above detection bill was cancelled by the POI without perusing the documentary evidence. Learned counsel for the Appellant finally prayed that the impugned decision is liable to be set aside.

6.2 On the contrary, learned counsel for the Respondent repudiated the version of the Appellant and argued that the entire proceedings including checking were carried out by the Appellant unilaterally and the detection bill of Rs.12,208,627/- against 254,040 units for the period from 06.07.2021 to 20.07.2023 was debited to the Respondent without any justification. Learned counsel for the Respondent further contended, if presumed that the impugned billing meter had not recorded actual consumption as to why the Appellant failed to replace the same within two billing cycles. Learned counsel for the Respondent finally that the appeal is liable to be dismissed with cost.

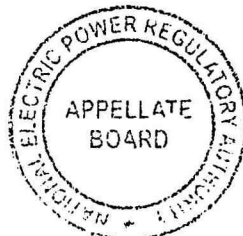
7. Arguments were heard and the record was perused. Following are our observations:

7.1 Objection regarding the time limit for POI to decide the complaint:

As per the record, the Respondent filed his complaint before the POI on 25.09.2023 under Section 38 of the NEPRA Act. POI pronounced its decision on 03.04.2024 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, of 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*. The relevant excerpt of the above judgments is reproduced below:

"PLJ 2017-Lahore-627:

Regulation of Generation Transmission and Distribution of Electric Power Act, 1997--838(3)--Electricity Act, 1910, S. 26(6)--Constitution of Pakistan, 1973. Art. 199--Constitutional petition--Consumer of LESCO.. The sanctioned load was differed with the connected load--Determine the difference of charges of the previous period of misuse to be recovered from the consumer--Validity--No disconnection or penal action was taken against the petitioner rather only the difference of charges between the sanctioned load and load actually used by petitioner was charged, hence Clause 7.5 of



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Consumer Service Manual has not been violated-Issuance of detection bill itself amounts to notice and petitioner had also availed remedy before POI against determination--Order passed by POI was beyond 90 days--Order was not passed by the respondent under Section 26(6) of the Act as Electric Inspector rather the order was passed by him in the capacity of POI under Section 38(3) of Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (NEPRA Act), therefore, the argument has no substance.

PLJ-2017-Lahore-309:

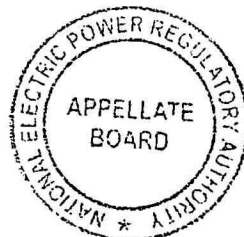
The learned counsel for the petitioner submitted that there was an outer time limit of 90 days for a decision by the Electric Inspector which has not been observed and which rendered the decision of the Electric Inspector a nullity. This submission of the learned counsel has been dealt with by the Appellate Board and in any case, is fallacious- The short and simple answer rendered by the Appellate Board was that the decision was made under Section 38 of the Act, 1997 and not in terms of Section 26 of the Electricity Act, 1910. Therefore, the outer time limit of 90 days was inapplicable."

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.

7.2 Detection bill of Rs.12,208,627/- against 254,040 units for the period from 06.07.2021 to 20.07.2023 debited to the Respondent due to the difference of readings between the billing and backup meters:

The metering equipment of the Respondent was checked by the Appellant on 20.07.2023 and reportedly, 254,040 units were found uncharged due to the difference between the backup and billing meters. Thereafter, a detection bill of Rs.12,208,627/- against 254,040 units for the period from 06.07.2021 to 20.07.2023 was debited to the Respondent due to the difference in readings between the billing and the backup meter, which was challenged before the POI. During joint checking dated 22.11.2023 of the POI, both billing and main backup meters of the Respondent were found working within BSS limits, joint checking report was signed by both parties without raising any objection.

7.3 According to clause 6.1.2 of the CSM-2021, the meter reading above 500 kW load is recorded by the XEN/DM (Operation) of the distribution companies, and the said officers will check the irregularities/discrepancies in the metering system and report the same discrepancy, according to clause 6.1.4 of the CSM-2021. In the instant case, the connection under dispute is sanctioned for 1,050 kW load and the meter reading is being taken by the senior officer of the Appellant but the Appellant did not point out any irregularity in the



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billing as well as the discrepancy in the metering equipment of the Respondent during the monthly readings except the unilateral checking dated 06.07.2021. The Appellant claims that the impugned billing meter has been running slow since 06.07.2021, but they failed to substantiate their contention before the POI as well as NEPRA. During joint checking dated 22.11.2023 of the POI, both billing and main backup meters of the Respondent were found working within BSS limits, joint checking report was signed by both parties without raising any objection.


7.4 Even otherwise, the impugned meter recorded 1.736% less consumption as compared to the backup meter during the disputed period from 06.07.2021 to 20.07.2023, which is within permissible limits of 3% as prescribed in Rule 32 (b) of the Electricity Rules, 1937.


7.5 Under these circumstances, we are of the considered view that the impugned detection bill of Rs.12,208,627/- against 254,040 units for the period from 06.07.2021 to 20.07.2023 debited to the Respondent in August 2023 is unwarranted, inconsistent with the provision of the CSM-2021, and the same is declared null and void as already determined by the POI.

8. Foregoing in view, the appeal is dismissed.

On leave
Abid Hussain
Member/Advisor (CAD)

Dated: 04-12-2024


Naweed Illahi Sheikh
Convener/DG (CAD)


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

