



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

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No. NEPRA/Appeal/095/2023/ 1021

December 05, 2024

- | | |
|---|--|
| 1. Amir Haider,
S/o. Safdar Ali Sheikh,
R/o. House No. 985, Block-C,
Canal View Housing Society,
Lahore | 2. Chief Executive Officer,
LESCO Ltd,
22-A, Queens Road,
Lahore |
| 3. Shahid Ali,
Advocate High Court,
Office No. 29-B, Third Floor,
Sadiq Plaza, The Mall, Lahore
Cell No. 0322-6993680 | 4. A. D. Bhatti,
Advocate High Court,
First Floor, Rehmat Tower,
13-Fane Road, Lahore
Cell No. 0300-9431653 |
| 5. Assistant Manager (Operation),
LESCO Ltd,
Mustafa Town Sub Division,
Lahore | 6. 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.095/2023 (LESCO Vs. Amir Haider) Against the Decision Dated 20.06.2023 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 05.12.2024 (06 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.095/POI-2023

Lahore Electric Supply Company Limited

.....Appellant

Versus

Amir Haider S/o. Ali Sheikh, R/o. House No.985,
Block C, Canal View Housing Society, Lahore

.....Respondent

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

For the Appellant:

Mr. Shahid Ali Advocate

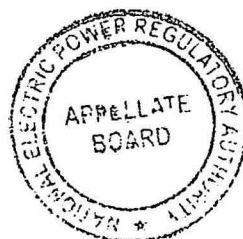
For the Respondent:

Mr. A.D Bhatti 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 20.06.2023 of the Provincial Office of Inspection, Lahore Region, Lahore (hereinafter referred to as the "POI") is being disposed of.
2. Briefly speaking, Mr. Amir Haider (hereinafter referred to as the "Respondent") is a domestic consumer of the Appellant bearing Ref No.06-11261-0008900-U with sanctioned load of 5 kW and the applicable Tariff category is A-1(b). The billing meter of the Respondent became defective, hence it was replaced with a new meter by the Appellant on 09.07.2022 and sent to the Metering & Testing ("M&T") laboratory. As per the M&T report dated 21.09.2022 of the Appellant, the display of the impugned meter was found washed out and it was found tampered for theft of electricity. Resultantly, a detection bill amounting to Rs.112,784/- against 4,626 units for three months for the period from April 2022 to

Appeal No. 095/POI-2023



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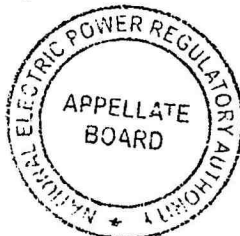
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June 2022 was debited to the Respondent and added to the bill for October 2022.

3. Being aggrieved, the Respondent filed a complaint before the POI and challenged the above detection bill. The complaint of the Respondent was disposed of by the POI vide the decision dated 20.06.2023, wherein the detection bill of Rs.112,784/- against 4,626 units for three months for the period from April 2022 to June 2022 was cancelled.
4. The Appellant filed an instant appeal before the NEPRA against the afore-referred decision of the POI, which was registered as Appeal No.095/POI-2023. In its appeal, the Appellant objected to the maintainability of the impugned decision, *inter alia*, on the main grounds that the detection bill of Rs.112,784/- against 4,626 units for three months for the period from April 2022 to June 2022 was debited to the Respondent due to theft of electricity committed through tampering with the meter; that the impugned decision is against the facts of the case and has passed in a mechanical; and without appreciation of law points; that the above detection bill was proved through authentic documents but the POI declared the impugned detection bill as null and void; that the POI neither recorded the evidence nor perused the PITC data; that the impugned decision was announced after expiry of 90 days; that the POI passed the illegal decision.
5. **Proceedings by the Appellate Board**
Upon the filing of the instant appeal, a notice dated 04.10.2023 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days, which were filed on 21.11.2023. In the reply, the Respondent defended the impugned decision and submitted that the POI after providing the opportunity of hearing to both parties, considered all the legal and factual aspects of the case and has relied upon the admitted facts of the case. The Respondent further submitted that the impugned decision is well-reasoned and comprehensive, and the same is liable to be upheld.
6. **Hearing**
6.1 Hearing of the subject appeal was conducted at NEPRA Regional Office Lahore on 01.03.2024, which was attended by the counsels for both the Appellant and the Respondent. Learned counsel for the Appellant contended that the billing meter of the Respondent was found defective, therefore it was replaced with a new meter and sent for data retrieval. Learned counsel for the Appellant further contended that during subsequent M&T checking, the impugned meter was found tampered with for the dishonest abstraction of electricity,





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therefore a detection bill of Rs.112,784/- against 4,626 units for three months for the period from April 2022 to June 2022 was debited to the Respondent due to theft of electricity. 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 denied the allegation of theft of electricity leveled by the Appellant and argued that the entire proceedings including checking were carried out by the Appellant unilaterally and the detection bill of Rs.112,784/- against 4,626 units for three months for the period from April 2022 to June 2022 was debited without any justification. Learned counsel for the Respondent supported the impugned decision and prayed for the cancellation of the above detection bill.

6.3 To reach just conclusion, the Appellant was directed to submit the PITC data for the years 2020-23 and the M&T checking report vide letter No.NEPRA/Appeal/095/2021/427 dated 08.05.2024, which however were not provided by the Appellant. Therefore, another opportunity for hearing was given to the Appellant on 07.06.2024, wherein learned counsel appeared for the Appellant and submitted PITC data for the years 2020-23 and the M&T checking report.

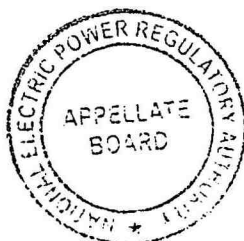
7. Arguments were heard and the record was perused. Following are our observations:

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 under Section 38 of the NEPRA Act. POI pronounced its decision on 20.06.2023 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*. 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-





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-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 difference of charges between sanctioned load and load actually used by petitioner was charged, hence Clause 7.5 of 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, argument has no substance.

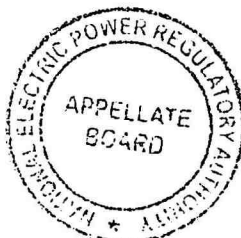
PLJ-2017-Lahore-309:

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.112,784/- for 4,626 units for the period from April 2022 to June 2022:

As per the record, the Appellant claimed that the billing meter of the Respondent became defective, hence it was replaced with a new meter by the Appellant on 09.07.2022 and sent to the Metering & Testing ("M&T") laboratory. As per the M&T report dated 21.09.2022 of the Appellant, the display of the impugned meter was found washed out and it was found tampered for theft of electricity. Resultantly, a detection bill of Rs.112,784/- against 4,626 units for three months for the period from April 2022 to June 2022 was debited to the Respondent and added to the bill for October 2022, which was challenged by the Respondent before the POI. At the lower forum, the Appellant failed to defend the charging of the impugned detection bill, which was set aside by the POI vide the impugned decision against which the Appellant filed the instant appeal.





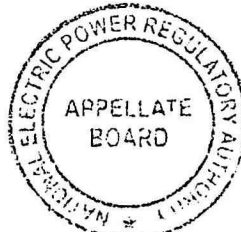
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7.3 It is a matter of fact that the impugned meter was removed from the site on 09.07.2022 and it was subsequently checked by the M&T team on 21.09.2022 after a lapse of more than two months. The Appellant neither associated the Respondent during the alleged checking nor produced the impugned meter for verification of their allegation of tampering. Under these circumstances, we have to analyze the consumption data to check the justification of the impugned detection bill in the below table:

Month	Units	Gas (HM3)	Month	Units	Gas (HM3)
Jan-21	30	3.579	Jan-22	19	5.945
Feb-21	34	2.723	Feb-22	213	4.099
Mar-21	120	20.39	Mar-22	285	2.009
Apr-21	442	1.479	Apr-22	277	1.458
May-21	0	1.02	May-22	400	1.162
Jun-21	0	0.948	Jun-22	594	0.897
Jul-21	318	0.928	Jul-22	489	1.01
Aug-21	514	1.03	Aug-22	450	0.744
Sep-21	320	1.122	Sep-22	519	1.081
Oct-21	400	2.57	Oct-22	179	2.213
Nov-21	43	4.436	Nov-22	29	3.1
Dec-21	5	5.731	Dec-22		3.498

As evident from the above table, such high gas consumption of 5.945 HM3 was recorded in January 2022, whereas only 19 units were charged in the said month which are neither compatible with the sanctioned load of the Respondent nor with the gas consumption. Similarly, nil consumption was charged to the Respondent in May 2021 and June 2021, whereas healthy gas consumption during the said months indicates the occupancy of the premises. This whole situation indicates that the impugned meter remained dysfunctional due to the vanished display since long and the consumption utilized by the Respondent could not be charged by the Appellant. However, the Appellant failed to bring material evidence to substantiate their version with regard to the assessment of the detection bill. It is further observed that the said detection bill was charged based on 4.66 kW load in addition to 2 split AC but the Appellant did not take any action for regularization of illegally extended load to date as the sanctioned load of the Respondent is 5 kW mentioned in the bill for September 2024.

7.4 In view of above, we conclude that the detection bill of Rs.112,784/- for 4,626 units for three months i.e. April 2022 to June 2022 charged by the Appellant to the Respondent is unjustified, and the same is liable to be cancelled as already determined by the POI.





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7.5 As the actual consumption could not be charged by the Appellant, it would be fair and appropriate to debit the revised detection bill @ 912 units per month for three months i.e. April 2022 to June 2022 calculated based on 25% load factor of the sanctioned load i.e. 5 kW. The impugned decision is liable to be modified to this extent.

8. Summing up the foregoing discussion, we concluded that:


8.1 The detection bill of Rs.112,784/- for 4,626 units for three months i.e. April 2022 to June 2022 charged by the Appellant to the Respondent is unjustified, and the same is cancelled.


8.2 The Respondent may be charged the revised detection bill @ 912 units per month for three months i.e. April 2022 to June 2022 calculated based on the 25% load factor of the sanctioned load i.e. 5 kW.

9. The impugned decision is modified in the above terms.

On leave
Abid Hussain
Member/Advisor (CAD)

Dated: 05-12-2024


Naweed Illahi Sheikh
Convener/DG (CAD)


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

