



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

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No. NEPRA/Appeal/031/2024/ *115*

February 06, 2025

- | | |
|--|---|
| 1. Muhammad Zubair Saeed,
S/o. Malik Muhammad Saeed,
PLD House, Nabha Road,
Anarkali, 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,
0333-4350899 | 4. Assistant Manager (Operation),
LESCO Ltd,
Anarkali Sub Division,
Lahore |
| 5. POI/Electric Inspector
Lahore Region-I, Energy Department,
Govt. of Punjab, Block No. 1,
Irrigation Complex, Canal Bank,
Dharampura, Lahore | |

Subject: **Appeal No.031/2024 (LESCO Vs. Muhammad Zubair Saeed) Against the Decision Dated 04.07.2023 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 06.02.2025 (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 No.031/POI-2024

Lahore Electric Supply Company Limited

.....Appellant

Versus

Muhammad Zubair Saeed S/o. Malik Muhammad Saeed,
PLD House, Nabha Road, Anarkali, Lahore

.....Respondent

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

For the Appellant:

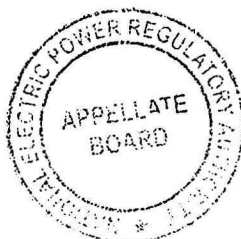
Mr. Saeed Ahmed Bhatti Advocate

For the Respondent:

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DECISION

1. As per the facts of the case, Muhammad Zubair Saeed (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.24-11331-2408301-U having sanctioned load of 70 kW and the applicable tariff category is B-2(b). Reportedly, the impugned meter of the Respondent became defective due to upset date and time and the irregular bills were charged by the Appellant to the Respondent against which the Respondent approached the Appellant vide applications dated 21.04.2020, 22.05.2020, and 16.09.2020. However, the Appellant did not take any action to replace the impugned meter.
2. Being aggrieved with the above actions of the Appellant, the Respondent approached the Provincial Office of Inspection, Lahore Region-I, Lahore (hereinafter referred to as the "POI") on 15.12.2020 and 14.01.2021 and challenged the bills for the period from March 2020 to December 2020. Subsequently, the impugned meter of the Respondent was replaced with a new meter by the Appellant in May 2021. The complaint of the Respondent was disposed of by the POI vide decision dated 04.07.2023, wherein the bills for the period from July 2019 to February 2021 were cancelled and the Appellant was directed to charge the revised bills for the said period by adjusting 200 units/month from off-peak segment and debiting the same in peak segment.



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3. Being dissatisfied, the Appellant has filed the instant appeal before NEPRA and assailed the decision dated 04.07.2023 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 bills for the period from July 2019 to February 2021 as null and void and revised the same for 200 peak units; that the POI neither recorded the evidence nor perused the consumption data and decided the complaint on mere surmises and conjectures without any justification and cogent reasons; that the POI failed to decide the matter within 90 days, which is violation of Section 26(6) of the Electricity Act 1910 and that the impugned decision is liable to be set aside.

4. Notice dated 25.03.2024 of the appeal was issued to the Respondent for filing reply/para-wise comment, which however were not filed.

5. **Hearing**

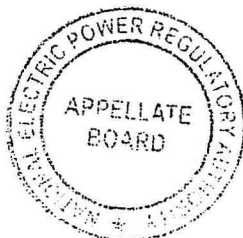
Hearing of the appeal was conducted at NEPRA Regional Office Lahore on 13.09.2024, wherein learned counsel appeared for the Appellant, whereas no one represented the Respondent. Learned counsel for the Appellant contended that the Respondent challenged the bills from October 2020 and onwards, whereas the POI decided the fate of bills for the period from July 2019 to February 2021, which is beyond the prayer of the Respondent. Learned counsel for the Appellant further contended that the POI neither examined the record nor considered the contention of the Appellant and rendered the impugned decision without legal basis. Learned counsel for the Appellant defended the charging of the bills for the period from July 2019 to February 2021 and prayed that the said bills be declared as justified and payable by the Respondent. Learned counsel for the Appellant finally pleaded 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 the time limit for POI**

While addressing the objection of the Appellant regarding the jurisdiction of the POI, the Respondent filed his complaint before the POI on 15.12.2020 under Section 38 of the NEPRA Act. POI pronounced its decision on 04.07.2023 i.e. after ninety (90) days 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

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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---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:

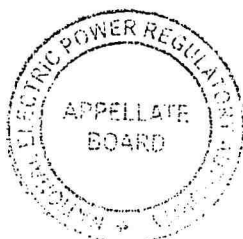
The learned counsel for the petitioner submitted that there was an outer time limit of 90 days for a decision by the Electric Inspector which has not been observed and which rendered the decision of the Electric Inspector a nullity. This submission of the learned counsel has been dealt with by the Appellate 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.

6.2 Bills for the period from July 2019 to February 2021:

Admittedly, the impugned meter of the Respondent became defective and it was replaced with a new meter by the Appellant in May 2021. Initially, the Respondent approached the Appellant against the excessive bill for March 2020 and the replacement of the defective meter. Subsequently, the Appellant challenged the bills for the period from March 2020 to December 2020 before the POI with the plea that excessive peak units were charged by the Appellant during these months. The POI vide impugned decision cancelled the bills for the period from July 2019 to February 2021 and directed the Appellant to charge 200 peak units per month for the period from July 2019 to February 2021. Against the said decision the Appellant preferred subject appeal before the NEPRA.

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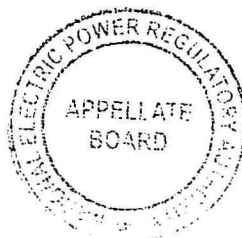
6.3 It is noticeable, why the POI afforded relief beyond the prayer of the Respondent, this question could be resolved through the analysis of the consumption data in the below table:

Undisputed			Disputed			Undisputed		
Units			Units			Units		
Month	Off-peak	Peak	Month	Off-peak	Peak	Month	Off-peak	Peak
Nov-17	3140	140	Jul-19	5880	1320	May-21	12520	500
Dec-17	3940	500	Aug-19	4100	2480	Jun-21	6440	20
Jan-18	3980	520	Sep-19	3600	2520	Jul-21	5680	0
Feb-18	1200	480	Oct-19	2940	2100	Aug-21	5860	40
Mar-18	6540	320	Nov-19	2080	40	Sep-21	5700	160
Apr-18	5100	240	Dec-19	2220	3500	Oct-21	4920	140
May-18	6580	140	Jan-20	2780	2280	Nov-21	3240	160
Jun-18	6200	20	Feb-20	2220	1620	Dec-21		
Jul-18	6540	20	Mar-20	1280	1900	Jan-22		
Aug-18	6220	80	Apr-20	1080	0	Feb-22		
Sep-18	6600	640	May-20	2880	1680	Mar-22		
Oct-18	5740	0	Jun-20	4280	2260	Apr-22		
Nov-18	4220	0	Jul-20	4240	2280	May-22		
Dec-18	3980	120	Aug-20	3900	2420	Jun-22		
Jan-19	4340	320	Sep-20	4280	3060	Jul-22		
Feb-19	4000	280	Oct-20	2680	2100	Aug-22		
Mar-19	4420	260	Nov-20	2120	1640	Sep-22		
Apr-19	5340	180	Dec-20	2260	1780	Oct-22		
May-19	7380	40	Jan-21	2360	1920	Nov-22		
Jun-19	5520	20	Feb-21	2160	1480	Dec-22		
Average	5049	216	Average	2967	1919	Average	-	-

A perusal of the above table shows that the Respondent was billed excessive peak units during the period from July 2019 to February 2021 due to the upset date and time of the impugned meter. The Respondent approached time and again for the replacement of the impugned meter, which however was replaced in May 2021. It is further revealed that the considerable drop in peak hours consumption of the Respondent during the periods before and after the dispute strengthens the version of the Respondent that the business activities declined during the peak hours.

6.4 In view of the foregoing discussion, we are of the considered view that the irregular billing was done by the Appellant during the period from July 2019 to February 2021 and the POI has rightly cancelled the bills for the period from July 2019 to February 2021.

6.5 Admittedly, the impugned meter remained defective during the disputed period, hence it would be fair and appropriate to charge the revised bills for the period from July 2019 to February 2021 as per below calculation of units charged during the period before the dispute:





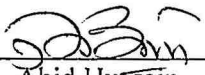
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- Off-peak units (%) = $\frac{\text{Off-peak units} \times 100}{\text{Total units}} = \frac{5049 \times 100}{5,265} = 96\%$
- Peak units (%) = $\frac{\text{Peak units} \times 100}{\text{Total units}} = \frac{216 \times 100}{5,265} = 04\%$


6.6 In view of above, total (off-peak+peak) units charged during the disputed months to be bifurcated as under:


- i Off-peak units =96%
- ii Peak units =04%

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


Abid Hussain
Member/Advisor (CAD)

Dated: 06-02-2025


Naweed Wahid Sheikh
Convener/DG (CAD)


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

