



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

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No. NEPRA/Appeal/034/2024/ 061


January 06, 2025

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| 1. Zahid Iqbal,
S/o. Muhammad Yar,
R/o. Masjid Street No. 04,
Gohawa Mor, Bedian Road,
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. Assistant Manager (Operation),
LESCO Ltd,
Liberty Sub Division,
Lahore |
| 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.034/2024 (LESCO Vs. Zahid Iqbal) Against the Decision Dated 23.01.2024 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 06.01.2025 (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.034/POI-2024

Lahore Electric Supply Company Limited

.....Appellant

Versus

Zahid Iqbal S/o. Muhammad Yar, R/o. Masjid Street No.04,
Gohawa Mor, Bedian Road, 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

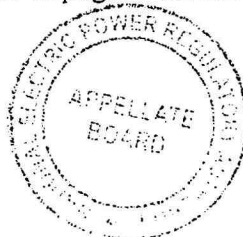
For the Respondent:

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DECISION

1. As per the facts of the case, Zahid Iqbal (hereinafter referred to as the "Respondent") is a general supply consumer of Lahore Electric Supply Company Limited (hereinafter referred to as the "Appellant") bearing Ref No.24-11516-9042800-U having sanctioned load of 60 kW and the applicable tariff category is A-3. The impugned meter of the Respondent became defective with vanished display on 14.04.2021 and it was subsequently replaced with a new meter by the Appellant vide meter change order (the "MCO") dated 24.08.2022.
2. Meanwhile, the Respondent filed a complaint before the Provincial Office of Inspection, Lahore Region, Lahore (hereinafter referred to as the "POI") on 23.08.2022 and challenged the bill of Rs.1,482,612/- charged by the Appellant in July 2022. The complaint of the Respondent was disposed of by the POI vide decision dated 23.01.2024, wherein the bills for the period from April 2021 to June 2022 were cancelled and the Appellant was directed to charge the revised bills for the said period based on consumption of April 2019 to July 2020. The Appellant was further directed to overhaul the billing account of the Respondent, accordingly.
3. Being dissatisfied, the Appellant has filed the instant appeal before NEPRA and assailed the decision dated 23.01.2024 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

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the POI misconceived and misconstrued the real facts of the case and erred in declaring the bills for the period from April 2021 to June 2022 as null and void and revised the same based on consumption of April 2019 to June 2020; 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 02.04.2024 of the appeal was issued to the Respondent for filing reply/para-wise comment, which however were not filed.
5. 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 bills for the period from April 2021 to July 2022 were charged to the Respondent as per actual consumption, which however were cancelled by the POI. 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 April 2021 to July 2022 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 23.08.2022 under Section 38 of the NEPRA Act. POI pronounced its decision on 23.01.2024 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 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 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 April 2021 to July 2022:

Admittedly, the impugned meter of the Respondent became defective in April 2021 and it was replaced with a new meter by the Appellant on 24.08.2022. Subsequently, the Appellant challenged the bills for the period from April 2021 to July 2022 before the POI with the plea that excessive units were charged by the Appellant during these months. The POI vide impugned decision cancelled the bills for the period from April 2021 to June 2022 and directed the Appellant to charge the revised bills for the period from April 2021 to July 2022 as per consumption of April 2019 to July 2020. Against the said decision the Appellant preferred subject appeal before the NEPRA.

6.3 It is observed that the impugned meter became defective with vanished display in April 2021 and it was replaced in August 2022 after a lapse of seventeen (17) months, which is contrary to Clause 4.3.2(a) of the CSM-2021. The Appellant was required to replace the impugned meter within two billing cycles and send the impugned meter to the M&T lab for data retrieval. As per clause 4.3.2(d) of the CSM-2021, the Appellant was required to retrieve the data within three months and charge the retrieved units after adjusting already charged units during the



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impugned meter. However, in the instant case, the Appellant failed to adhere to the procedure as laid down in Clause 4.3.2 of the CSM-2021. Resultantly, actual consumption could not be charged to the Respondent due to negligence on the part of the Appellant. The Appellant even failed to produce the impugned meter before the POI for verification of alleged discrepancies. Under these circumstances, consumption data as provided by the Appellant is analyzed in the below table:

Period before dispute		Disputed period		Period after dispute	
Month	Units	Month	Units	Month	Units
Dec-19	15780	Apr-21	24620	Aug-22	17800
Jan-20	14940	May-21	24760	Sep-22	18120
Feb-20	15920	Jun-21	24760	Oct-22	24340
Mar-20	15620	Jul-21	31560	Nov-22	17380
Apr-20	20800	Aug-21	31080	Dec-22	17040
May-20	23700	Sep-21	33960	Jan-23	21040
Jun-20	21720	Oct-21	33520		
Jul-20	19680	Nov-21	34420		
Aug-20	15620	Dec-21	34060		
Sep-20	20740	Jan-22	33480		
Oct-20	18480	Feb-22	32640		
Nov-20	19500	Mar-22	33120		
Dec-20	22920	Apr-22	34040		
Jan-21	17940	May-22	34320		
Feb-21	21440	Jun-22	33960		
Mar-21	23380	Jul-22	35600		
Average	19261	Average	31869	Average	19287

Examination of the above table shows that the Respondent was billed excessive units during the disputed period from April 2021 to July 2022 as compared to the average consumption recorded during the periods before and after the dispute. 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 April 2021 to July 2022 and the POI has rightly cancelled the bills for the period from April 2021 to July 2022.

6.4 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 April 2021 to July 2022 on DEF-EST code, according to Clause 4.3.1(b) of the CSM-2021. The impugned decision is liable to be modified to this extent.





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7. In view of what has been stated above, it is concluded that:
- 7.1 The bills for the period from April 2021 to July 2022 are excessive, unjustified and the same are cancelled.
- 7.2 The Respondent may be charged the revised bills for the period for the period from April 2021 to July 2022 on DEF-EST code, pursuant to Clause 4.3.1(b) of the CSM-2021.
- 7.3 The billing account of the Respondent may be overhauled after making adjustments of payments made against the impugned bills.
8. The impugned decision is modified in the above terms.

Abid Hussain
Member/Advisor (CAD)

Naweed Illahi Sheikh
Convener/DG (CAD)

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

Dated: 06-01-2025

