



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

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No. NEPRA/Appeal/046/2024/ 062

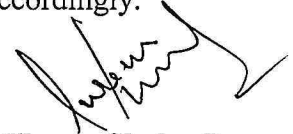
January 06, 2025

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|--|--|
| 1. Muhammad Adnan,<br>S/o. Mubashar Saleem,<br>R/o. House No. 46, Street No. 3,<br>Mohallah Habib Ganj, Misri Shah,<br>Lahore<br>Cell No. 0321-7509031   | 2. Chief Executive Officer,<br>LESCO Ltd,<br>22-A, Queens Road,<br>Lahore            |
| 3. Hafiz Waqas Ahmad Bhatti,<br>Advocate High Court,<br>13-Fane Road, Lahore<br>Cell No. 0300-7763667  | 4. Assistant Manager (Operation),<br>LESCO Ltd,<br>Shad Bagh Sub Division,<br>Lahore |
| 5. POI/Electric Inspector<br>Lahore Region, Energy Department,<br>Govt. of Punjab, Block No. 1,<br>Irrigation Complex, Canal Bank,<br>Dharampura, Lahore |  |

**Subject:** **Appeal No.046/2024 (LESCO Vs. Muhammad Adnan) Against the Decision Dated 27.02.2024 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 06.01.2025 (09 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.046/POI-2024

Lahore Electric Supply Company Limited

.....Appellant

Versus

Muhammad Adnan S/o. Mubashar Saleem,  
R/o. House No.46, St:03, Mohallah Habib Ganj,  
Misri Shah, Lahore

.....Respondent

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

For the Appellant:

Hafiz Waqas Ahmed Advocate

For the Respondent:

Mr. Muhammad Adnan

### DECISION

1. Brief facts leading to the filing of instant appeal are that Muhammad Adnan (hereinafter referred to as the "Respondent") is a domestic consumer of Lahore Electric Supply Company Limited (hereinafter referred to as the "Appellant") bearing Ref. No.03-11152-0281300 with a sanctioned load of 1 kW and the applicable Tariff category is A-1(a). Metering and Testing (M&T) team of the Appellant checked the meter of the Respondent on 19.08.2019 and reportedly, the Respondent was found stealing electricity through tampering with the meter. Resultantly, FIR was registered against the Respondent and a detection bill of Rs.118,883/- against 4,358 units for six (6) months for the period from March 2019 to August 2019 was charged by the Appellant to the Respondent on the basis of 20% load factor of the connected load i.e. 3.986 kW and added to the bill for October 2019.
2. Being aggrieved, the Respondent initially filed civil suit against the above detection bill and subsequently filed a complaint before the Provincial Office of Inspection, Lahore Region-I, Lahore (hereinafter referred to as the "POI") on 22.05.2023. Matter was

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disposed of by the POI vide the decision dated 27.02.2024, wherein the detection bill of Rs.118,883/- against 4,358 units for six (6) months for the period from March 2019 to August 2019 was cancelled and the Appellant was directed to charge the revised bills w.e.f March 2018 and onwards till the replacement of the impugned meter on DEF-EST code. The Appellant was further directed to overhaul the billing account of the Respondent, accordingly.

3. Subject appeal has been filed against the afore-referred decision dated 27.02.2024 of the POI (hereinafter referred to as the "impugned decision") by the Appellant before the NEPRA, wherein it is contended that the billing meter of the Respondent was found tampered during the M&T checking dated 19.08.2019 for the dishonest abstraction of electricity, therefore, a detection bill of Rs.118,883/- against 4,358 units for six (6) months for the period from March 2019 to August 2019 was charged to the Respondent. As per the Appellant, the POI did not apply an independent and judicious mind and passed the impugned decision on the basis of illegal assumptions and presumptions. According to the Appellant, the POI failed to decide the matter within 90 days, which is contrary to Section 26(6) of the Electricity Act 1910. The Appellant stated that the POI has no jurisdiction to adjudicate the instant matter, pursuant to the judgment of the Apex Supreme Court of Pakistan reported in 2004 SCMR 1679 and PLD 2006 sc 328. The Appellant finally prayed that the impugned decision is liable to be set aside.

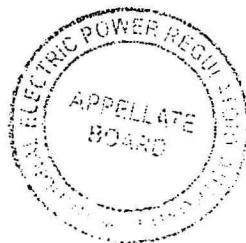
4. **Proceedings by the Appellate Board**

Upon filing of the instant appeal, a Notice dated 27.06.2024 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days, which were filed on 05.07.2024. In the reply, the Respondent opposed the charging of the detection bill of Rs.118,883/- against 4,358 units for six (6) months for the period from March 2019 to August 2019, supported the impugned decision for cancellation of the same, and prayed for dismissal of the appeal.

5. **Hearing**

- 5.1 The hearing was fixed for 13.09.2024 at NEPRA Regional Office Lahore, wherein both parties tendered appearance. Learned counsel for the Appellant reiterated the same version as contained in the memo of the appeal and contended that the billing meter of the Respondent was checked by the M&T team on 19.08.2019, wherein it was declared

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tampered, therefore, a detection bill amounting to Rs.118,883/- against 4,358 units for six months for the period from March 2019 to August 2019 was debited to the Respondent. As per learned counsel for the Appellant, the POI neither perused the record nor applied judicious mind and rendered the impugned decision, which is liable to be struck down.

5.2 On the other hand, the Respondent denied the allegation of theft of electricity leveled by the Appellant and argued that if the impugned meter was tampered as to why the said meter was not checked by the POI for verification of alleged tampering? He supported the impugned decision and prayed that the same is liable to be maintained in the best interest of justice.

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

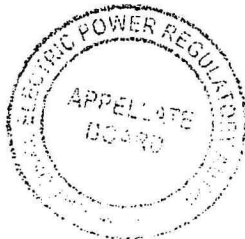
6.1 **Preliminary objection of the Appellant regarding jurisdiction of the POI:**

At first, the preliminary objection of the Appellant regarding the jurisdiction of the POI needs to be addressed. In the instant appeal, the learned counsel for the Appellant (LESCO) challenged the jurisdiction of the Provincial Office of Inspection to adjudicate the complaint of the Respondent (Consumer) under Section 38 of the NEPRA Act regarding dishonest abstraction of energy. The Appellant contends that in the cases of detection bills, the Electric Inspector of the Government of Punjab Lahore Region Lahore is the competent forum to deal with such cases u/s 26(6) of the Electricity Act, 1910.

6.2 To come up with an opinion on the above-said proposition of law, it is necessary to analyze the relevant laws. Section 26(6) of the Electricity Act, 1910 deals with the disputes between consumers and a licensee over electricity meters and grants power to the Electric Inspector to resolve the same. The said provision reads as under:

*“(6) Where any difference or dispute arises between a licensee and a consumer as to whether any meter, maximum demand indicator or other measuring apparatus is or is not correct the matter shall be decided, upon the application of either party, by an Electric Inspector, within a period of ninety days from the date of receipt of such application, after affording the parties an opportunity of being heard, and where the meter, maximum demand indicator or other measuring apparatus has, in the opinion of an Electric Inspector, ceased to be correct, the Electric Inspector shall estimate the amount of energy supplied to the consumer or the electrical quantity contained in the supply, during such time as the meter, indicator or apparatus has not, in the opinion of the Electric Inspector, been correct; and where the Electric Inspector, fails to decide the matter of difference or dispute within the said period or where either the licensee or the consumer decline to accept the decision of the Electric Inspector, the matter shall be referred to the Provincial Government whose decision shall be final:*

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*Provided that, before either a licensee or a consumer applies to the Electric Inspector under this subsection, he shall give to the other party not less than seven days' notice of his intention so to do."*

- 6.3. Section 3 (2) (a) of Punjab ((Establishment and Powers of Office of Inspection) Order, 2005 empowers the POI to deal with the complaints in respect of metering, billing, and collection of tariffs and other connected matters and pass necessary orders. According to Section 10 of the above-said order:

*"An aggrieved person may file an appeal against the final order made by the Office of Inspection before the Government or if the Government by general or special order, so directs, to the advisory board constituted under section 35 of the Electricity Act, 1910, within 30 days, and the decision of the Government or the advisory board, as the case may be, shall be final in this regard."*

- 6.4. Section 38 of the NEPRA Act also provides a mechanism for the determination of disputes between the consumers and the distribution licensee. The said provision reads as under:

*"38. Provincial offices of inspection.-(1) Each Provincial Government shall-*  
*(a) Establish offices of inspection that shall be empowered to*

*(i) Enforce compliance with distribution companies' instructions respecting metering, billing, electricity consumption charges, and decisions of cases of theft of energy; and*

*(ii) make determination in respect of disputes over metering, billing, and collection of tariff and such powers may be conferred on the Electric Inspectors appointed by the Provincial Government under section 36 of the Electricity Act, 1910 (Act IX of 1910), exercisable, in addition to their duties under the said Act.*

*(b) Establish procedures whereby distribution companies and consumers may bring violations of the instructions in respect of metering, billing, and collection of tariff and other connected matters before the office of inspection; and*

*(c) Enforce penalties determined, by the Provincial Government for any such violation.*

*(2) The Provincial Governments may, upon request by the Authority, submit to the Authority—*

*(a) .... (b) ...*

*(3) Any person aggrieved by any decision or order of the Provincial Office of Inspection may, within thirty days of the receipt of the order, prefer an appeal to the Authority in the prescribed manner and the Authority shall decide such appeal within sixty days."*

- 6.5. Here question arises whether disputes related to Section 26(6) of the Electricity Act, 1910 can be heard and decided by the POI, and thereafter appeal lies before the Advisory Board or NEPRA. Both enactments are special laws and provide a mechanism for the

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determination of disputes between consumers and licensees. Under section 38(1)(a)(ii) of the NEPRA Act, the Provincial Office of Inspection (POI) is empowered to determine in respect of disputes over metering, billing, and collection of tariff, and such powers are conferred on the Electric Inspectors appointed by the Provincial Government under section 36 of the Electricity Act, 1910 (IX of 1910), exercisable, in addition to their duties under the said Act. Through the Regulation of Generation, Transmission and Distribution of Electric Power (Amendment) Act, 2011 (XVIII of 2011), subsection (3) to section 38 of the NEPRA Act was inserted on 29.09.2011 whereby an appeal before NEPRA against the decision of POI regarding metering, billing, and collection of the tariff was provided. It is observed that the Provincial Office of Inspection is no different person rather Electric Inspector conferred with the powers of the Provincial Office of Inspection for deciding disputes between the consumers and the licensees over metering, billing, and collection of tariffs.

- 6.6. Further Section 45 of the NEPRA Act enumerates the relationship of the NEPRA Act with other laws and provides that the provisions of the Act, Rules, and Regulations made and licenses issued thereunder shall have the effect notwithstanding anything to the contrary contained and any other law. Rule and Regulation for the time being in force and any such law Rules or Regulations shall to the extent of any inconsistency, cease to have effect from the date this Act comes into force.
- 6.7. The honorable Lahore High Court in its reported Judgement *2018 PLD 399* decided that an appeal against the decision of the Provincial Office of Inspection (POI)/Electric Inspector lies with the Authority. Salient points of the judgment are as under:
- (i) Section 26(6) of the Electricity Act, 1910 the ambit and scope of dispute is confined only to the electricity meters/other measuring apparatuses while the scope of Section 38 of the NEPRA Act is much wider in comparison. Section 38 of the NEPRA Act empowers the Provincial Office of Inspection not only to enforce compliance with the instructions of the distribution companies regarding metering, billing, electricity consumption charges, and decisions in cases of theft of energy but also requires it to make determinations in respect of disputes over metering, billing, and collection of tariff.
  - (ii) The reading of the NEPRA Act quite clearly demonstrates that the dispute resolution mechanism provided in the Electricity Act, 1910 has now been replaced by the







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NEPRA Act, which law is later and is also much wider in its scope as it encompasses disputes over metering, billing, and collection of tariff.

(iii) Electricity being the Federal subject exclusively, any dispute in regard thereto between distribution companies and their consumers will necessarily have to be adjudicated upon by the Provincial Office of Inspection as per the dictate of the NEPRA Act.

(iv) Prior to the passing of the Eighteenth Amendment in the Constitution, electricity was placed on the concurrent list. With the introduction of the Eighteenth Amendment through the Constitution (Eighteen Amendment) Act, 2010 the concurrent list was abolished, and electricity was placed at Entry 4 of Part II of the Fourth Schedule where after it became exclusively a Federal subject.

(v) The two enactments i.e. Electricity Act, of 1910 and the NEPRA Act continue to exist side by side providing two different appellate fora to hear appeals against the orders of the Electric Inspector and the Provincial Office of Inspection. Both enactments are special laws. In a similar situation, the honorable High Court while rendering judgment in Writ Petition No. 6940 of 2013 titled "S.M. Food Makers and others v. Sui Northern Gas Pipelines, etc" held as follows:

*"It is now well settled that the general rule to be followed in case of conflict between two statutes is that the later abrogates the earlier one".*

(vi) Lahore High Court, in the above circumstances, declared that the decision rendered on a complaint filed before the Electric Inspectors shall be treated to have been given by the Provincial Office of Inspection and that the appeal against the decision of the Electric Inspector / Provincial Office of Inspection after the enactment of subsection (3) of Section 38 of the NEPRA Act shall lie before the Authority as defined in NEPRA Act.

6.8. Further, the observations of the Lahore High Court were also endorsed by the honorable Supreme Court of Pakistan vide its Judgement dated 08-03-2022 in Civil Petition 1244 of 2018 titled "GEPCO etc. v/s PTV & another" whereby it was held that a comparative reading of section 10 of Punjab (Establishment and Powers of Office of Inspection) Order, 2005 as well as section 38(3) of the NEPRA Act makes it abundantly clear that provisions of section 10 of the 2005 Order and section 38(3) are clearly in conflict. In view of the fact that the Ordinance is a Federal statute and admittedly the subject of electricity falls within the Federal Legislative List, it would prevail over the 2005 Order.

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6.9. In view of the above-quoted provisions of laws and Judgments, we are of the considered view that the disputes under Section 26(6) of the Electricity Act and 38(1)(a)(ii) are to be adjudicated by the Provincial Office of Inspection and NEPRA is the competent forum to decide the appeals. In view of the foregoing, the objection of the Appellant is dismissed.

6.10. **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 22.05.2023 under Section 38 of the NEPRA Act. POI pronounced its decision on 27.02.2024 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--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*

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*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.

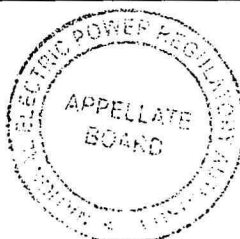
**6.11. Detection bill of Rs.118,883/- against 4,358 units for six (6) months for the period from March 2019 to August 2019:**

In the instant case, the Appellant claimed that M&T on 19.08.2019 detected that the impugned meter of the Respondent was intentionally tampered for committing theft of electricity. Thereafter, the Appellant debited a detection bill of Rs.118,883/- against 4,358 units for six (6) months for the period from March 2019 to August 2019 to the Respondent, which was challenged before the POI. The said forum cancelled the above detection bill against which the Appellant filed an instant appeal before the NEPRA.

6.12. Having found the above discrepancies, the Appellant was required to follow the procedure stipulated in Clause 9.1(b) of the CSM-2010 to confirm the illegal abstraction of electricity by the Respondent and thereafter charge the Respondent accordingly. However, in the instant case, the Appellant has not followed the procedure as stipulated under the ibid clause of the CSM-2010.

6.13. As per the judgment of the Supreme Court of Pakistan reported in *PLD 2012 SC 371*, the POI is the competent forum to check the metering equipment, wherein theft of electricity was committed through tampering with the meter and decide the fate of the disputed bill, accordingly. However, in the instant case, the Appellant did not produce the impugned meter for verification of tampering. To further verify the contention of the Appellant regarding the theft of electricity, the consumption data is analyzed in the below table:

| Period before dispute |             | Disputed period |             | Period after dispute |             |
|-----------------------|-------------|-----------------|-------------|----------------------|-------------|
| Month                 | Units       | Month           | Units       | Month                | Units       |
| Mar-18                | 70          | Mar-19          | 85          | Mar-20               | 235         |
| Apr-18                | 185         | Apr-19          | 310         | Apr-20               | 299         |
| May-18                | 296         | May-19          | 556         | May-20               | 369         |
| Jun-18                | 474         | Jun-19          | 321         | Jun-20               | 516         |
| Jul-18                | 469         | Jul-19          | 393         | Jul-20               | 394         |
| Aug-18                | 485         | Aug-19          | 468         | Aug-20               | 495         |
| <b>Total</b>          | <b>1979</b> | <b>Total</b>    | <b>2133</b> | <b>Total</b>         | <b>2308</b> |





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The above table shows that the total consumption of the Respondent is higher than the total consumption of the corresponding months of the previous year and slightly lesser than the total consumption of the corresponding months of the succeeding year. There is no significant increase in consumption observed during the corresponding period after the dispute, which could support the version of the Appellant regarding the illegal abstraction of electricity. Even otherwise, the Appellant may debit the detection bill maximum of three months to the Respondent being a general supply consumer i.e. A-1 in the absence of approval of the CEO as per Clause 9.1c(3) of the CSM-2010, whereas the Appellant debited the detection bill for six months to the Respondent due to the theft of electricity, which is in contravention of above-mentioned clause of CSM-2010. Hence, we are inclined to agree with the determination of the POI for the cancellation of the detection bill of Rs.118,883/- against 4,358 units for six (6) months for the period from March 2019 to August 2019.

6.14. Similarly, the determination of the POI for revision of the bills w.e.f March 2018 and onwards till the replacement of the impugned meter on DEF-EST code is not consistent with the facts of the case, hence the same is liable to be withdrawn to this extent.

7. In view of what has been stated above, it is concluded that:

7.1 The detection bill of Rs.118,883/- against 4,358 units for six (6) months for the period from March 2019 to August 2019 is unjustified and the same is cancelled.

7.2 The impugned decision for revision of the bills w.e.f March 2018 and onwards till the replacement of the impugned meter on DEF-EST code is not consistent with the facts of the case, hence the same is withdrawn to this extent.

7.3 The billing account of the Respondent may be overhauled, accordingly.

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

Abid Hussain  
Member/Advisor (CAD)

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

Naweed Illahi Sheikh  
Convener/DG (CAD)

Dated: 06-01-2025

