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

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No. NEPRA/Appeal/082/2024/ 471

May 22, 2025

1. Muhammad Zaman,
S/o. Khan Muhammad,
R/o. Post Office Khas Barilla,
Tehsil & District Gujrat

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,
Sultan Pura 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.082/2024 (LESCO vs. Muhammad Zaman) Against the Decision Dated 14.05.2024 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 22.05.2025 (10 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.082/POI-2024

Lahore Electric Supply Company Limited .....Appellant

Versus

Muhammad Zaman S/o. Khan Muhammad,
R/o. Post Office Khas Barilla, Tehsil & District Gujrat .....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

For the Respondent:
Nemo

DECISION

1. Brief facts leading to the filing of instant appeal are that Muhammad Zaman (hereinafter referred to as the "Respondent") is a commercial consumer of Lahore Electric Supply Company Limited (hereinafter referred to as the "Appellant") bearing Ref. No.12-11155-0992400-U with a sanctioned load of 01 kW and the applicable Tariff category is A-2(a). Metering and Testing (M&T) team of the Appellant checked the meter of the Respondent on 24.09.2023 and reportedly, the Respondent was found stealing electricity through tampering with the meter. FIR No.3781/2023 dated 25.09.2023 was registered against the Respondent due to the theft of electricity. Resultantly, a detection bill of Rs.372,279/- against 5,684 units for six (06) months for the period from March 2023 to August 2023 was charged by the Appellant to the Respondent based on the connected load i.e.6.897 kW (light load =4.397 kW+AC load= 2.5 kW) and added to the bill for October 2023.
2. Being aggrieved, the Respondent filed a complaint before the Provincial Office of Inspection, Lahore Region, Lahore (hereinafter referred to as the "POI") on 27.11.2023 and challenged the above detection bill. The matter was disposed of by the POI vide the

decision dated 14.05.2024, wherein the detection bill of Rs.372,279/- against 5,684 units for the period from March 2023 to August 2023 was cancelled and the Appellant was directed to revise the bills w.e.f June 2023 and onwards till the replacement of the impugned meter on DEF-EST code.

3. Subject appeal has been filed against the afore-referred decision dated 14.05.2024 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 24.09.2023 for the dishonest abstraction of electricity, therefore FIR No.3781/2023 dated 25.09.2023 was registered against the Respondent and a detection bill of RS.372,279/- against 5,684 units for the period from March 2023 to August 2023 was charged to the Respondent based on the connected load. As per the Appellant, the POI misconceived the real facts of the case as the above detection bill was debited to the Respondent on account of dishonest abstraction of energy under Section 26-A of the Electricity Act, 1910, reliance in this regard was placed on the various judgments of the honorable Supreme Court of Pakistan reported in PLD 2012 SC 371, PLD 2006 SC 328 and 2004 SCMR Page 1679. According to the Appellant, the POI failed to consider the consumption data and did not peruse the documentary evidence in true spirit. The Appellant submitted that the POI failed to decide the matter within 90 days, which is violative of Section 26(6) of the Electricity Act 1910. The Appellant further submitted that the POI has not taken into consideration that the complaint could not be entertained as no notice as required under Section 26(6) of the Electricity Act 1910 was served upon the Appellants before filing the same. The Appellant prayed that the impugned decision is not sustainable in law and the same is liable to be set aside.

4. **Proceedings by the Appellate Board**

Notice dated 16.08.2024 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days, which were not filed.

5. Hearing was fixed for 10.01.2025 at NEPRA Regional Office Lahore, wherein learned counsel appeared for the Appellant and no one entered appearance for the Respondent. During the hearing, learned counsel for the Appellant reiterated the same version as contained in memo of the appeal and contended that the billing meter of the Respondent was checked by the M&T team on 24.09.2023, wherein it was declared tampered,

therefore FIR No.3781/2023 dated 25.09.2023 was lodged against the Respondent and the detection bill amounting to Rs.372,279/- against 5,684 units for six (06) months was debited to the Respondent. As per learned counsel for the Appellant, the POI neither checked the disputed meter nor perused the consumption data and cancelled the above detection bill. Learned counsel for the Appellant defended the charging of the impugned detection bill and prayed that the same be declared as justified and payable by the Respondent.

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 In order 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 of 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:*

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 tariff 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 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 make the determination 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. In this regard, we take strength from section 45 of the NEPRA Act which describes the relationship of the NEPRA Act with other laws. It 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. Rules and regulations for the time being in force shall to the extent of any inconsistency, cease to have effect from the date this Act comes into force.

6.7. Furthermore, the CSM was made pursuant to section 21 of the NEPRA Act; meaning thereby it has the statutory backing and since NEPRA Act was promulgated later in time, therefore, the provisions of the NEPRA Act shall prevail over the provisions of the Electricity Act 1910. 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 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 in 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.

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. **Another objection of the Appellant 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 27.11.2023 under Section 38 of the NEPRA Act. POI pronounced its decision on 14.05.2024 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, 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.

6.11. **Objection regarding prior notice before approaching the POI:**

As regards another objection of the Appellant for not issuing notice as per the Electricity Act, 1910 by the Respondent before filing a complaint to the POI, it is elucidated that the matter was adjudicated by the POI under Section 38 of the NEPRA Act, 1997 and as per procedure laid down in Punjab (Establishment and Powers of Office of Inspection) Order, 2005, which do not require for service of any notice before approaching the POI. The above objection of the Appellant is not valid and, therefore, overruled.

6.12. **Detection bill of Rs.372,279/- against 5,684 units for six (06) months for the period from March 2023 to August 2023:**

In the instant case, the Appellant claimed that M&T on 24.09.2023 detected that the impugned meter of the Respondent was intentionally tampered and lodged an FIR against the Respondent. Thereafter, the Appellant debited a detection bill of Rs.372,279/- against 5,684 units for six (06) months for the period from March 2023 to August 2023 to the Respondent, which was challenged by the Respondent before the POI.

6.13. 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. From the submissions of the Appellant, it appears that the billing meter of the Respondent was checked and removed by the Appellant in the absence of the Respondent.

6.14. 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 before the POI for verification of the allegation regarding tampering.

6.15. To further check the contention of the Appellant regarding charging the impugned detection bill, consumption data is analyzed in the table below:

Year	2022	2023	2024
Month	Units	Units	Units
January	378	181	204
February	348	919	259
March	692	**312**	317
April	713	**312**	712
May	567	**393**	679
June	365	**632**	1071
July	531	**401**	696
August	539	**413**	436
September	390	300	426
October	239	0	448
November	235	0	375
December	210	282	307
Average	**434**	**345**	**494**

The above table shows that the normal average consumption charged during the disputed period is much less than the normal average consumption charged during the periods before and after the dispute. This indicates that the actual consumption was not recorded by the meter due to tampering with the meter, but this does not tantamount to the Appellant debiting the detection bill @ 1,363 units/month, which has never been recorded during the period before and after the dispute.

6.16. In view of the foregoing discussion, we are of the considered view that the detection bill of RS.372,279/- against 5,684 units for six (06) months for the period from March 2023 to

August 2023 charged by the Appellant to the Respondent is unjustified and the same is liable to be cancelled as already determined by the POI.

6.17. The discrepancy in the impugned meter of the Respondent was observed by the Appellant on 24.09.2023 and theft of electricity through tampering with the meter is confirmed through analysis of consumption data. The Respondent did not even join the proceedings before this forum to defend the case of theft of electricity. Under these circumstances, it would be fair and appropriate to debit the revised detection bill for the period from June 2023 to August 2023 to the Respondent on the basis of connected load i.e. 6.897 kW, as observed during the checking dated 24.09.2023. The impugned decision is liable to be modified to this extent.

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

7.1 The detection bill of Rs. 372,279/- against 5,684 units for six (06) months for the period from March 2023 to August 2023 is unjustified and cancelled.

7.2 The Appellant may charge the revised detection bill for three months for the period from June 2023 to August 2023 to the Respondent on the basis of connected load i.e. 6.897 kW, as observed during checking dated 24.09.2023.

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: 22-05-2025