



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

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No. NEPRA/AB/Appeal-011/POI-2015/ *666 — 670*

July 28, 2015

- | | |
|---|--|
| 1. M/s Taj International (Pvt.) Ltd
Through its Director,
Khalid Taj,
16-KM, Lahore Sheikhpura Road,
Lahore | 2. The Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore |
| 3. Ch. Khalil-Ur-Rehman
Advocate High Court,
Haji Chambers,
4-Mozang Road,
Lahore | 4. Muhammad Younas Chaudhary
Advocate,
Chaudhary Law Associates,
4-Begum Road, Lahore |
| 5. Sub Divisional Officer (E)
LESCO Ltd,
Kot Abdul Malik Sub Division,
Sheikhpura Road, Lahore | |

Subject: Appeal Titled LESCO Vs. M/s Taj International (Pvt.) Ltd Against the Decision Dated 30.12.2014 of the Electric Inspector/POI to Government of the Punjab Lahore Region, Lahore

Please find enclosed herewith the decision of the Appellate Board dated 28.07.2015, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(M. Qamar Uz Zaman)

No. NEPRA/AB/Appeal-011/POI-2015/ *671*

July 28, 2015

Forwarded for information please.

M. Q. Zaman
 Member Appellate Board

1. Registrar
2. Director (CAD)
3. Electric Inspector/POI, Lahore Region
4. Master File

CC:

1. Chairman
2. Vice Chairman/Member (CA) - *D/Reg - I*
3. Member (Tariff) - *M/F*
4. Member (M&E)
5. Member (Licensing)

~~Signature~~
28/07/15

Registrar	8/86
DY No.....	3/27-15
Dated.....	



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-011/POI-2015

Lahore Electric Supply Company Limited

.....Appellant

Versus

M/s Taj International Pvt. Ltd, Through its Director, Mr. Khalid Taj, 16-KM,
Lahore Sheikhpura Road, Lahore

.....Respondent

Date of Hearing:

23/06/2015

For the appellant:

Ch. Khalil-Ur-Rehman Advocate
Irfan Ghafoor RO
Malik Nisar Ahmed SDO

For the respondent:

Muhammad Younas Ch. Advocate

DECISION

1. This decision shall dispose of Appeal filed by Lahore Electric Supply Company Limited (hereinafter referred to as LESCO) against the order dated 30.12.2014 of the Provincial Office of Inspection/Electric Inspector Lahore Region, Lahore (hereinafter referred to as POI) under



National Electric Power Regulatory Authority

Section 38(3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (hereinafter referred to as "the Act").

2. As per facts of the case, LESCO is a licensee of National Electric Power Regulatory Authority (hereinafter referred to as NEPRA) for distribution of electricity in the territory specified as per terms and conditions of the license and the respondent is its industrial consumer bearing Ref No. 1142-0014500-5 and 1142-0018200-9 with sanctioned load 301 kW and 317 kW respectively under tariff B-2. This appeal in hand has been filed by LESCO against the decision dated 30.12.2014 of the POI under Section 38(3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (hereinafter referred to as "the Act").
3. After chain of litigations, the respondent filed an application dated 01.01.2013 before POI and challenged the detection bill amounting to Rs. 6,983,689/- dated 29.12.1997 for the period March 1996 to January 1997 as cost of 2,032,894 units plus 2,730 kW MDI.
4. The matter was decided by POI vide his decision dated 30.12.2014 and the operative portion of the decision is reproduced below:

"Summing up the foregoing discussion, it is held that the impugned detection bill amounting to Rs. 69,83,689/- as cost of 20,32,894 units/2730 KW MDI for the period from 03/1996 to 01/1997 is void, unjustified and of no legal effect; therefore, the petitioner is not liable to pay the same. However, the respondents are allowed to charge a revised bill for the period from 30.01.1997 to the date of replacement of impugned damaged meter/shifting of billing to an accurate meter, on the basis of the average monthly consumption recorded during the months of 03/1997 to 12/1997 being a healthy/undisputed consumption period after renovation of the factory, after excluding the already charged units during the said period, on the tariff rates applicable during 02/1997. The respondent are directed to overhaul the account of the petitioner accordingly and any excess amount recovered be adjusted in future bills.

The petition is disposed of in above terms."

12



National Electric Power Regulatory Authority

5. Being aggrieved with the above decision dated 30.12.2014 of POI, LESCO has filed the instant appeal through Ch. Khalil-Ur-Rehman Advocate before NEPRA under section 38 (3) of the Act. It is stated by LESCO that the meter of the respondent was checked by committee of responsible officers and according to the checking report ATB glass of the meter was found broken. LESCO submitted that an FIR was lodged against the respondent and a detection bill of Rs. 6,983,689/- for the period March 1996 to January 1997 was charged to the respondent after issuing notice. It is contended by LESCO that detection bill was challenged before Civil Court and subsequently it was withdrawn and a petition dated 01.01.2013 was filed before POI. According to LESCO the matter was contested before POI but POI vide its decision dated 30.12.2014 accepted petition of the respondent and held the impugned detection bill as void, unjustified and of no legal effect. LESCO pleaded that impugned decision dated 30.12.2014 was illegal, ultra vires, against facts and documents on record, hence liable to be set aside. LESCO finally prayed as under:

"In view of the above submissions, it is most respectfully prayed that appeal may be accepted, impugned order/decision dated 30.12.2014 passed by Electric Inspector, Government of the Punjab, Lahore Region, Lahore may kindly be set aside and Petition of the Respondent may please be dismissed with costs.

It is further prayed that pending decision of the appeal, operation of the impugned order/decision dated 30.12.2014 passed by Electric Inspector, Government of the Punjab, Lahore Region, Lahore may kindly be suspended.

Any other relief, which this Honourable Court deems fit and proper may also be awarded to the Appellants."

6. In response to the instant appeal a notice was issued to the respondent for submission of reply/parawise comments which were received on 26.02.2015. The respondent in his reply/parawise comments denied the assertions of LESCO and contended that the impugned decision dated 30.12.2014 given by POI did not suffer from any illegality, irregularity, infirmity or perversity and the same was therefore liable to be maintained.



National Electric Power Regulatory Authority

7. The hearing of appeal was fixed in Lahore on 23.06.2015 and notices were sent to both the parties. On the day of the hearing, both the parties were present. Ch. Khalil-Ur-Rehman Advocate, learned counsel appearing for LESCO submitted that the respondent deliberately damaged the meter. As per LESCO it was detected by a committee of responsible officers that ATB glass of the meter was broken. The learned counsel for LESCO stated that a detection bill amounting to Rs. 6,983,689/- for the period March 1996 to January 1997 for 2,032,894 units plus 2.730 kW MDI was issued to the respondent. He informed that the matter was challenged by the respondent before Honourable Lahore High Court Lahore and pursuant to Honourable Lahore High Court Lahore order dated 19.05.2000 the respondent approached POI and filed a petition before POI on 25.05.2000. During the proceedings before POI, learned counsel for the appellant informed that LESCO challenged jurisdiction of POI but the objection was over-ruled by POI vide order dated 24.07.2000. LESCO contended that the appellant filed an appeal against the order dated 24.07.2000 of POI before Punjab Advisory Board Lahore but the said appeal was also dismissed by Punjab Advisory Board vide its order dated 23.09.2000. He averred that a writ petition No. 22501/2000 was filed in the Honourable Lahore High Court Lahore against both the above impugned orders and the Honourable Lahore High Court Lahore decided that POI had no jurisdiction to adjudicate such disputes. According to learned counsel for LESCO, after the decision of Lahore High Court Lahore, the respondent filed a civil suit in the Civil Court Ferozwala vide the plaint dated 30.05.2007. The learned counsel for the appellant averred that during the pendency of the aforesaid suit, the respondent withdrew the appeal pursuant to the verdict of Honourable Supreme Court of Pakistan and filed an application dated 01.01.2013 before POI and challenged the impugned detection bill dated 29.12.1997 for Rs. 6,983,689/-. According to learned counsel for LESCO, the matter was contested before POI through arguments and relevant documents and it was proved that the detection bill was rightly charged to the respondent but the POI declared the detection bill as null and void, unjustified and of no legal effect. According to learned counsel for LESCO, the detection bill was justified and the respondent was liable to pay the same. Mr. Muhammad Younas Ch. Advocate, learned counsel for the respondent refuted the allegation of LESCO and contended that the respondent was not involved in tampering of the meter and theft of electricity. According to the learned counsel for the respondent, the meter was damaged by another person against whom FIR was



National Electric Power Regulatory Authority

lodged by the respondent and intimation regarding the damage of the meter was also given to LESCO. He defended the impugned decision of POI and asserted that the same was based of facts and law and shall be maintained accordingly.

8. We have heard arguments of both the parties and examined the record placed before us Following are our observations:

- i. Meter of the respondent was damaged by an ex-employee of the mill against whom FIR dated 30.01.1997 was lodged by the respondent.
- ii. FIR was also lodged by LESCO against the respondent for deliberately damaging the meter under section 39-A of Electricity Act, 1910 but the investigating agency exonerated the respondent.
- iii. A detection bill amounting to Rs. 6,983,689/- dated 29.12.1997 for the period March 1996 to January 1997 as cost of 2,032,894 units plus 2,730 kW MDI was issued to the respondent. Detection proforma provided by LESCO does not contain detailed calculation of the units and kW and no explanation was given by LESCO during hearing.
- iv. After series of litigation between the respondent and LESCO, an application dated 01.01.2013 was finally made by the respondent before POI and the detection bill amounting to Rs. 6,983,689/- dated 29.12.1997 for the period March 1996 to January 1997 as cost of 2,032,894 units plus 2,730 kW MDI was challenged.
- v. The allegation of theft of electricity was not proved against the respondent and moreover LESCO could not produce any evidence to support its contention that the respondent was responsible for dishonest abstraction of electricity.
- vi. LESCO failed to produce any document or policy for raising a detection bill in the relevant period. It is pertinent to mention that the Consumer Services Manual which was approved by NEPRA in April 2010 is not applicable in the instant case.

9. From the discussion in the foregoing paragraphs, we have reached to the conclusion that as determined by POI in the impugned decision, the detection bill of Rs. Rs. 6,983,689/- dated 29.12.1997 for the period March 1996 to January 1997 as cost of 2,032,894 units plus 2,730 kW

1



National Electric Power Regulatory Authority

MDI is void, unjustified and of no legal effect and the respondent is not liable to pay the same. We are in agreement with decision of POI that the respondent is liable to be charged from 30.01.1997 (dated on which the meter was damaged) to replacement of the damaged meter on the basis of average consumption during the period March 1996 to December 1997. There is no reason to interfere in the impugned decision of POI and the same is therefore upheld.


10. The appeal is dismissed accordingly.



Muhammad Qamar-uz-Zaman
Member



Muhammad Shafique
Member



Nadir Ali Khoso
Convener

Date: 28.07.2015

