



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

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No. NEPRA/AB/Appeal-014/POI-2015/ 755-759

August 20, 2015

1. Mian Muhammad Hanif  
S/o Mian Ali Muhammad,  
M/s Mian Muhammad Hanif Rice Mills,  
Depalpur Road, Baseer Pur,  
Tehsil Depalpur, District Okara
2. The Chief Executive Officer  
LESCO Ltd,  
22-A, Queens Road,  
Lahore
3. Mian Muhammad Mudassar Bodla  
Advocate Supreme Court,  
Syed Law Building, 4-Mozang Road,  
Lahore
4. Qaisar Mahmood Chaudhary  
Advocate High Court,  
4-A, Mozang Road,  
Lahore
5. Sub Divisional Officer  
LESCO Ltd,  
Baseer Pur Sub Division,  
Tehsil Depalpur, District Okara

Subject: Appeal Titled LESCO Vs. Mian Muhammad Hanif 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 19.08.2015, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(M. Qamar Uz Zaman)

No. NEPRA/AB/Appeal-014/POI-2015/ 760

August 20, 2015

Forwarded for information please.

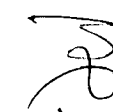
1. Registrar
2. Director (CAD)
3. Electric Inspector/POI, Lahore Region
4. Master File

CC:

1. Chairman
2. Vice Chairman/Member (CA)
3. Member (Tariff)
4. Member (M&E)
5. Member (Licensing)

  
Member Appellate Board

Registrar	2965
Dy No.....	.....
Dated 21-08-15	.....

  
21/08/15

- Dep-II  
- M/F



# National Electric Power Regulatory Authority

## Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-014/POI-2015

Lahore Electric Supply Company Limited

.....Appellant

Versus

Muhammad Hanif, S/o Mian Ali Muhammad, M/s Mian Muhammad Hanif Rice Mills, Main  
Depalpur Road, Baseer Pur, Tehsil Depalpur, District Okara

.....Respondent

For the appellant:

Mian Muhammad Mudassar Bodla Advocate

For the respondent:

Qaisar Mahmood Ch. Advocate

## DECISION

1. As per facts of the case, Lahore Electric Supply Company Limited (hereinafter referred to as 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. 27-11463-04747002 with sanctioned load 155 kW under tariff B-2.





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2. The respondent being aggrieved with the detection bill issued by LESCO of Rs. 6,577,388/- for 293,800 units/2386 kW for the period June 2010 to July 2013 charged in the bill for September 2013 due to 66 % slowness of the meter filed an application dated 07.08.2014 before POI and challenged the above bill.
3. The matter was decided by POI vide it's decision dated 30.12.2014 and the operative portion of the decision is reproduced below:

*"Summing up the foregoing discussion, it is held,*

- I. That the impugned TOU billing meter is slow by 68.09 % instead of 66.0 % slow as declared by the respondents.*
- II. That the impugned detection bill amounting to Rs. 65,77,388/- as cost of 293800 Kwh units/2386 KW MDI for the period from 06/2010 to 07/2013 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 detection bill for the period from 07/2012 to 06/2014 (as from 0/2014, the monthly billing was shifted to the newly installed TOU meter) after adding the declared 68.09 % slowness in the recorded Kwh units/MDI at the impugned TOU meter, after excluding the already charged units during the said period.*
- III. The respondents are directed to over-haul the account of the petitioner accordingly and any excess amount recovered be adjusted in future bills*

*The petition is disposed of in above terms."*

4. Being aggrieved with the above decision dated 30.12.2014 of POI, LESCO has filed the instant appeal while alleging that the meter of the respondent was checked by M&T-LESCO on 12.09.2012 and found that TOU meter was 66 % slow and backup meter was okay. LESCO submitted that a notice for charging difference of units of both the meters i.e. TOU and backup was issued to the respondent but he failed to reply and challenged the same in the court of Civil Judge Depalpur. LESCO informed that a difference bill of reading of TOU



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and backup meters for 335,572 units amounting to Rs. 6,577,388/- was issued to the respondent and billing was shifted on backup meter. The respondent filed a suit and challenged the same before Civil Judge Depalpur and the order dated 02.10.2013 of the Civil Judge Depalpur was challenged both by the appellant and the respondent before Additional District Judge Depalpur. Learned Additional District Judge vide order dated 07.01.14, set aside the impugned order dated 2.10.13 and also held that civil court lacks jurisdiction in that regard. According to LESCO, on the basis of the said order of learned Addl. District Judge, the learned trial court vide order dated 31.03.2014 rejected the plaint of the respondent which was challenged before District Judge Depalpur and the appeal is still pending there. LESCO contended that POI has no jurisdiction to entertain the petition during pendency of the civil litigation before the competent court of jurisdiction and principle of resjudicata is applicable. LESCO averred that the impugned order was passed by POI in haphazard, hasty and cursory manner and is liable to set aside. LESCO pleaded that the impugned order was patently illegal, void ab-initio and unwarranted by the law, hence liable to be set aside.

5. In response to the instant appeal a notice was issued to the respondent for submission of reply/parawise comments which were received on 22.04.2015. The respondent in his reply/parawise comments denied the submissions of the appellant and stated that POI was competent authority to conduct trial and adjudicate the matter and passed its judgment revealing the true spirit of law. According to the respondent the objection regarding the jurisdiction was not raised by the appellant before POI which amounts to admission of its jurisdiction and therefore the appellant are estopped to raise this objection at this stage.
6. After issuing notice to the parties, the appeal was finally heard in Lahore on 23.06.2014 in which both the parties were present. Mian Muhammad Mudassar Bodla Advocate, learned counsel for the appellant repeated the same arguments which have earlier been given in memo of the appeal. He argued that the difference bill of TOU billing meter (found 66 % slow) and backup electro mechanical meter for the period June 2010 to July 2013 was



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issued to the respondent and the respondent was liable to pay the same. The learned counsel for the appellant pointed out that the respondent had challenged the matter before civil court Depalpur and his appeal was pending before Addl. District Judge and therefore POI had no jurisdiction to entertain the petition of the respondent which was subjudice. According to LESCO the matter is still pending before the Court of learned Addl. District Judge and the principle of resjudicata is applicable in the instant case. Learned counsel for the appellant further submitted that Consumer Service Manual (hereinafter referred to as CSM) was not applicable as the bill served to the respondent was difference bill and not a detection bill and delay in charging of the difference bill did not legally prevent the appellant from making the claim. The learned counsel for the appellant prayed for acceptance of the appeal.

7. Mr. Qaisar Mahmood Ch. Advocate, learned counsel for the respondent rebutted the arguments of LESCO and stated that preliminary objection regarding jurisdiction was not raised by the appellant before POI and therefore LESCO was estopped from raising this objection before the Appellate Board. He averred that the impugned decision was given by POI with full consideration of facts and law. The learned counsel for the respondent requested for dismissal of the appeal.
8. We have heard arguments of both the parties and examined the record placed before us, it has been observed as under:
  - i. The objection of the appellant as to jurisdiction of POI due to pendency of litigation before civil Courts is without any substance because under the law, it is the POI who is the relevant forum to adjudicate such disputes and it was also held by learned Additional District Judge as well.
  - ii. The dispute between the parties is regarding the bill of Rs. 6,577,388/- for 293,800 units/2386 kW for the period June 2010 to July 2013 due to 66 % slowness of the TOU meter. There is no controversy regarding slowness of the TOU billing meter which was observed as 66 % by LESCO during checking on 12.09.2012 and confirmed as 68.09 % slow by POI during joint checking arranged on 20.11.2014.

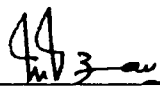



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However the period for which detection bill is to be charged due to slowness of the meter need to be determined.

- iii. Chapter 4 of CSM deals at length regarding the billing due to defective and slow meters. There is no force in the arguments of counsel for LESCO that CSM is not applicable in the instant case. The POI in the impugned decision has rightly determined that the respondent could be charged for a maximum of two billing cycles due to slowness of the meter as per provisions of CSM. Since the meter was checked on 12.09.2012 and found 66 % slow therefore the respondent was liable to be billed for the previous two months i.e. July 2012 and August 2012. The defective meter of the respondent was changed in July 2014 and therefore respondent is liable to be billed @ 68.09 % slowness for the period July 2012 to June 2014 only.

9. In view of foregoing discussion, it is concluded that POI in his impugned decision has rightly decided the matter and we do not find any reason to interfere with the same. The impugned decision is therefore upheld and appeal of LESCO is dismissed accordingly.

  
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Muhammad Qamar-uz-Zaman  
Member

  
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Muhammad Shafique  
Member

  
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Nadir Ali Khoso  
Convener

Date: 19.08.2015

