



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

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No. NEPRA/AB/Appeal-020/POI-2015/ 672—675

July 28, 2015

1. Lal Din
S/o Fazal Din,
R/o Wandala Dayal Shah,
Shahdara, Lahore
2. The Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore
3. Saeed Ahmed Bhatti
Advocate High Court,
2nd Floor, Akram Mansion,
Neela Gumbad, Lahore
4. Kashif Imran,
Sub Divisional Officer,
LESCO Ltd,
Rachna Town Sub Division,
Lahore

Subject: Appeal Titled LESCO Vs. Lal Din Against the Decision Dated 23.01.2015 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-020/POI-2015/ 676

July 28, 2015

Forwarded for information please.

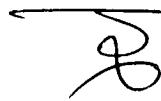

Member Appellate Board

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

CC:

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

D/fg-II


31/07/15

Registrar	8/87
DY No.	317715
Date	31/07/15



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-020/POI-2015

Lahore Electric Supply Company Limited

.....Appellant

Versus

Lal Din, S/o Fazal Din, R/o Wandala Dayal Shah, Shahdara, Lahore

.....Respondent

Date of Hearing:

23/06/2015

For the appellant:

Saeed Ahmed Bhatti Advocate
Kashif Imran SDO
Syed Qamar Abbas Naqvi Court Clerk

For the respondent:

Nadeem Afzal-Representative

DECISION

1. As per facts of the case, Lahore Electric Supply Company (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. 46-11121-0020905-U having sanctioned load of 15.17kW under B-1b tariff. This appeal in hand



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has been filed by LESCO against the decision dated 23.01.2015 of the Provincial Office of Inspection/Electric Inspector Lahore Region, Lahore (hereinafter referred to as "POI") under Section 38(3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (hereinafter referred to as "the Act").

2. A bill amounting to Rs. 861,551/- was issued to the respondent in April 2014 which contained the detection bill amounting to Rs. 821,309/- for 56,446 units net for the period October 2012 to February 2014. Being aggrieved with the said bill, the respondent filed an application dated 18.06.2014 and challenged the detection bill.
3. The matter was decided by POI vide its decision dated 23.01.2015 and the operative portion of the decision is reproduced below:

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

- I. *That the impugned detection bill amounting to Rs. 861,551/- for 56446 Kwh units for the period from from 10/2012 to 02/2014 charged on the load factor basis is void, unjustified and of no legal effect; therefore, the petitioner is not liable to pay the same.*
- II. *However, the respondents are allowed to charge a revised detection bill on the basis of the healthy average consumption of 1596 units per month recorded during the months of 12/2013 & 01/2014, against the disputed period from 02/2014 and onward till the replacement of the impugned meter, after excluding the already charged units during the said period. The respondents are directed to over-haul the account of the petitioner accordingly and any excess amount recovered be adjusted in future bills. They are also directed to restore the electric supply of the petitioner by installing an accurate meter at site.*

The petition is disposed of in above terms."



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4. Being aggrieved with the above decision dated 23.01.2015 of POI, LESCO has filed the instant appeal through Mr. Saeed Ahmed Bhatti Advocate before NEPRA under section 38 (3) of the Act. It is, inter alia, stated in the appeal that the impugned decision dated 23.01.2015 was against the facts and law. LESCO submitted that POI neither recorded evidence nor perused relevant record/consumption data in true prospective and announced the impugned decision which is illegal, unlawful, arbitrary, vague, misconceived, without jurisdiction, void ab-initio, biased and based on surmises and conjectures. Moreover LESCO contended that the impugned decision was ex-facie coram non-judice, and without jurisdiction insofar as the Electric Inspector has no power or jurisdiction to carry out proceedings after expiry of the mandatory period of 90 days as envisaged under section 26 (6) of the Electricity Act, 1910. According to LESCO, the Electric Inspector was bound to refer the matter to Provincial Government after the expiry of aforesaid statutory period. LESCO prayed as under:

"It is, therefore, most respectfully prayed that the appeal may very kindly be accepted and impugned decision of the Electric Inspector to Govt. of Punjab Lahore Region Lahore/POI dated 23.01.2015 may kindly be set aside and the detection bill as charged for the cost of 56440 net chargeable units for the period 10/2012 to 02/2014 on the basis of 12.9 KW connected load may kindly be declared as legal, valid and justified and the application moved by the respondent be dismissed with cost through out."

5. In response to the instant appeal a notice was issued to the respondent for submission of reply/parawise comments which were not submitted.
6. After issuing notice to the parties, the appeal was heard in Lahore on 23.06.2015 which was attended by both the parties. Mr. Saeed Ahmed Bhatti Advocate, learned counsel appearing for the appellants reiterated the same arguments which have earlier been given in memo of the appeal. He contended that the application was filed with POI on 18.06.2014 and impugned decision whereof was announced on 23.01.2015 after expiry of 218 days. Learned counsel for LESCO contended that pursuant to section 26 (6) of Electricity Act, 1910, Electric Inspector was bound to decide the matter within 90 days but he failed to do so and after expiry of 90 days,



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the matter was required to be referred to the Provincial Government for decision. Elaborating facts of the case, the learned counsel stated that meter of the respondent was checked by M&T LESCO on 27.03.2014 and was found 66 % slow and after issuing notice to the respondent detection bill of Rs. 861,551/- for the period October 2012 to February 2014 was issued by LESCO to the respondent. According to learned counsel for LESCO, the bill was justified and the respondent was required to pay the same. Mr. Nadeem Afzal appearing for the respondent submitted that impugned decision of POI was based on justice and the same shall be upheld.

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

- i. The meter of the respondent was checked by M&T LESCO on 27.03.2014 and was found 66 % slow due to yellow and blue phases being dead stop.
- ii. A bill amounting to Rs. 861,551/- was issued by LESCO to the respondent in April 2014. The bill is inclusive of detection bill Rs. 821,309/- for 56,446 units net for the period October 2012 to February 2014.
- iii. Disputed meter could not check by POI as it was already removed by LESCO.
- iv. Application dated 18.06.2014 filed by the respondent with POI against the impugned bill was decided by POI after expiry of 218 days. The POI decided the matter under section 38 of the Act and the objection raised by LESCO under provision of Electricity Act, 1910 (which is not applicable) is not valid and therefore liable to be rejected.
- v. As per provision of Consumer Service Manual (hereinafter referred to as CSM), Chapter 4.4e, the respondent could be charged for a maximum of two billing cycles due to slowness of the meter. Charging of the detection bill for period of 17 months is violative of CSM and has no justification.

8. From the foregoing discussion, it is concluded that:

- i. The detection bill amounting to Rs. 861,551/- for the period October 2012 to February 2014 is void, unjustified and of no legal effect and the determination of POI to this extent is endorsed.

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ii. LESCO may charge the detection bill to the respondent for 66 % slowness of the meter for the month January 2014 and February 2014 on the basis of consumption as recorded in months January 2013 and February 2013.

9. The appeal is dismissed accordingly.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Date: 28.07.2015