



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

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No. NEPRA/AB/Appeal-025/POI-2015/821-825

September 08, 2015

1. Muhammad Akram,
S/o Wali Muhammad,
R/o Mouza Touria, Sharakpur,
District Sheikhpura
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. A.D. Bhatti,
Advocate High Court,
Office No. 4, Rehmat Tower,
13-Fane Road, Lahore
5. The Assistant Manager (Op),
LESCO Ltd,
Sharaqpur Sub Division,
Lahore

Subject: Appeal Titled LESCO Vs. Muhammad Akram Against the Decision Dated 17.02.2015 of the Electric Inspector/POI to Government of the Punjab Lahore Region, Lahore

Please find enclosed herewith the decision of the Appellate Board dated 08.09.2015, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(M. Qamar Uz Zaman)

No. NEPRA/AB/Appeal-025/POI-2015/826

September 08, 2015

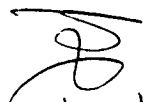
Forwarded for information please.


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)


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| Registrar | 9646 |
| DY No. | |
| Date | 11-09-15 |



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-025/POI-2015

Lahore Electric Supply Company Limited

.....Appellant

Versus

Ch. Muhammad Akram S/o Wali Muhammad, Mouza Touria, Sharaqpur, District Sheikhpura,
Lahore.

.....Respondent

For the appellant:

Muhammad Arif Malhi Advocate

For the respondent:

A.D Bhatti Advoacte

DECISION

1. Brief facts giving rise to the instant appeal are that 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. The respondent is agriculture consumer of LESCO bearing Ref No.45-11126-0028700 with a sanctioned load of 8 kW under D-1b tariff.



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2. As per facts of the case, the supply of respondent's connection was under permanent disconnection since year 2007. The supply was restored in October 2012 and a bill of Rs.71,864/- for 29,199 units was included as arrears in the bill for December 2013. The respondent being aggrieved with the aforementioned bill filed an application dated on 19.02.2014 before POI and inter-alia stated that LESCO had charged excessive units for the period in which the supply of his connection remained under disconnection. Finally the respondent prayed that the impugned bill amounting to Rs. 71,864/- added in the month of December 2013 may be set aside declaring the same as illegal and unlawful. The matter was decided by the Provincial Office of Inspection, Lahore Region Lahore (hereinafter referred to as POI) vide its decision dated 17.02.2015 with the following determination:-

"Summing up the foregoing discussion, it is held that the impugned arrears amount of Rs.71,864/- added in the bill for the month of 12/2013 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 revised monthly bills to the petitioner on the basis of 30% load factor for the months during which the electric supply of the petitioner was in running condition after excluding the already charged units and while calculating the monthly bill, the disconnected period of the petitioner's connection be excluded. The respondents are directed to over-haul the account of the petitioner accordingly and the excess amount recovered be adjusted in future bills. they are also directed to install an accurate meter at site for the purpose of monthly billing to avoid any further litigation in future."

3. Being aggrieved with the above decision date 17.02.2015 of POI, LESCO has filed instant appeal stating therein that the connection of the respondent was disconnected due to default amounting to Rs.1,117,457/- and although the connection was under permanent disconnection since August 2014 but it was illegally running at site . According to LESCO, meter of the respondent was jointly checked by Assistant Sub Electrical Inspector along with M&T staff and it was observed that the date and time of the TOU meter were upset but it was accurate and found within permissible limits. LESCO contended that the meter

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- installed at site was different from the meter noted in the electricity bill which showed that respondent was stealing the energy and therefore detection bill was rightly charged to the respondent. LESCO submitted that the impugned decision dated 17.02.2015 was illegal, ultra vires, against facts and documents on record, hence liable to be set aside. According to LESCO the impugned decision was based on surmises and conjectures and passed by POI without application of judicial mind. Finally LESCO prayed that the impugned decision may be set aside.
4. The respondent was issued notice for filing reply/parawise comments which were submitted on 29.07.2015 during the hearing. In his reply/ parawise comments the respondent stated that the appellant miserably failed to pin point any illegality/irregularity, infirmity or perversity in the impugned decision therefore the appeal was liable to be dismissed. The respondent contended that huge bill was served by LESCO to the respondent on the basis of fictitious units for the years 2007 to 2011 during which his connection remained permanently disconnected and was restored in October 2012. In the end the respondent prayed that the appeal may be dismissed.
 5. After issuing notice the appeal was heard in Lahore on 29.07.2015. Mr. Muhammad Arif Malhi Advocate, learned counsel for LESCO submitted that the respondent consumed electricity illegally despite disconnection during the period from year 2007 to October 2012. According to learned counsel for LESCO the bill was charged to the respondent for the energy which was actually consumed by him and recorded on the meter therefore he was liable to pay for the same. He prayed for setting aside of the impugned decision and acceptance of the appeal. Learned counsel for LESCO could not provide the detection performa and financial implications due to the impugned decision. Mr. A.D. Bhatti Advocate denied submissions of learned counsel for LESCO and submitted that the supply of the respondent's connection remained under disconnection during the years 2007 to 2011, was restored in October 2012 and arrear bill of Rs.71,846/- for consumption of 29,199 units was added in the bill for December 2013. According to learned counsel for the respondent



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the arrear bill was fictitious and was raised by LESCO to cover its line losses. He defended the impugned decision of POI which according to him was given after full consideration of facts and documents and in accordance with law. The learned counsel for the respondent prayed for dismissal of the appeal.

6. We have heard arguments of both the parties and examined the record placed before us. It is an admitted position by both the parties that as per record the respondent's connection was permanently disconnected but as alleged by LESCO that it was running at site during the years 2007 to 2011 and officially restored in October 2012. It is sheer negligence of staff of LESCO that it did not remove the equipment of the respondent's connection which was permanently disconnected and provided an opportunity for misuse of electricity. In the absence of detection performa it is presumed that the arrear bill of Rs.71,864/- for 29,199 units was charged to the respondent on account of the alleged consumption during the disconnected period of years 2007 to October 2012. From the meter consumption data provided by LESCO it is observed that after restoration of the connection in October 2012 the following units have been recorded by the TOU meter.

T1 = 14238 - 4505 = 9733 units

T2 = 15076 - 5343 = 9733 units

T3 = 17974 - 8241 = 9733 units

Total Units for October 2012 = 9733 x 3 = 29199 units

It is surprising to note that the number of units in all the three time zones i.e. T1, T2 & T3 are same which is practically not possible. As the time and date of the meter was found upset during the checking of meter on 26.01.2015 it appears that the total units consumed by TOU are 9,733 which are appearing in all the three time zones. This fact is also confirmed from the data of November 2012 where the consumption recorded in T1 and T2 was 0 but 2,336 units were registered as consumed in the T3 slot. Obviously the claim of LESCO is



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valid for only 9,733 units during the disputed period and not for 29,199 units as charged by LESCO to the respondent.

7. In the view of discussion in forgoing paragraphs it is concluded that the respondent is liable to be charged a bill for total 9,733 units which shall be divided in to peak and off-peak units as under:

$$\text{Peak} = 4/24 \times 9733 = 1622 \text{ units}$$

$$\text{Off-peak} = 20/24 \times 9733 = 8111 \text{ units}$$

The detection bill of Rs.71,864/- for 29,199 units charged by LESCO against the respondent in December 2013 is therefore correctly declared as null and void by POI in the impugned decision and the respondent is not liable to pay the same. LESCO is directed to charge the respondent 1,622 units in peak time and 8,111 units in off-peak time as calculated above and revise respondent's bill accordingly. The impugned decision of POI is modified to the above extent.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Date: 08.09.2015