



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

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No. NEPRA/AB/Appeal-048/POI-2015/ 871-874

September 08, 2015

1. M/s Muridke Enterprises (Pvt.) Ltd,
Through Imran Mustafa,
Manager, G.T. Road, Muridke,
District Sheikhpura
2. The Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore
3. Muhammad Arif Malhi,
Advocate High Court,
01-District Courts,
Sheikhpura
4. Assistant Manager (Operation),
LESCO Ltd,
City Sub Division, Muridke,
District Sheikhpura

Subject: Appeal Titled LESCO Vs. M/s Muridke Enterprises (Pvt.) Ltd Against the Decision Dated 22.04.2015 of the Electric Inspector/POI to Government of the Punjab Gujranwala Region, Gujranwala

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-048/POI-2015/ 875

September 08, 2015


Forwarded for information please.


Member Appellate Board

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

CC:

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


11/09/15
DRG-II/MIF

Registrar	9655
Dy No.	11-09-15
Dated	11-09-15



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-048/POI-2015

Lahore Electric Supply Company Limited

.....Appellant

Versus

M/s Muridke Enterprises (Pvt.) Ltd, G.T. Road; Muridke, District Sheikhpura.

.....Respondent

For the Appellant:

Muhammad Arif Malhi Advocate
Muhammad Arshad Malik Supervisor Legal

For the Respondent:

Nemo

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 an industrial consumer of LESCO bearing Ref No.27-11652-2601082 with a sanctioned load of 351 kW under B-2 tariff.
2. As per facts of the case, meter of the respondent was checked by Standing Committee LESCO on 05.03.2013 and reportedly difference of 51,680 units was observed between





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TOU billing meter and backup meter. Notice was issued and billing of the respondent was shifted on the backup meter and a bill for 110,080 units was issued to the respondent in May 2013. LESCO issued detection bill of Rs. 658029.67/- as bill adjustment in the bill for August 2013. During the course of proceedings the meter was checked by POI on 10.03.2015 in presence of both the parties and it was discovered that the TOU billing meter was 1.72 % slow and backup meter was found 0.9 % fast and as such both the meters were considered within permissible limit of error. It may be noted that as per rules 32 of Electricity Rule 1937 the permissible limits are +- 3 %.

3. The respondent being aggrieved with the above billing filed an application dated 26.09.2013 before Provincial Office of Inspection Gujranwala Region, Gujranwala (hereinafter referred as POI) and prayed as under:

"In view of the above submissions, it is humbly prayed that an order in favour of the petitioner and against the respondents may be passed to the effect that the impugned bill for 05/2013 to the extent of excessiveness/additional units and impugned detection bill for Rs. 6,58,029.67 demanded in the bill for 08/2013 are void, without jurisdiction and of no legal effect; therefore, the petitioner is not liable to pay the same. The respondent may be directed to refund the excessive amount recovered in the bill for 05/2013....."

4. The POI announced its decision on 22.04.2015 and concluded as under:

"In the light of above facts, it is held that the impugned TOU billing meter is slow by -1.72 % which is within the permissible limits of error as laid down in Rule 32 of the Electricity Rules 1937 and thus the TOU billing meter is correct whereas the alleged difference of TOU meter and backup meter as 51680 units is void, unjustified and of no legal effect; therefore, the petitioner is not liable to pay the same. The respondents are further directed to over-haul the account of the petitioner and any excess amount recovered be refunded to the petitioner in the future bills accordingly."



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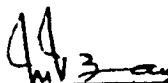
5. Being aggrieved with the impugned decision dated 22.04.2015 of POI, LESCO has filed the instant appeal while pleading that a difference of 51,680 units was discovered during the checking by Standing Committee on 05.03.2013 which was charged after issuing notice to the respondent. A detection bill of Rs. 658,029.67/- was issued to the respondent in August 2013 which was correct, justified and legal and the respondent was bound to pay. LESCO averred that impugned decision dated 22.04.2015 passed by POI was patently illegal, factually incorrect and had been passed totally in disregard of the fact and law on the subject. According to LESCO, slowness of the TOU billing meter was proved during checking by POI, hence there was no room to accept application of the respondent. LESCO contended that the impugned decision was passed by POI without application of judicious mind on the basis of surmises and conjectures. Finally it was prayed by LESCO that the impugned decision dated 22.04.2015 passed by POI be set aside in the interest of justice.
6. The respondent was issued notice for filing reply/parawise comments which were however not submitted.
7. After issuing notice to both the parties the hearing of appeal was held in Lahore on 17.08.2015. Mr. Muhammad Arif Malhi Advocate and Mr. Muhammad Arshad Malik Supervisor Legal appeared on behalf of LESCO and there was no representation on behalf of the respondent. Learned Counsel for the appellant reiterated the arguments earlier given in memo of the appeal. Learned counsel for the appellant stated that slowness of the meter was established during checking by Standing Committee LESCO on 05.03.2013 and joint checking by POI on 10.03.2015 and therefore detection bill for the difference of units between the TOU billing meter and backup meter of Rs. 658029.67/- charged in August 2013 was justified and the respondent was obligated to pay the same. He pleaded that decision of POI be set aside and appeal of LESCO be accepted.
8. We have heard arguments of learned counsel for LESCO and examined the record placed before us. It has been observed that the respondent was not associated in the meter checking by LESCO Standing Committee dated 05.03.2013 and no checking report was supplied by

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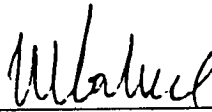
- LESCO to verify the status of health of both TOU and backup meters. Both the meters i.e. TOU billing and backup meter were found within permissible limit of error during the joint checking conducted by POI on 10.03.2015 which had not been controverted by any party. Moreover reference is made to WAPDA circular dated 28.02.2001 wherein it was provided that in case of discrepancy of reading between electromechanical backup and solid state TOU meters, the reading of the latter will be considered final. The POI has rightly determined that the TOU billing meter was correct and the difference of 51,680 units charged to the respondent due to difference between TOU billing and backup meter is void, unjustified and of no legal effect and therefore the respondent is not liable to pay the same.
9. In view of foregoing discussion we do not find any reason to interfere in the impugned decision dated 22.04.2015 of POI and therefore the same is upheld and the appeal of LESCO is dismissed accordingly.



Muhammad Qamar-uz-Zaman
Member



Muhammad Shafique
Member



Nadir Ali Khoso
Convener

Date: 08.09.2015