



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

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No. NEPRA/AB/Appeal-067/POI-2015/1087-1091

November 27, 2015

1. Dr. Farooq Saeed Khan
Chief Executive,
Farooq Hospital,
2-3, Asif Block,
Allama Iqbal Town,
Lahore
2. The Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore
3. Mirza Fazal Elahi Baig
Advocate High Court,
418-3-C-1, Umar Chowk,
Township, Lahore
4. Sub Divisional Officer
LESCO Ltd,
Allama Iqbal Town Sub Division,
Lahore
5. The Electric Inspector
Energy Department,
Govt. of Punjab,
Lahore Region, Block No. 1,
Irrigation Complex,
Canal Bank, Dharampura,
Lahore.

Registrar	124/18
By No.....	
Dated.....	30-11-15

Subject: Appeal Titled Farooq Saeed Khan Vs. LESCO Against the Decision Dated 30.06.2015 of the Electric Inspector/POI to Government of the Punjab Lahore Region, Lahore

Please find enclosed herewith the decision of the Appellate Board dated 27.11.2015, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(M. Qamar Uz Zaman)

No. NEPRA/AB/Appeal-067/POI-2015/1092

November 27, 2015

Forwarded for information please.

1. Registrar
2. Director (CAD)

30.11.15

Member Appellate Board

CC:

— 4/15-II
— mlf

1. Vice Chairman/Member (CA)



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-067/POL-2015

M/s Farooq Hospital, 03-Asif Block, Allama Iqbal Town, Lahore.

.....Appellant

Versus

Lahore Electric Supply Company Limited

.....Respondent

For the appellant:

Farooq Saeed Khan CEO

For the respondent:

Mirza Fazal Elahi Baig Advocate

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 distribution license and the appellant is its consumer bearing Ref No.24-11231-9005060 with a sanctioned load of 110 kW under A-2b tariff for the Hospital.
2. As per record, the meter of the appellant was checked by the standing committee LESCO in routine on 02.04.2013 and was found 33% slow due to red phase being dead stop. A notice dated 04.04.2013 was issued to the appellant by LESCO regarding the above discrepancy and recovery of the revenue loss owing to 33 % slowness of the meter. In response to the request of SDO LESCO to verify the discrepancy, checking of the impugned meter was arranged by



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Provincial Office of Inspection (POI) on 03.01.2014 and the impugned meter was observed to be 34% slow due to red phase being dead stop. To verify accuracy of the impugned meter a check meter was installed on 02.04.2014 and the impugned meter was once again checked by the standing committee LESCO on 06.07.2014 and it was declared 43.7% slow. In order to recover the revenue loss sustained by LESCO due to slowness of the meter a detection bill of Rs.786,020/- for 29,775 units for the period September 2012 to March 2013 was charged by LESCO to the appellant in November 2014 at the rate of 43.7% slowness of the meter.

3. The appellant being aggrieved with the claimed excessive billing of LESCO filed an application dated 17.12.2014 to POI and inter-alia, stated that the bill of November 2014 of extra ordinary huge amount of Rs.960,269/- was charged retrospectively by LESCO for past seven months without declaring the billing meter as defective. In response to his application the meter of the appellant was jointly checked by POI on 17.03.2015 and the billing meter was found 60% slow but the backup meter was found within British Standard and Specifications (BSS) limits. As per the appellant, it was liable to be charged at the rate of 33% slowness of the meter for the disputed period. The appellant pointed out that 268 kW MDI was also charged extra in the bill of November 2014. The appellant requested to POI that the bill of Rs.960,269/- charged retrospectively for the past seven months for 29,775 units plus 268kW at the rate of 43.7% slowness of the meter be withdrawn.
4. The complaint of the appellant was decided by POI vide its decision dated 30.06.2015(hereinafter referred to as "the impugned decision") and operative portion of the same is reproduced below:-

"Summing up the forgoing discussion, it is held that the impugned detection bill amounting to Rs.786,020/- as cost of 29775 units for the period from 09/2012 to 03/2013 added in the bill for the month of 11/2014 is justified and legal and the petitioner is liable to pay the same. 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 install an accurate meter at the petitioner's premises for the purpose of billing or shift the monthly billing on the backup meter."



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5. Being aggrieved from the impugned decision, the appellant has filed the instant appeal under section 38 (3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (hereinafter referred to as "the Act").
6. Notice of the appeal was served upon the respondent for filing of reply/parawise comments which were submitted by the respondent. The respondent in his reply/parawise comments stated that the meter of the appellant was found 43.7% slow by M&T checking team of LESCO and therefore, the detection bill amounting to Rs.786,020/- for 29,775 units for the period September 2012 to March 2013 was added in the billing month of November 2014 which was justified and legal and the appellant was liable to pay the same.
7. After issuing notice to both the parties, hearing of the appeal was conducted in NEPRA's Regional Office at Lahore on 11.11.2015 in which both the parties participated. Mr. Farooq Saeed Khan appeared for the appellant and Mirza Fazal Elahi Baig Advocate, appeared as counsel for LESCO. The appellant contended that the checking of his meter was conducted by M&T LESCO without intimation and his participation and the detection bill charged at the rate of 43.7% slowness was not justified because his meter was actually 33% slow which was evidenced from the M&T checking report of 02.04.2013. He pointed out that 43.7% slowness was discovered subsequently and it was not applicable to the disputed period i.e. September 2012 to March 2013. He submitted that the detection bill at the rate of 43.7% slowness for 29,775 units plus 268kW MDI was charged extra in November 2014 which was unjustified and need to be cancelled. The appellant averred that repair/replacement of the defective meter was the responsibility of LESCO and therefore, he was not liable to pay the detection bill for the failure of LESCO to replace the defective meter. Mirza Fazal Elahi Baig, learned counsel for LESCO pleaded that the billing meter of the appellant was found 43.7% slow by standing committee LESCO on 06.07.2014 and therefore, to recover the revenue loss sustained by LESCO, the detection bill of Rs.786,020/- for 29,775 units for the period September 2012 to March 2013 was charged to the appellant. According to the learned counsel of LESCO, slowness of the meter was established during subsequent joint checking arranged by POI on 17.03.2015. As per learned Counsel for the respondent, the detection bill was justified and the appellant was liable to pay the same.



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8. Arguments heard and record perused. It has been observed that the meter of the respondent was checked by LESCO on 02.04.2013 and it was found 33% slow. A detection bill of Rs.786,020/- for 29,775 units for the period September 2012 to March 2013 was charged to the appellant in November 2014 at the rate of 43.7% slowness of the meter. The meter of the appellant was jointly checked by POI on 17.03.2015 and was found 60% slow. Obviously the meter was defective and its slowness increased with the passage of time. Since 33% slowness was noticed on 02.04.2013 therefore, it will be applicable for the period prior to this checking. Moreover the appellant has conceded the 33% slowness of the meter for the period September 2012 to March 2013 and disputed charging of detection bill at the rate of 43.7% slowness during the same period. It is further observed that the applicable rate of slowness for the retrospective period of September 2012 to March 2013 for calculating the detection bill was 33% therefore, the detection bill charged at the rate of 43.7% slowness during that period is not justified and the appellant is not liable to pay the same.
9. In view of explanation given in the foregoing paragraphs, it is concluded that the detection bill of Rs.786,020/- for 29,775 units charged at the rate of 43.7% slowness for the period September 2012 to March 2013 and added in the bill of November 2014 is unjustified and therefore set aside. LESCO may charge the appellant at the rate of 33% slowness of the meter for the period September 2012 to March 2013. The impugned decision of POI is therefore set aside and LESCO is directed to issue revised bill accordingly after adjusting the payments already made by the appellant.

Muhammad Qamar-uz-Zaman
Member

Nadir Ali Khoso
Convener

Muhammad Shafique
Member

Date: 27.11.2015