



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

NEPRA Office, Atta Turk Avenue (East), G5/1, Islamabad  
Tel No. +92 051 2013200 Fax No. +92 051 2600028  
Website: [www.nepra.org.pk](http://www.nepra.org.pk) E-mail: [office@nepra.org.pk](mailto:office@nepra.org.pk)

No. NEPRA/AB/Appeals/070/2015 & 076/2015 / 1184-1189

December 15, 2015

1. M/s Pak Panther Spinning Mills (Pvt.) Ltd,  
(Unit No. II), 4.5 Km,  
Raiwind-Manga Road,  
Raiwind
2. The Chief Executive Officer  
LESCO Ltd,  
22-A, Queens Road,  
Lahore
3. Qaisar Mehmood Ch.  
Advocate High Court,  
Lawmen Associates,  
4-A, Mozang Road,  
Lahore
4. Saeed Ahmed Bhatti  
Advocate High Court,  
2<sup>nd</sup> Floor, Akram Mansion,  
Neela Gumbad, Lahore
5. Asif Mehmood  
SubDivisional Officer (Opr),  
Industrial Sub Division,  
LESCO Ltd,  
Manga Mandi, Multan Road,  
Lahore
6. The Electric Inspector  
Energy Department,  
Govt. of Punjab,  
Lahore Region, Block No. 1,  
Irrigation Complex,  
Canal Bank, Dharampura,  
Lahore.

Subject: Appeal Titled Ms/ Pak Panther Spinning Mills (Pvt.) Ltd Vs. LESCO and LESCO Vs. Ms/ Pak Panther Spinning Mills (Pvt.) Ltd 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 14.12.2015, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(M. Qamar Uz Zaman)

No. NEPRA/AB/Appeals/070/2015 & 076/2015 / 1190

December 15, 2015

Forwarded for information please.

1. Registrar
2. Director (CAD)

CC:

1. Vice Chairman/Member (CA)

Member Appellate Board

Registrar	13/12/15
By No.	
Dated	16-12-15

For n/a to.  
D/S-I/M/F 16/12/15



## National Electric Power Regulatory Authority

### Before Appellate Board

In the matter of

### Appeal No. NEPRA/Appeal-070/POI-2015

M/s Pak Panther Spinning Mills (Pvt) Limited  
units No. II 4.5 Manga Road, Lahore.

.....Appellant

Versus

Lahore Electric Supply Company Limited

.....Respondent

### Appeal No. NEPRA/Appeal-076 /POI-2015

Lahore Electric Supply Company Limited

.....Appellant

Versus

M/s Pak Panther Spinning Mills (Pvt) Limited  
units No. II 4.5 Manga Road, Lahore.

.....Respondent

For M/s Pak Panther Spinning Mills (Pvt) Limited:

Mr. Qaiser Mehmood Ch. Advocate

For Lahore Electric Supply Company Limited:

Mr. Saeed Ahmed Bhatti Advocate

Mr. Asif Mehmood AMO

### DECISION

1. Through this decision, the Appeal No. NEPRA/Appeal-070/POI-2015 and Appeal No. NEPRA/Appeal-076/POI-2015 filed against the decision dated 30.06.2015 of Provincial Office of Inspection (POI) are being disposed of.
2. Brief facts giving rise to the instant appeals are that Lahore Electric Supply Company Limited

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(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 M/s Pak Panther Spinning Mills (Pvt) Limited (hereinafter referred to as “the Mill”) is its industrial consumer bearing Ref No. 24-11919-9004303 with a sanctioned load of 1,850 kW under B3 tariff.

3. The metering equipment of the Mill was checked on 16.04.2012 by team of LESCO and reportedly the postal orders of the TOU meter box terminal cover and backup meter were found bogus and the Mill was found involved in stealing of electricity and therefore, FIR No.147/12 dated 16.04.2012 was registered by LESCO against the Mill. Electricity of the Mill’s connection was disconnected, billing metering panel room was sealed and handed over to police as Fard-e-Maqboozgi. A notice dated 16.04.2012 regarding the above illegality was issued and to recover the loss sustained by LESCO, a detection bill amounting to Rs.29,929,893/- for 3,907,154 units/1,816 kW on the basis of 80% load factor was charged to the Mill for the period August 2011 to March 2012 in April 2012. The Mill paid Rs.7 Million on 02.05.2012 and gave an undertaking dated 04.05.2012 for making the remaining amount in four equal installments at the rate of Rs.5,732,489/- per month. In this regard, the Mill issued four post dated cheques payable on 15<sup>th</sup> of each month from June 2012 to September 2012. However, the post dated cheques were bounced and a letter dated 23.08.2012 was sent by LESCO to police station Manga Mandi for lodging FIR against the Mill.
4. A petition was filed by the Mill before Lahore High Court Lahore against the aforementioned detection bill and the honorable High Court vide its order dated 18.05.2012 referred the matter to Electric Inspector with the direction to consider the same in accordance with law and issue speaking order. Pursuant to the directions of the honorable High Court, the Mill filed an application before POI and challenged the amount of Rs.29,929,893/- charged in the bill for the month of April 2012. On the plea that the same was illegal and unlawful and liable to be cancelled POI entertained the application and TOU meter of the Mill was jointly checked by POI at site on 23.04.2015 in which discrepancies regarding security slips were noticed.
5. POI announced its decision on 30.06.2015(hereinafter referred to as “the impugned decision”) and operative portion of the same is reproduced below:-



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*"Summing up the forgoing discussion, it is held that the impugned detection bill amounting to Rs.29,929,893/- as cost of 39,07,154 units/1816 KW MDI for the period from 08/2011 to 03/2012 (Eight months) charged in the month of 04/2012 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 on the basis of average consumption of 12,68603 units/2220 KW MDI against the disputed period from 10/2011 to 03/2012 (Six months) 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 and restore the electric supply of the petitioner accordingly."*

6. Being aggrieved with the impugned decision, both the parties filed appeals under section 38 (3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (hereinafter referred to as "the Act"). As the subject matter of both the appeals is same therefore both the appeals have been clubbed and being disposed of through a single decision.
7. After issuing notice to both the parties, the hearing of the appeals was conducted in NEPRA regional office Lahore on 27.10.2015. Mr. Qaiser Mehmood Ch Advocate represented the Mill and Mr. Saeed Ahmed Bhatti Advocate and Asif Mehmood AMO appeared for LESCO. Mr. Saeed Ahmed Bhatti Advocate the learned counsel for the LESCO raised preliminary objection regarding the jurisdiction of POI and submitted that the Mill was involved in dishonest abstraction of electricity for which FIR dated 17.04.2012 was lodged with local police station Manga Mandi. He stated that the detection bill amounting to Rs.29,929,893/- was duly prepared under section 26(A) of Electricity Act 1910 on account of dishonest abstraction of electricity for the cost of 3,907,154 kWh/1,816 kW on the basis of 80% load factor on the basis of highest MDI recorded that is 2,282 kW for the period August 2011 to March 2012 and same was charged to the Mill after fulfilling all the legal formalities. According to the learned counsel for LESCO, the detection bill charged was correct and justified which was acknowledged by the Mill, which made the down payment of Rs.7 Million and also gave an undertaking for payment of the remaining amount in four equal installments at the rate of Rs.573,468/- per month payable from June 2012 to September 2012 on 15th of each month. The learned counsel informed that in this regard, the Mill issued and handed over four number post dated cheques to

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LESCO. The learned counsel for LESCO contended that the metering equipment was checked by POI on 23.04.2015 in presence of both the parties and discrepancies detected by LESCO were confirmed. The learned counsel for LESCO argued that the detection bill charged to the Mill under section 26(A) of Electricity Act 1910 did not call for any interference/scrutiny by POI. In support of his version he made reliance on Supreme Court of Pakistan judgments reported in:-

- i. PLD 2012 Supreme Court 371
- ii. PLD 2006 Supreme Court 328
- iii. 2004 SCMR 1679

The learned counsel for LESCO pleaded that the matter was beyond the jurisdiction of POI therefore the impugned decision be set aside.

8. The learned counsel for the Mill rebutted the arguments of the learned counsel for LESCO and submitted that being a B3 connection, meter was regularly checked every month by the Executive Engineer (XEN) concerned for recording the meter readings. According to the learned counsel for the Mill, no discrepancy whatsoever was pointed out by the concerned XEN during his monthly checkings. He informed that the electricity was generated by the Mill through its gas operated generators during the hours of load shedding. The learned counsel for the Mill contended that as pointed out in the impugned decision LESCO failed to observe the procedure as laid down in clause 9.1b of the Consumer Service Manual (hereinafter referred to as CSM) for establishing illegal abstraction of electricity. Further, the learned counsel for the Mill submitted that the analysis of POI regarding the charging of kWh units /kW MDI was not proper and not justified. The learned counsel for the Mill pleaded that pursuant to the decision of honorable Supreme Court reported in PLD 2012, Supreme Court 371, POI is competent to adjudicate the matter as the theft is alleged through metering device and therefore, the objection of LESCO in this regard be dismissed. The learned counsel for the Mill denied the allegation of theft of electricity which according to him was not proved by LESCO and therefore charging of detection bill on this ground was not justified. He requested that the detection bill of Rs.29,929,893/- for 3,907,154 units/1,816 kW for the period August 2011 to March 2012 issued in April 2012 be set aside being illegal, void and without lawful authority.



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9. We have heard arguments of both the parties and examined record placed before us. It is observed that the Mill was allegedly involved in dishonest abstraction of electricity through tampering of metering equipment against which FIR was also registered and therefore, pursuant to the decision of Supreme Court of Pakistan reported in PLD 2012 Supreme Court 371, POI has the jurisdiction to adjudicate the instant complaint of the Mill and the objection of LESCO in this regard carries no weight and is therefore dismissed. It has further been observed that the quantum of electricity units consumed i.e. kWh and kW MDI have been rightly assessed by POI and the Mill is liable to pay bill at the rate of 1,268,603 units/ 2220 kW per month. As regards period of the detection bill, it is noticed that POI correctly determined it as six months which is in accordance with the provisions 9.1(c) (3) of CSM and accordingly the Mill is liable to be charged detection bill for the period October 2011 to March 2012. Finally it is concluded that the impugned decision is justified and in accordance with law and facts and liable to be maintained.
10. In view of foregoing discussion we do not find any reason to intervene in the impugned decision which is upheld and both the appeals are dismissed accordingly.

Muhammad Qamar-uz-Zaman  
Member

Nadir Ali Khoso  
Convener

Muhammad Shafique  
Member

Date: 14.12.2015