



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

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No. NEPRA/AB/Appeals/072/2015 & 087/2015/087-092

January 20, 2016

1. M/s Paradise Spinning Mills (Pv.) Ltd,
Through Admin Manager,
49-KM, Multan Road,
Phool Nagar, District Kasur
2. The Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore
3. M. Irfan Liaqat
Advocate High Court,
Office No. 202, Crystal Plaza,
1-Mozang Road, Lahore
4. Saeed Ahmed Bhatti
Advocate High Court,
2nd Floor, Akram Mansion,
Neela Gumbad, Lahore
5. Asif Mehmood
SubDivisional Officer (Opr),
Industrial Sub Division,
LESCO Ltd,
Manga Mandi, Multan Road,
Lahore
6. Electric Inspector
Energy Department,
Govt. of Punjab,
Lahore Region, Block No. 1,
Irrigation Complex,
Canal Bank, Dharampura,
Lahore.

Subject: Appeal Titled LESCO Vs. M/s Paradise Spinning Mills (Pvt.) Ltd and M/s Paradise Spinning Mills (Pvt.) Vs. LESCO Against the Decision Dated 23.06.2015 of the Electric Inspector/POI to Government of the Punjab Lahore Region, Lahore

Please find enclosed herewith the decision of the Appellate Board dated 19.01.2016, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(M. Qamar Uz Zaman)

No. NEPRA/AB/Appeals/072/2015 & 087/2015/093

January 20, 2016

Forwarded for information please.

1. Registrar
2. Director (CAD)

D/25-1/116

22/01/16

CC:

1. Vice Chairman/Member (CA)

Member Appellate Board

Registrar	748
By No.....	
Dated.....	22-01-16



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-072/POI-2015

Lahore Electric Supply Company Limited

.....Appellant

Versus

M/s Paradise Spinning Mills (Pvt.) Ltd, Through Admin Manager,
49-KM, Multan Road, Phool Nagar, District Kasur

.....Respondent

Appeal No. NEPRA/Appeal-087/POI-2015

M/s Paradise Spinning Mills (Pvt.) Ltd, Through Admin Manager,
49-KM, Multan Road, Phool Nagar, District Kasur

.....Appellant

Versus

Lahore Electric Supply Company Limited

.....Respondent

For Lahore Electric Supply Company Limited:

Mr. Saeed Ahmed Bhatti Advocate

Mr. Asif Mehmood SDO

For M/s Paradise Spinning Mills (Pvt.) Ltd:

M. Irfan Liaqat Advocate

DECISION

1. Through this decision, appeals No. N-072/POI-2015 and -087/POI-2015 filed against the decision dated 23.06.2015 of Provincial Office of Inspection (POI) are being disposed of.
2. 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 and M/s Paradise Spinning Mills (Pvt.) Ltd (hereinafter referred to as "the Consumer") is its industrial consumer bearing Ref No. 24-11919-9162000 with a sanctioned load of 2,500 kW under B3 tariff (hereinafter referred to as the Mill) and a residential colony consumer bearing reference No. 24-11919-9003901 attached to the Mill with a sanctioned load of 52 kW under H tariff (hereinafter referred to as the Colony).

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3. As per fact of the case both the Mill and the Colony connections remained under disconnection from April 2010 to November 2010 on the request of the Consumer. The electric supply of the Mill was restored on 18.12.2010 but electricity of the Colony was not restored as no application in this regard was submitted by the Consumer. However reportedly the Colony was supplied electricity through the Mill's meter. A difference bill of Rs. 969,862/- for 220,168 units for the period December 2010 to April 2013 was debited by LESCO to the Mill in the bill for May 2013 due to the difference of tariff from B-3 to H for the electricity consumed in the Colony. Average 2,302 units were assessed per month for the Colony considering its connected load of 52 kW and load factor as 20 % which was intimated to the Mill vide LESCO letter dated 19.06.2013. Notices regarding the above discrepancy were issued to the Mill on 27.03.2012 and 31.05.2013.
4. Being aggrieved with the above detection bill, the Consumer filed a petition before POI on 21.06.2013 and, inter alia, pleaded that the detection/arrears bill was unjustified and therefore be set aside. During the course of proceedings, POI decided to check installed load of the Colony on 18.02.2015 and notice in this regard was issued to both the parties but checking could not be carried out due to strike of LESCO staff. Subsequently, also the installed load of the Colony could not be verified by POI on 12.03.2015 due to lack of consensus between the parties. POI disposed of the petition vide its decision dated 23.06.2015 (hereinafter referred to as the impugned decision) with the conclusion that the impugned difference bill of Rs. 998,362/- for the period December 2010 to April 2013 due to conversion of tariff from B-3 to H in respect of the Colony for 220,168 units was unjustified and of no legal effect, therefore the Mill was not liable to pay the same. However in the impugned decision, LESCO was allowed to charge difference bill for conversion from B-3 to H tariff on the basis of average consumption 2,302 units per month recorded during the period May 2008 to January 2009 for the period from December 2010 to April 2011 and from October 2011 to April 2013 (24 months) excluding the period May 2011 to September 2011.
5. Being dissatisfied 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 have been clubbed and being disposed of through a single decision.

Both the parties were issued notice for filing reply/parawise comments. No comments were filed by LESCO but the Consumer submitted its comments on 25.11.2015 and denied the assertions of LESCO and

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prayed for dismissal of the appeal filed by LESCO.

7. After issuing notice to both the parties, the hearing of the appeals was conducted in NEPRA regional office Lahore on 19.12.2015, in which both the parties participated. Mr. Saeed Ahmed Bhatti Advocate and Mr. Asif Mehmood SDO appeared for LESCO and Mr. M. Irfan Liaqat Advocate represented the Consumer. Mr. Saeed Ahmed Bhatti Advocate the learned counsel for the LESCO reiterated the same arguments which have been given in its appeal and contended that the Consumer deliberately supplied its Colony from the existing connection of the Mill instead of reconnection of its electric supply through the Colony's own meter. According to learned counsel for LESCO, its was deliberate misuse of tariff since the tariff applicable to the Colony is H but it was charged under tariff B-3 as the Colony was being fed from the Mill's metered connection. The learned counsel for LESCO contended that the difference bill due to conversion of tariff from B-3 to H in respect of the Colony for the period December 2010 to April 2013 calculated on the basis of its sanctioned load, was justified and the Consumer was liable to pay difference bill of Rs. 969,862/-. M. Irfan Liaqat Advocate, the learned counsel for the Consumer disputed the assertions/contentions of the learned counsel for LESCO and submitted that the difference bill for the period April 2010 to April 2013 in respect of the Mill on the basis of the Colony's connected load of 52 kW had no justification and was liable to be set aside. The learned counsel for the Consumer averred that its request for restoration of the Colony's supply through its specific meter was not entertained by LESCO. He defended the decision of POI to the extent of average consumption of 2302 units per month calculated on the basis of consumption during the period May 2008 to January 2009. Learned counsel for the Consumer further argued that the Mill was purchased by the present owner in October 2011 and was put into operation in step by step mode and the Mill remained closed during May 2011 to September 2011. He prayed that the difference bill charged by LESCO is illegal and be set aside.
8. We have heard arguments of both the parties and examined record placed before us. It is observed that:
 - i. The Colony was supplied electricity through the Mill's connection on 18.12.2010 therefore it was charged under tariff B-3 instead of tariff H as approved for residential colonies. LESCO staff though pointed out this irregularity through its notices but failed to take appropriate action against the Mill or the Colony.
 - ii. We are not inclined to agree with the contention of the Consumer that the Colony remained vacant during the period May 2011 to September 2011 and there was no consumption by the Colony during

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that period. From the consumption record it is evident that though it was on lower side but the electricity was consumed by the Mill during the period May 2011 to September 2011. Even otherwise the Consumer failed to provide any documentary evidence to the effect that the Colony remained vacant during May 2011 to September 2011 and no electricity was consumed during that period. The determination of POI that electricity was continued to be supplied for a period of 24 months rather than 29 months is not based on actual facts.

- iii. The consumption history for the Colony as provided by LESCO during the period June 2007 to December 2010 is given below:

Month	KWH Units
Jan 07	18490
Feb 07	14571
Mar 07	21324
Apr 07	2740
May 07	26620
Jun 07	19020
Jul 07	23260
Aug 07	22980
Sep 07	20040
Oct 07	1120
Nov 07	3200
Dec 07	4560
Jan 08	3660
Feb 08	3980
Mar 08	3240
Apr 08	3780
May 08	3340
Jun 08	2500
Jul 08	4840
Aug 08	4951
Sep 08	3850
Oct 08	3970
Nov 08	4680
Dec 08	5760
Total	226476

Month	KWH Units
Jan 10	3600
Feb 10	4852
Mar 10	4650
Apr 10	3845
May 09	3600
Jun 09	3100
Jul 09	2850
Aug 09	2260
Sep 09	14650
Oct 09	8680
Nov 09	7150
Dec 09	4653
Jan 10	4156
Feb 10	3880
Mar 10	4140
Apr 10	4600
May 10	5800
Jun 10	5350
Jul 10	3960
Aug 10	4650
Sep 10	5600
Oct 10	3960
Nov 10	4670
Dec 10	5100
Total	119756

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From the above table the average consumption per during the period January 2007 to December 2010 month = $(226,476 + 119,756) / 48 = 7,213$ units per month. These 7,213 units per month are further split into Peak (P) and Off Peak hours (OP) as per applicable B-3 tariff:

- Average units per month charged under OP tariff = $5/6 \times 7,213 = 6,011$ units
 - Average units per month charged under P tariff = $1/6 \times 7,213 = 1,202$ units
- iv. It may be noted that H tariff is a non TOU tariff and its rate per unit remains the same for the entire day. Moreover there are no MDI/kW (fixed charges) applicable under H tariff.
- v. Sanctioned load of the Colony is 52 kW and therefore it will be appropriate to consider it's MDI as 26 kW for providing allowance to the Consumer.
- vi. In view the above explanation, the difference bill chargeable for change of tariff from B-3 to H due to consumption in the Colony is worked out as under:

Tariff applicable:

Financial Year	Tariff	Fixed charges Rs. Per kW	Peak Rs. Per kWh	Off Peak Rs. Per kWh
2010-11	B-3	380	10.99	6.25
	H	-	11.22	11.22
2011-12	B-3	380	14.7	9.2
	H	-	13.5	13.5
2012-13	B-3	380	18	12.2
	H	-	15	15

Difference bill chargeable:

Financial Year	Tariff already charged as per B-3			To be charged as per tariff H			Difference		
	OP Rs. Per kWh	Peak Rs. Per kWh	MDI Rs. Per kW	OP Rs. Per kWh	Peak Rs. Per kWh	MDI Rs. Per kW	OP Rs. Per kWh	Peak Rs. Per kWh	MDI Rs. Per kW
2010-11	6.25	10.99	380	11.22	11.22	0	4.97	0.23	-380
2011-12	9.2	14.7	380	13.5	13.5	0	4.3	-1.2	-380
2012-13	12.2	18	380	15	15	0	2.8	-3	-380



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Adjustments:

a. For the period December 2010 to June 2011 (07 months)

Amount Debitable due to difference of B-3 (OP) and H tariffs = $6,011 \times 4.97 = \text{Rs. } 29,875/-$

Amount Creditable due to tariff difference of B-3 (Peak) and H tariffs = $1,202 \times 0.23 = \text{Rs. } 276/-$

Amount Creditable due to tariff difference from B-3 to H for MDI = $26 \times 380 = \text{Rs. } -9,880/-$

Net amount debitale per month = $\text{Rs. } 20,271/-$

A. Total amount debitale = $20,271 \times 7 = \text{Rs. } 141,897/-$

b. For the period July 2011 to June 2012 (12 months)

Amount Debitale due to difference of B-3 (OP) and H tariffs = $6,011 \times 4.30 = \text{Rs. } 25,847/-$

Amount Creditable due to tariff difference of B-3 (Peak) and H tariffs = $1,202 \times 1.20 = \text{Rs. } -1,442/-$

Amount Creditable due to tariff difference from B-3 to H for MDI = $26 \times 380 = \text{Rs. } -9,880/-$

Net amount debitale per month = $\text{Rs. } 14,525/-$

B. Total amount debitale = $14,525 \times 12 = \text{Rs. } 174,300/-$

c. For the period July 2012 to April 2013 (10 months)

Amount Debitale due to difference of B-3 (OP) and H tariffs = $6,011 \times 2.80 = \text{Rs. } 16,831/-$

Amount Creditable due to tariff difference of B-3 (Peak) and H tariffs = $1,202 \times 3 = \text{Rs. } -3,606/-$

Amount Creditable due to tariff difference from B-3 to H for MDI = $26 \times 380 = \text{Rs. } -9,880/-$

Net amount debitale per month = $\text{Rs. } 3,345/-$

C. Net debitale = $3,345 \times 10 = \text{Rs. } 33,450/-$

d. Overall amount to be debited due to change of tariff from B-3 to H for the period December 2010 April 2013 = $A+B+C = 141,897 + 174,300 + 33,450 = \text{Rs. } 349,647/-$

vii. According to above calculation, a difference bill of $\text{Rs. } 349,647/-$ for the period December 2010 to April 2013 is chargeable due to conversion of tariff from B-3 to H for the electricity consumed by the Colony from Mill's connection.

viii. The impugned decision of POI allowing LESCO to charge a revised difference bill on the basis of average consumption of 2302 units per month for the period December 2010 to April 2011 and from October 2011 to April 2013 excluding May 2011 to September 2011 due to conversion of tariff from

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B-3 to H is not justified to this extent and liable to be set aside.

- ix. We are in agreement with the impugned decision to the extent that the difference bill amounting to Rs. 998,026/- added in the bill for the month of January 2015 on the basis of difference of tariff for 220,168 units for the period from December 2010 to April 2013 charged by LESCO is void, unjustified and of no legal effect; therefore, the Consumer is not liable to pay the same.
9. In view of foregoing discussion, it is concluded that the Consumer is liable to be charged a difference bill amounting to Rs. 349,647/- for the period December 2010 to April 2013 as per para 8(vii) due to change of the tariff from B-3 to H for the electricity consumed by the Colony through the Mill's meter.
10. The impugned decision of POI is modified to the above extent.

Muhammad Qamar-uz-Zaman
Member

Nadir Ali Khoso
Convener

Muhammad Siiafique
Member

Date: 19.01.2016