



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

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No. NEPRA/AB/Appeal-101/POI-2015/ 558-583

May 12, 2016

1. Bashir Ahmed
S/o Hafiz Sana Ullah,
R/o 132, G.T. Road,
Baghbanpura, Lahore
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. Ameer Hamza
Advocate High Court,
Office No. 8/9, Al-Majeed Centre,
First Floor, Link Farid Kot Road,
Lahore
5. Sub Divisional Officer (Opr)
LESCO Ltd,
Angoori Bagh Sub Division,
Lahore
6. Electric Inspector
Energy Department,
Govt. of Punjab,
Lahore Region, Block No. 1,
Irrigation Complex,
Canal Bank, Dharampura,
Lahore.

By No. 5077
Date 16-05-16

Subject: Appeal Titled LESCO Vs. Bashir Ahmed Against the Decision Dated 29.05.2015 of the Electric Inspector/POI to Government of the Punjab Lahore Region, Lahore

Please find enclosed herewith the decision of the Appellate Board dated 10.05.2016, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(Ikram Shakeel)

No. NEPRA/AB/Appeal-101/POI-2015/ 564

May 12, 2016

Forwarded for information please.

Ikram Shakeel
Assistant Director
Appellate Board

1. Registrar
2. Director (CAD)

CC:

1. Member (CA)

DD(IT)
D/Reg-II/MF

16.05.16



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-101/POI-2015

Lahore Electric Supply Company Limited

.....Appellant

Versus

Bashir Ahmed, S/o Hafiz Sana Ullah, R/o 132,
G.T. Road, Baghbanpura, Lahore

.....Respondent

For the appellant:

Mr. Saeed Ahmed Bhatti Advocate

For the respondent:

Mr. Ameer Hamza Advocate

DECISION

1. This decision shall dispose of an appeal filed by Lahore Electric Supply Company (hereinafter referred to as LESCO) against the decision dated 29.05.2015 of the Provincial Office of Inspection/ Electric Inspector Lahore Region, Lahore (hereinafter referred to as POI) under section 38 (3) of the Regulation of Generation, Transmission and Distribution of Electricity Power Act 1997 (hereinafter referred to as the Act).
2. As per facts of the case, the respondent is an industrial consumer of LESCO bearing consumer A/C. No. 46-11342-2519900 with a sanctioned load of 32 kW under tariff B-2b. A new digital meter was installed on the premises of the respondent's connection on 27.10.2009 and billing was shifted to the newly installed digital meter. Billing meter of the respondent was checked by Metering and Testing (M&T) LESCO on 23.10.2012 and black

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dot found on screen of the electricity meter. Notice dated 16.11.2012 was issued to the respondent and a detection bill of Rs. 68,013/- for 6,974 units/53 kW MDI, for the period April 2012 to September 2012 on load factor basis, was charged to the respondent along with fuel price adjustment (FPA) charges of Rs. 8,292/- in November 2012. The respondent was further charged bills @ 3,285 units/month for the period October 2012 to January 2013 (4 months) on the basis of load factor due to defective meter

3. Being aggrieved with the aforesaid detection bills, the respondent filed an application before POI on 20.05.2013. The electricity meter of the respondent was checked by representative of POI on 23.02.2015 in the presence of both the parties and display of the meter was found washed. The check meter existing along with the billing meter was also checked which was found accurate and working within BSS limits. POI disposed of the matter vide its decision dated 29.05.2015 and concluded as under:-

"Summing up the foregoing discussion, it is held,

- I. *That the impugned meter is declared as defective from October 2012 due to display washed out.*
- II. *That the impugned detection bill amounting to Rs.68,013/- as cost of 6,974 units/ 53 kW MDI for the period from 04/2012 to 09/2012 charged on load factor basis added in the bill for the month of 11/2012, charging of monthly bills from 10/2012 to 01/2013 on the basis of 3,285 units per month and charging of Fuel Adjustment amounting to Rs.8,292/- in the bill for the month of Nov-2012 are void, unjustified and of no legal effect; therefore, the petitioner is not liable to pay the same. However, the respondents are allowed to charge the revised monthly bills for the period from 10/2012 to 01/2013 on the basis of consumption recorded at the petitioner's premises during the corresponding period of the previous year i.e. from 10/2011 to 01/2013 after excluding the already charged units during the said period.*



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III. The respondents are directed to over-haul the account of the petitioner accordingly and any excess amount recovered be adjusted in future bills."

4. Being dissatisfied with POI decision dated 29.05.2015 (hereinafter referred to as the impugned decision), LESCO has filed the instant appeal. In its appeal LESCO inter alia submitted that the impugned decision was rendered by Electric Inspector after expiry of 90 days in violation of section 26 (6) of the Electricity Act, 1910 and as such the impugned decision is illegal, unlawful and nullity in the eye of law and liable to be set aside. LESCO finally prayed that the impugned decision be set aside and the detection bill of Rs. 68,013/- for 6,974 units/53 kW MDI for the period April 2012 to September 2012 on load factor basis, along with FPA of Rs. 8,292/- charged in November 2012 and further bills charged @ 3,285 units/month for the period October 2012 to January 2013 (4 months) on the basis of load factor be declared as legal, valid and justified.
5. Notice of the appeal was issued to the respondent for filing reply/parawise comments, which were filed by the respondent on 11.02.2016. The respondent in his reply/parawise comments rebutted the contentions of the appellant and prayed for dismissal of the appeal.
6. After issuing notice to both the parties, the appeal was heard at Lahore on 12.04.2016, in which both the parties were present. Mr. Saeed Ahmed Bhatti Advocate learned counsel for LESCO repeated the same arguments as contained in memo of the appeal. The learned counsel for LESCO pleaded that the meter of the respondent was found washed out with black spot during the checking by M&T LESCO on 23.10.2012 and the detection bill of Rs. 68,013/- for 6,974 units/53 kW MDI for the period April 2012 to September 2012 calculated on load factor basis along with FPA Rs. 8,292/- charged in November 2012 and further bills charged @ 3,285 units/month for the period October 2012 to January 2013 (4 months) on the basis of load factor be declared as legal, valid and justified. In his rebuttal, Mr. Ameer Hamza Advocate learned counsel for the respondent contended that the detection bills charged to the respondent were illegal and void and the respondent is not liable to pay the same. The learned counsel for the respondent submitted that the problem

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regarding washed display started in June 2012 but the meter display remained readable up to September 2012 and such intimation was given to LESCO. According to learned counsel for the respondent, there is no justification for charging the detection bill till September 2012 as the meter display was functional. According to learned counsel for the respondent, the detection bill of Rs. 68,013/- for 6,974 units/53 kW MDI for the period April 2012 to September 2012 on load factor basis was not justified and liable to be cancelled. As per learned counsel for the respondent, the assessed units were charged @ 3,285 units/month for the period October 2012 to January 2013 on the basis of load factor were also not justified. The learned counsel for the respondent pleaded that the detection bill of Rs. 68,013/- for 6,974 units/53 kW MDI for the period April 2012 to September 2012 along with FPA of Rs. 8,292/- charged in November 2012 and further bills charged @ 3,285 units/month for the period October 2012 to January 2013 (4 months) were not justified and the respondent is not liable to pay the same. The learned counsel for the respondent averred that the impugned decision was based on facts & law and liable to be maintained.

7. We have heard arguments of both the parties and examined the record placed before us. It has been observed as under;
- i. The meter was found defective during M&T LESCO on 23.10.2012 and the defective meter was replaced on February 2013.
 - ii. It is rightly analyzed and determined in the impugned decision that the meter became defective from October 2012 and as such the respondent is not liable to pay the detection bill amounting to Rs.68,013/- for 6,974 units/53 kW MDI for the period April 2012 to September 2012 charged in November 2012 on the basis of load factor. Impugned decision to this extent is maintained.
 - iii. The respondent was charged @ 3,285 units/month for the period October 2012 to January 2013 (4 months) on the basis of load factor. We are in agreement with the impugned decision that as per CSM, the respondent is liable to be billed for the period October 2012 to January 2013 on the basis of consumption of the corresponding period of the previous year i.e. October 2011 to January 2012.



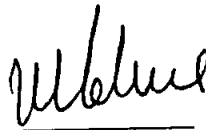
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Therefore the detection bills charged @ 3,285 units/month for the period October 2012 to January 2013 (4 months) on the basis of load factor are not justified and liable to be withdrawn. Impugned decision to this extent is maintained.


- iv. Since LESCO could not provide the rationale for the FPA of Rs. 8,292/- charged in November 2012. Therefore the same is declared null and void and of no legal effect. Impugned decision to this extent is maintained.
8. In view of the forgoing discussion, we do not find any reason to interfere with the impugned decision and the same is therefore, upheld. The appeal of LESCO is dismissed accordingly.



Muhammad Qamar-uz-Zaman
Member



Nadir Ali Khoso
Convener



Muhammad Shafique
Member

Date: 10.05.2016