



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

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No. NEPRA/AB/Appeal-035/POI-2016/

1196-1198

September 02, 2016

1. Shams Raza,
S/o Manzoor Hussain,
R/o Gali Babu Manzoor Wali,
Mohallah Ahmadpura,
Sheikhupura
2. The Chief Executive Officer
LESCO Ltd,
22-A Queens Road,
Lahore
3. Muhammad Arif Malhi,
Advocate High Court,
01-District Courts,
Sheikhupura
4. Assistant Manager (Opr),
LESCO Ltd,
City Sub Division,
Sheikhupura
5. Electric Inspector
Lahore Region, Energy Department,
Govt. of Punjab, Block No. 1,
Irrigation Complex, Canal Bank,
Dharampura, Lahore

Subject: **Appeal Titled LESCO Vs. Shams Raza Against the Decision Dated 26.11.2015 of the Electric Inspector/POI to Government of the Punjab Gujranwala Region, Gujranwala**

Please find enclosed herewith the Decision of the Appellate Board dated 02.09.2016, regarding the subject matter, for information and necessary action accordingly.

Encl: **As Above**

(Ikram Shakeel)

No. NEPRA/AB/Appeal-035/POI-2016/

1199

September 02, 2016

Forwarded for information please.


Assistant Director
Appellate Board

1. Registrar
2. Director (CAD)

CC:

1. Member (CA)



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-035/POI-2016

Lahore Electric Supply Company LimitedAppellant

Versus

Shams Raza S/o Manzoor Hussain R/o Gali Babu
Manzoor Wali, Molalla Ahmadpura, SheikhpuraRespondent

For the appellant:

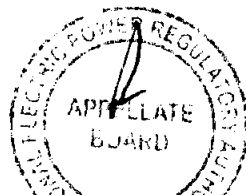
Mr. Muhammad Arif Malhi Advocate
Mr. Muhammad Muneer

For the respondent:

Mr. Qasim Raza

DECISION

1. This decision shall dispose of an appeal filed by Lahore Electric Supply Company Limited (hereinafter referred to as LESCO) against the decision dated 26.11.2015 of the Provincial Office of Inspection Lahore Region, Lahore (hereinafter referred to as POI) under Section 38(3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (hereinafter referred to as NEPRA Act 1997).
2. As per facts of the case, the respondent is a commercial consumer of LESCO bearing Ref No.16-11643-1734100U with a sanctioned load of 0.46 kW under A-1R tariff. Electricity meter of the respondent was checked by Metering and Testing (M&T) LESCO on 26.11.2013 and allegedly the respondent was involved in dishonest abstraction of electricity by making a hole in the meter body and the connected load was also noticed as 5 kW against the sanctioned load of 0.46 kW. A notice dated 29.11.2013





National Electric Power Regulatory Authority

was issued to the respondent and first detection bill of 2,780 units for the period September 2013 to November 2013 (3 months) was charged to the respondent on average load basis. Premises of the respondent was again checked by LESCO on 27.01.2014 and allegedly a shunt was found in the meter terminal block installed for stealing electricity by unfair means. Reportedly, the connected load was also noticed as 7kW. A notice was issued by LESCO to the respondent on 28.02.2014 and second detection bill for 2,903 units for the period December 2013 to February 2014 (3 months) was charged on average load basis. The respondent approached LESCO against above detection bills but there was no remedy, however the respondent received the bill of Rs. 123,232/- contained accumulated detection bill in March 2015.

3. Being aggrieved with the aforesaid detection bill of Rs. 123,232/-, the respondent initially approached Wafaqi Muhtasib and later on filed a Writ Petition No. 30961-14 in Lahore High Court Lahore. The honorable High Court vide its decision dated 20.11.2014 referred the matter to POI for further adjudication. Pursuant to Lahore High Court Lahore decision dated 20.11.2014, the respondent filed a petition before POI on 28.04.2015 and challenged the bill amounting to Rs. 123,232/- charged in March 2015. POI disposed of the matter vide its decision dated 26.11.2015, the operative portion of which is reproduced below:

“For the reasons what has been discussed above, it is held that impugned detection bills for 2780 units and 2903 units charged by respondents for the period from 09/2013 to 02/2014 are unjustified, void and of no legal effect: therefore the petitioner is not liable to pay the same. The respondents are directed to withdraw both the detection bills and charged revised detection bill of 366 units on the basis of undisputed consumption of corresponding months of onward period i.e. 09/2014 to 01/2015. The respondents are directed to overhaul the account of the petitioner accordingly.”





National Electric Power Regulatory Authority

4. Being dissatisfied with the decision of POI dated 26.11.2015 (hereinafter referred to as the impugned decision), LESCO has filed the instant appeal before NERPA under section 38 (3) of NEPRA Act 1997. LESCO in its appeal inter alia stated that premises of the respondent was checked by LESCO twice and on both the occasions, the meter was found tampered and the respondent was found involved in dishonest abstraction of electricity. As per LESCO, connected load was also much higher than the sanctioned load. According to LESCO, first detection bill of 2,780 units charged for the period September 2013 to November 2013 (3 months) and second detection bill of 2,930 units charged for the period December 2013 to February 2014 (3 months) were legal, valid and the respondent is liable to pay the same. LESCO prayed that the impugned decision was not based on fact and law and therefore liable to be set aside.
5. In response to the instant Appeal, a notice was issued to the respondent for filing reply/parawise comments, which, however, were not submitted.
6. Notice was issued to both the parties for hearing scheduled at Lahore on 15.07.2016. Mr. Muhammad Arif Malhi Advocate along with Muhammad Muneer coordinator appeared for the appellant LESCO and Mr. Qasim Raza appeared as representative of the respondent. Learned counsel for LESCO repeated the same argument as given in memo of the appeal and contended that premises of the respondent was checked twice and on both the occasions the respondent was found stealing electricity by tampering the electricity meter. As per LESCO learned counsel, both the detection bills charged to the respondent were legal and justified and the respondent is liable to pay the same. Learned counsel for LESCO further contended that POI failed to decide the matter within the stipulated time period of 20 days as per directions of Lahore High Court, therefore it became invalid. LESCO submitted that the impugned decision was not based on merit and liable to be cancelled. Representative of the respondent denied the allegation of theft leveled by LESCO and contended that no notice was served to the respondent prior to the





National Electric Power Regulatory Authority

inspection carried out by LESCO. The representative of the respondent pointed that the new meter installed on the premises recorded more than the actual consumption. Representative of the respondent defended the impugned decision and prayed for upholding the same.

7. We have heard the arguments of both parties and examined the record placed before us. It is observed as under:

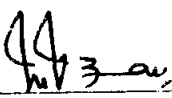
- i. First detection bill of 2,780 units for the period September 2013 to November 2013 (3 months) and second detection bill for 2,903 units for the period December 2013 to February 2014 (3 months) charged on the basis of average load. Both the detection bills were challenged by the respondent vide its application dated 28.04.2015.
- ii. The respondent's premises was checked twice and on both the occasions allegedly, the respondent was found involved in dishonest abstraction of electricity. Pursuant to clause 9.1c (3) of the Consumer Service Manual (CSM), the respondent being domestic consumer could be charged the detection bill for 3 billing cycles. Therefore the detection bills charged to the respondent for the period September 2013 to February 2014 (6 months) were not consistent with the provisions of CSM and liable to be declared as null and void. Impugned decision to this extent is liable to be maintained.
- iii. The respondent is liable to be charged the detection bill of 2,903 units for the period December 2013 to February 2014 (3 months) only as already charged by LESCO. The decision of POI to charge the detection bill @ 366 units per month for the period September 2014 to January 2015 is not justified and liable to be withdrawn.
- iv. Direction was given to POI by honourable Lahore High Court Lahore vide its decision 20.11.2014 for deciding the matter within 20 days by but there was no consequence for its failure to do so. Therefore the objection of LESCO regarding declaring the decision invalid in this regard has no force and therefore is dismissed.

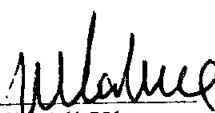





National Electric Power Regulatory Authority

8. In view of foregoing discussion, we have reached to the conclusion that:
- i. The detection bills for the disputed period September 2013 to February 2014 (6 months) charged to the respondent on the basis of 20% load factor are declared as null and void and the respondent is not liable to pay the same as determined in the impugned decision.
 - ii. The respondent is liable to be charged the detection bill total for 2,903 units for the period December 2013 to February 2014 (3 months) only
9. The impugned decision is modified in above terms.


Muhammad Qamar-uz-Zaman
Member


Nadir Ali Khoso
Convener


Muhammad Shafique
Member

Date: 02.09.2016

