



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

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No. NEPRA/AB/Appeal-067/POI-2016/ *1362-1366*

November 03, 2016

1. Qaiser Mahmood,  
Advocate High Court,  
Lawmen Associates,  
4-A, Mozang Road, Lahore
2. The Chief Executive Officer  
LESCO Ltd,  
22-A Queens Road,  
Lahore
3. Mian Habib-ur-Rehman,  
Advocate High Court,  
Second Floor, Mian Chambers,  
I-Fane Road, Lahore
4. AM/ SDO (Opr),  
LESCO Ltd,  
Saddar Sub Division,  
Lahore
5. Electric Inspector  
Lahore Region, Energy Department,  
Govt. of Punjab, Block No. 1,  
Irrigation Complex, Canal Bank,  
Dharampura, Lahore

Subject: **Appeal Titled LESCO Vs. M/s Ashian Guest House Against the Decision Dated 23.02.2016 of the Electric Inspector/POI to Government of the Punjab Lahore Region, Lahore**

Please find enclosed herewith the Decision of the Appellate Board dated 01.11.2016, regarding the subject matter, for information and necessary action accordingly.

Encl: **As Above**

(Ikram Shakeel)

No. NEPRA/AB/Appeal-067/POI-2016/ *1367*

November 03, 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-067/POI-2016

Lahore Electric Supply Company Limited .....Appellant

Versus

M/s Ashiana Guest House, Plot No.05, Housing Society Scheme,  
Saint Jan Park Lahore Cantt, Lahore .....Respondent

#### For the appellant:

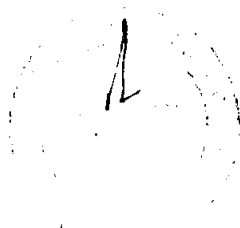
Mian Habib-ur-Rehman Advocate  
Mr. Usman Ijaz SDO

#### For the respondent:

Mr. Qaiser Mahmood Ch. Advocate  
Mr. Shahzad Ahmed

### DECISION

1. Through this decision, an appeal filed by Lahore Electric Supply Company Limited (hereinafter referred to as LESCO) against the decision dated 23.02.2016 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 Electric Power Act 1997 (hereinafter referred to as the NEPRA Act 1997) is being disposed of.
2. As per facts of the case, the respondent is a consumer of LESCO having a commercial connection bearing Ref No. 24-11542-1324000 U with a sanctioned load of 17 kW under A-2C tariff (hereinafter referred to as the commercial connection) and a domestic connection bearing Ref No. 17-11542-1323903-U with a sanctioned load of 5 kW under





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A-1R tariff (hereinafter referred to as the domestic connection). The domestic connection was installed on 29.04.2013. Metering equipment of the respondent was checked by metering and testing (M&T) LESCO on 17.07.2013 and allegedly the electricity meter of the domestic connection was found tampered, a remote control device installed in the meter for theft purpose and moreover electricity of the domestic connection was being consumed for commercial purpose. Supply of both connections was disconnected by LESCO on 17.07.2013 and both the meters along with 25 kVA transformer were removed from the premises of the respondent. Notice dated 17.07.2013 for above illegalities was issued by LESCO to the respondent and FIR No. 104/2013 was also registered against the respondent on 18.07.2013. Subsequently a detection bill amounting to Rs. 1,399,272/- of 66,632 units for the period 30.04.2013 to 17.07.2013 (78 days) was charged against the domestic connection of the respondent in September 2013.

3. The respondent filed two civil suits in the Civil Court, Lahore on 06.09.2013 and 27.09.2013 respectively for restoration of supply and against the detection bill of Rs. 1,399,272/- of 66,632 units for the period 30.04.2013 to 17.07.2013 (78 days) charged against the domestic connection in September 2013. Pursuant to the directions of Civil Court, Lahore and CEO LESCO, an amount of Rs. 466,424/- being 1/3<sup>rd</sup> of the aforementioned detection bill was deposited by the respondent. Subsequently the respondent filed an application on 20.01.2015 for withdrawal of two civil suits and submitted an application before POI on 20.01.2015 and challenged the aforesaid detection bill. The matter was disposed of by POI vide its decision dated 23.02.2016 with the following conclusion:

*“Summing up the aforesaid discussion, it is held that (I) The detection bill amounting to Rs.1,399,272/- for 66,632 KWII for the period of 29.04.2013 (date of installation of domestic mete) to 17.07.2013 (the date of removal of the meter) against the domestic connection is held as null, void and illegal and not payable by the petitioner. Respondents/LESCO Authorities are directed to charge the detection bill for 3,943 KWII for*



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*the above mentioned period (29.04.2013 to 17.07.2013) against the domestic connection accordingly. (II) Respondents/LESCO Authorities are directed to refund excessively charged amounts against the domestic connection, restore the domestic supply of the petitioner and overhauling the account of the petitioner accordingly.”*

4. LESCO, being dissatisfied with the decision of POI dated 23.02.2016 (hereinafter referred to as the impugned decision) has filed the instant appeal before NEPRA under section 38 (3) of the NEPRA Act 1997. In its appeal, LESCO inter alia stated that the respondent was caught stealing electricity, therefore FIR No. 104/2013 was registered against him and a detection bill amounting to Rs. 1,399,272/- of 66,632 units for the period 30.04.2013 to 17.07.2013 (78 days) was charged against the domestic connection in September 2013, which is legal, justified and the respondent is liable to pay the same. LESCO pointed out that the impugned decision was void, ab-initio and coram non judice as it was announced by POI on 23.02.2016 after expiry of 90 days of filing of the application in violation of section 26(6) of the Electricity Act 1910 and therefore liable to be set aside.
5. The respondent filed reply/parawise comments to the appeal on 20.05.2016 and denied the allegation of theft of electricity. According to the version of the respondent, the equipment “meters and transformer” of his premises were removed by LESCO without any notice, which was illegal. The respondent pleaded that the detection bill amounting to Rs. 1,399,272/- of 66,632 units for the period 30.04.2013 to 17.07.2013 (78 days) charged against his domestic connection in September 2013 is not justified and violative of chapter 9 of consumer service manual (CSM).
6. Notice was issued to both the parties for the hearing scheduled at Lahore on 29.08.2016, in which both the parties participated. Mian Habib-ur-Rehman advocate, counsel for the appellant LESCO raised preliminary objection regarding the maintainability of impugned decision, announced by POI beyond the period of 90 days and contended that it is void under section 26(6) of Electricity Act 1910 and liable to be dismissed on this ground. In this regard, reliance was placed on the case of “WAPDA vs. M. Amir Malik etc” reported in



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2006 YLR 2612. The representative of LESCO informed that the case against the respondent for theft of electricity is still pending before the court of law. According to the learned counsel for LESCO, the detection bill amounting to Rs. 1,399,272/- of 66,632 units for the period 30.04.2013 to 17.07.2013 (78 days) charged against the domestic connection in September 2013 was justified and the respondent is liable to pay the same. Mr. Qaiser Mahmood advocate the counsel for the respondent rebutted the arguments of LESCO and averred that the respondent was not involved in the theft of electricity. He contended that there was no remarkable increase in the consumption of electricity after removal of the "remote control device" which supported their stance. The learned counsel pointed out that due to disconnection of electric supply and removal of transformer, respondent's guest house remained vacant for more than 8 months causing heavy financial loss. The impugned decision was defended by the respondent.

7. Arguments heard, record perused, Following has been observed:

- i. Preliminary objection of LESCO for announcement of impugned decision after expiry of 90 days is not valid, since the impugned decision was rendered by POI under section 38(3) of the NEPRA Act 1997, which does specify time limit, therefore objection of LESCO in this regard is over ruled. The time period referred may be relevant for the Electric Inspector who performed its functions under Electricity Act, 1910, however, this appeal is being heard against a decision of POI which was established under NEPRA Act, 1997.
- ii. FIR No.103/2014 was registered and the detection bill of Rs.1,399,272/- of 66,632 units for the period 30.04.2013 to 17.07.2013 (78 days) was charged by LESCO against the domestic connection in September 2013. Since the theft of electricity was alleged through tampering of meter, POI was competent to adjudicate the matter as per decision of honorable Supreme Court. Reliance is placed on PLD 2012 Supreme Court 371.





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iii. The detection bill of Rs.1,399,272/- of 66,632 units for the period 30.04.2013 to 17.07.2013 (78 days) charged against the domestic connection in September 2013 but allegedly supply of the domestic connection was dishonestly used for the commercial purpose. Therefore analysis will be made by taking into consideration the consumption of commercial consumer, which is given below:

- Consumption charged for the disputed period i.e. 30.04.2013 to 17.07.2013 as per detection proforma = **66,632 units.**
- Consumption for the corresponding preceding period i.e. 30.04.2012 to 17.07.2012 = consumption of (May 2012+ June 2012 + 17 days of July 2012) =  $4,795 + 4,795 + 17/31 \times 5,180 = \mathbf{12,430 \text{ units.}}$
- Consumption for the corresponding succeeding period = i.e. 30.04.2014 to 17.07.2014 = consumption of (May 2014+ June 2014 + 17 days of July 2014) =  $4,628 + 4,424 + 17/31 \times 3,071 = \mathbf{10,736 \text{ units.}}$

It is evident from the above table that detection bill of 66,632 units charged during the disputed period is remarkably higher than the consumption of corresponding undisputed periods (prior/after). Therefore the detection bill amounting to Rs. 1,399,272/- of 66,632 units for the period 30.04.2013 to 17.07.2013 (78 days) charged by LESCO against the domestic connection bearing Ref No. 17-11542-1323903-U in September 2013 was not justified and liable to be withdrawn as determined in the impugned decision.

iv. It would be fair and appropriate to charge 12,430 units for the disputed period i.e. 30.04.2013 to 17.07.2013 as recorded in the corresponding preceding undisputed period. We are not inclined to agree with the calculation of POI in the impugned decision for charging the detection bill of 3,934 units for the disputed period 30.04.2013 to 17.07.2013 (78 days) against the domestic connection on the basis of



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connected load. Impugned decision to this extent is liable to be modified.

8. In view of foregoing discussion, we have reached to the conclusion that:

- i. The detection bill amounting to Rs. 1,399,272/- of 66,632 units for the period 30.04.2013 to 17.07.2013 (78 days) charged by LESCO against the domestic connection bearing Ref No. 17-11542-1323903-U in September 2013 is null and void as determined in the impugned decision.
- ii. The respondent is to be charged the detection bill of 12,430 units for the period from 30.04.2013 to 17.07.2013 (78 days). Impugned decision to this extent stands modified.
- iii. Consumer account of the respondent should be overhauled accordingly.

9. The appeal is disposed of in above terms.

Muhammad Qamar-uz-Zaman  
Member

Muhammad Shafique  
Member

Nadir Ali Khoso  
Convener

Date: 01.11.2016

