



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

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No. NEPRA/AB/Appeal-116/POI-2015/ 221-226

February 23, 2016

1. Meraj Din
S/o Allah Ditta,
R/o Village Warn,
P.O. Same,
Tehsil & District Sheikhpura
2. The Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore
3. Muhammad Arif Malhi
Advocate High Court,
No. 1, District Courts,
Sheikhpura
4. Muhammad Iftikhar Shah
Advocate Supreme Court of Pakistan,
Galaxy Law Chambers,
1-Turner Road, Lahore
5. Sub Divisional Officer,
LESCO Ltd,
North Sub Division,
Farooqabad, Tehsil & District Sheikhpura
6. Electric Inspector
Gujranwala Region,
Munir Chowk, Near Kachehri Road,
Gujranwala

Subject: **Appeal Titled LESCO Vs. Meraj Din Against the Decision Dated 19.08.2015 of the Electric Inspector/POI to Government of the Punjab Gujranwala Region, Gujranwala**

Please find enclosed herewith the decision of the Appellate Board dated 22.02.2016, regarding the subject matter, for information and necessary action accordingly.

Encl: **As Above**


(M. Qamar Uz Zaman)

February 23, 2016

No. NEPRA/AB/Appeal-116/POI-2015/ 227

Forwarded for information please.

Member Appellate Board

1. Registrar
2. Director (CAD)

CC:

1. Vice Chairman/Member (CA)



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National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-116/POI-2015

Lahore Electric Supply Company

.....Appellant

Versus

Meraj Din, S/o Allah Ditta, R/o Village Warn,
Tehsil & District Sheikhpura

.....Respondent

For the appellant:

Mr. Muhammad Arif Malhi Advocate

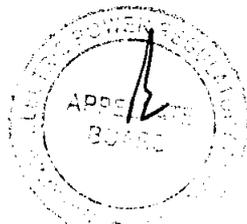
For the respondent:

Ch. Nasir Umer Dhillon Advocate

DECISION

1. Through this decision, an appeal filed by Lahore Electric Company (hereinafter referred to as LESCO) against the decision dated 19.08.2015 of Provincial Office of Inspection (POI) Gujranwala Region, Gujranwala (hereinafter referred as POI) is being disposed of.
2. As per facts of the case, the respondent is an industrial consumer of LESCO bearing Ref No. 46-11632-0459900. The respondent received a bill of Rs. 18,024/- in November 2010 which was challenged before the Civil Court by the respondent as it was not according to the meter reading. 50 % of the disputed amount was paid by the respondent on directions of the Civil Judge Sheikhpura and the remaining amount was set aside. Polycarbonate (PC) meter of the respondent was changed on 25.05.2011 pursuant to policy of LESCO. The respondent received a bill of Rs. 373,220/- which was challenged before honorable Lahore High Court Lahore through a writ petition which was disposed of vide the order dated 24.12.2012 wherein it was declared by the honorable high court that the remedy was available for the respondent before Electric Inspector. The respondent filed an application before POI and complained that incorrect and excessive billing was done by LESCO without taking into account the actual meter reading. The respondent was billed up to the reading index 64,806 whereas the actual rereading of the removed PC meter was

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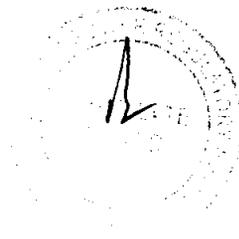


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65,439. The Time of Day (TOD) meter was replaced in January 2014. The respondent was billed for off peak reading = 13,744 and peak reading = 3,801 up to December 2013. According to LESCO, the readings of the removed TOD meter were off peak =15272.83 and peak = 2295.36. The removed PC meter was not available for checking but the TOD meter installed on 25.05.2011 and replaced in January 2014 was checked by POI on 01.07.2015. The off peak reading observed by POI on 01.07.2015 was 13,744. POI disposed of the matter vide its decision on 19.08.2015 (hereinafter referred to as the impugned decision) and concluded as under:

"In the light of above facts, it is held that reading recorded by the meter was charged by the respondents and the 1st disputed meter was removed at reading index as 64806 on 25.05.2011 whereas the 2nd disputed meter was removed on the reading index KWH meter 13744 Off Peak (instead of 15272.83) & 2295.36 Peak and the petitioner is liable to pay the monthly billing for the consumption upto the above said reading indexes of both the meters. It is further held that the LPS no legal effect therefore, the petitioner is not liable to pay the same. The respondents are directed to correct and revise the billing of TOD 2nd disputed meter as per its actual Off Peak index 13744 and Peak index 2295.36 and overhaul the account of the petitioner accordingly and any creditable amount recovered be adjusted against the arrears.."

3. Being aggrieved with the impugned decision, LESCO has filed the instant appeal under section 38 (3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (hereinafter referred to as the Act). In its appeal, LESCO, inter alia, stated that impugned decision was patently illegal, factually incorrect and passed totally in disregard of facts and law may be set aside.
4. Notice of the appeal was issued to the respondent for filing reply/parawise comments which were submitted on 02.12.2015. The respondent in his reply/parawise comments, inter alia, stated that the impugned decision was based on the record presented before POI where excessive billing of LESCO was proved. The respondent prayed for dismissal of the appeal.
5. Hearing of the appeal was fixed at Lahore on 25.01.2016 in which both the parties participated. Mr. Muhammad Arif Malhi Advocate appeared for the appellant LESCO and Ch. Nasir Umer Dhillon Advocate represented the respondent. Mr. Muhammad Arif Malhi Advocate, learned counsel for LESCO, contended that the billing of the respondent was done as per actual meter reading and therefore the respondent was liable to pay the same. Ch. Nasir Umer Dhillon Advocate,





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learned counsel for the respondent submitted that from the record available it was established that the bills were charged in excess and were not according to actual meter reading. He prayed for upholding the impugned decision.

6. We have heard arguments of both the parties and considered the record placed before us. Following has been observed:
- i. Being aggrieved with the bill of Rs. 373,220/- the respondent filed an application before POI and complained that bills were not charged according to actual meter readings. PC meter was replaced with a TOD meter on 25.05.2011. Reading of the replaced PC meter was recorded as 65,439 whereas the reading recorded on the bill for May 2011 was 64,806 which evinces that no excessive billing was done till May 2011. Impugned decision to this extent is correct and justified and liable to be maintained.
 - ii. TOD meter installed as replacement of above mentioned PC meter on 25.05.2011 was removed due to being defective in January 2014. Readings of the removed TOD meter were recorded as off peak = 15272.83, peak = 2295.36. Total reading = $15272.83 + 2295.36 = \underline{17568.19}$
 - iii. The readings as per bill for the month of December 2013 are, off peak = 13,744 and peak = 3,801 which total as 17,545. It is noticed that the total reading of removed TOD meter (i.e. 17,568.19) is almost same as entered in the bill (i.e. 17,545) for December 2013. This fact shows that while preparing the bill, segregations of peak and off peak readings was not made by LESCO according to the actual readings. This fact is further supported by the checking carried out by POI on 01.07.2015 wherein the off peak reading was found as 15272.83 which is same as noted on the removed TOD meter in January 2014 but higher than the off peak reading = 13,744 entered on the bill for December 2013. This establishes that off peak reading = 15272.83 and therefore we do not agree with the remarks of POI regarding the authenticity of the off peak reading as LESCO is not likely to make any changes which go against its interest. As any increase in off peak reading would reduce the corresponding peak hour reading in order to maintain the same consumption and will decrease the electricity bill accordingly. It is evident that the total readings $13,744 + 3,801 = 17,545$ of both off peak hours and peak hours of the bill for December 2013 does not correspond to the actual meter readings (off peak = 15272.83,





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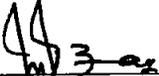
peak = 2295.36) as observed on the removed TOD meter in January 2014. Off peak reading = 15272.83 was also noticed by POI during the checking of removed TOD meter on 01.07.2015 which verifies the off peak reading = 15272.83 as recorded at the time of removal of TOD meter in January 2014. Obviously the readings, off peak = 15272.83 and peak = 2295.36 are correct as recorded by LESCO on the removed TOD meter in January 2014 and the respondent is therefore liable to be charged accordingly.

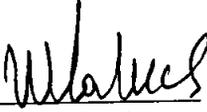
- iv. Evidently billing of the respondent for December 2013 with the readings, off peak = 13,744 and peak = 3,801 is incorrect and liable to be withdrawn. Impugned decision, to revise the bill of December 2013 with off peak reading = 13,744 and peak reading = 2295.36 is partially correct and need to be revised as per para 6 (iii) above.

7. In view of above discussion, it is concluded that:

- i. Billing of the respondent as per PC meter till May 2011 is correct and the respondent is liable to pay the same. Impugned decision to this extent is therefore upheld.
- ii. Bill issued to the respondent for December 2013 as per TOD meter readings, off peak = 13,744 and peak = 3,801 is incorrect and therefore set aside. The respondent should be charged as per readings off peak = 15272.83 and peak = 2295.36 for December 2013. Impugned decision stands revised to this extent.
- ii. Late payment surcharge (LPS) levied against the respondent, from June 2011 to December 2013 due to incorrect billing is void & unjustified and the respondent is not liable to pay the same. Impugned decision to this extent is maintained.

8. The appeal is disposed of in above terms.


Muhammad Qamar-uz-Zaman
Member


Nadir Ali Khoso
Convener


Muhammad Shafique
Member

Date: 22.02.2015

