



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

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No. NEPRA/AB/Appeal-150/POI-2016/1533-1537

October 16, 2017

1. Muhammad Khan,
House No. 310,
R. A. Bazar, Lahore
2. Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore
3. Saeed Ahmed Bhatti,
Advocate High Court,
Second Floor, Akram Mansion,
Neela Gumbad, Lahore
4. Sub Divisional Officer,
LESCO Ltd,
Cavalry 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. Muhammad Khan Against the Decision Dated 24.05.2016 of the Electric Inspector/POI to Government of the Punjab Lahore Region, Lahore

Please find enclosed herewith the Decision of the Appellate Board dated 10.10.2017, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

No. NEPRA/AB/Appeal-150/POI-2016/1538

Forwarded for information please.

(Ikram Shakeel)


Assistant Director
Appellate Board

1. Registrar

CC:

1. Member (CA)



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appcal-150/POI-2016

Lahore Electric Supply Company LimitedAppellant

Versus

Muhammad Khan, House No.310, R.A. Bazar, LahoreRespondent

For the appellant:

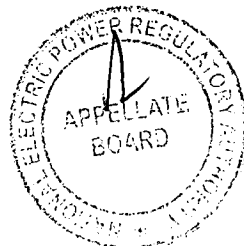
Mr. Saeed Ahmed Bhatti Advocate
Mr. Noman Nasir SDO

For the respondent:

Nemo

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 24.05.2016 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 NEPRA Act 1997).
2. As per facts of the case, the respondent is a domestic consumer of LESCO bearing Ref No.18-11541-1363900 with a sanctioned load of 1 kW under A-1a tariff. Electricity meter of the respondent was checked by LESCO on 02.08.2014 and





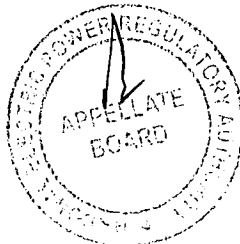
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allegedly it was found tampered (illegal access in terminal block) and the connected load was observed much higher than the sanctioned load. Hence a detection bill of Rs.75,351/- for 3,254 units for the period February 2014 to July 2014 (6 months) was debited to the respondent and added in the bill for August 2014 on the basis of connected load.

3. The respondent challenged the aforesaid detection bill before POI on 29.09.2014. Disputed meter of the respondent was checked by POI on 28.09.2015 in the presence of both the parties and a hole was found in the upper side of the meter body. FIR No.1664/15 dated 30.09.2015 was lodged by LESCO against the respondent due to theft of electricity. The matter was decided by POI vide its decision dated 24.05.2016 with the following conclusion:

"Summing the aforesaid discussion, it is held that: (i) The allegations as tampering with the meter cannot be attributed to the petitioner in the instant matter (ii) the detection bill amounting to Rs.75,351/- added as arrears and the current bill for 892 units in the bill for August 2014 is held as null, void and of no legal consequence and the petitioner is not liable to pay the same. (iii) The Respondents are directed to refund already charged and recovered amounts for the bill of August 2014 and are also directed to restore the supply of the petitioner's 2nd meter immediately and accordingly."

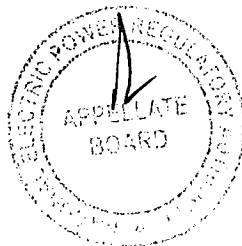
4. Being dissatisfied with the decision dated 24.05.2016 of POI (hereinafter referred to as the impugned decision), LESCO has filed the instant appeal and inter alia, contended that premises of the respondent was inspected by LESCO on 02.08.2014





and the respondent was found stealing electricity through the tampered meter, therefore a detection bill of Rs.75,351/- for 3,254 units for the period February 2014 to July 2014 charged to him is justified and the respondent is liable to pay the same. LESCO averred that POI during its checking dated 28.09.2015 also observed a hole in the upper side of meter body, therefore FIR No.1664/15 dated 30.09.2015 was registered by LESCO against the respondent on account of dishonest abstraction of electricity. As per LESCO, being a theft case, it is beyond the jurisdiction of POI. LESCO further pointed out that the impugned decision was passed by Electric Inspector on 24.05.2016 after lapse of statutory period of 90 days, hence it is invalid as envisaged under Section 26(6) of Electricity Act 1910.

5. Notice for filling reply/parawise comments to the appeal was issued to the respondent but same were not filed.
6. The hearing of the appeal was conducted in NEPRA's regional office at Lahore on 15.09.2017, in which Mr. Saeed Ahmed Bhatti and Mr. Noman Yasir SDO appeared for the appellant LESCO, whereas no one entered appearance for the respondent. At the outset of hearing, learned counsel for LESCO objected the jurisdiction of POI and contended that the impugned decision is void ab-initio and without jurisdiction in so far as the Electric Inspector to Govt. of the Punjab had no power or jurisdiction to carry out the proceedings after the expiry of the mandatory period of 90 days as envisaged under section 26(6) of the Electricity Act, 1910. As per learned Counsel

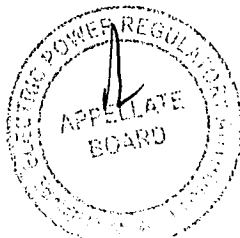




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for the appellant, the complaint before POI was filed on 20.9.14 whereas the same was decided on 24.5.16, i.e., after the expiry of the statutory period of 90 days. Reliance was placed on 2006-YLR-2612 and 2015-MLD-1307. It is further contended by learned Counsel for the appellant that the Provincial Office of Inspection has got absolutely no jurisdiction to entertain and adjudicate upon the matter of theft of energy as per verdict of Honorable Supreme Court of Pakistan reported as 2012-SC-371. On merits, learned counsel for LESCO explained that meter of the respondent was found tampered for committing theft of electricity during LESCO checking dated 02.08.2014, which was also confirmed by POI during its checking dated 28.09.2015, therefore the detection bill of Rs.75,351/- for 3,254 units for the period February 2014 to July 2014 (6 months) was charged by LESCO. As per learned counsel for LESCO, the FIR No.1664/15 dated 30.09.2015 was also lodged against the respondent due to illegal abstraction of electricity. Learned counsel for LESCO pleaded that aforesaid detection bill was challenged but POI verdict also includes the current bill amounting to Rs.17,529/- for 892 units for August 2014, which is illegal being beyond the prayer of the respondent.

7. Arguments heard and the record perused. As far as the applicability of a period of 90 days for deciding a complaint under the provisions of Electricity Act, 1910, the same is relevant for the office of Electric Inspector and not relevant for the office of Provincial Office of Inspection. It is further to be added that NEPRA is an appellate Authority against the decisions of POIs and not the Electric Inspector, therefore, the





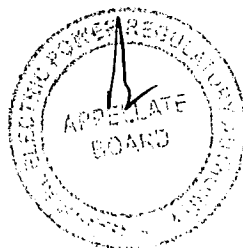
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objection in this regard is without merits and is overruled. As for as the objection of LESCO regarding the jurisdiction of POI being theft of electricity case is concerned, it may be noted that POI is empowered to adjudicate the instant matter as the theft is alleged through tampering of the meter as enshrined in the Judgment reported PLD 2012 Supreme Court 371. The objection of LESCO in this regard is not sustainable. As regards the merits of the case, the impugned detection bill of Rs.75,351/- for 3,254 units for the period February 2014 to July 2014 (6 months) was charged to the respondent by LESCO and added in the bill for August 2014, which was agitated by him before POI.

8. In order to assess the justification of the aforesaid detection bill, following comparison of the consumption is made:

Period	Normal Mode Average Units/Month	Detection Mode Average Units/Month
Corresponding months (year 2012) Feb-2012 to Jul-2012(6 months)	224	-
Corresponding months (year 2013) Feb-2013 to Jul-2013(6 months)	233	-
Disputed Period Feb-2014 to Jul-2014(6 months)	196	738

From the above table, it is revealed that the detection units charged @ 738 units/month during the disputed period i.e. February 2014 to July 2014 are remarkably higher than the average consumption recorded during the corresponding undisputed months of the preceding years i.e.2012 and 2013. Even no significant





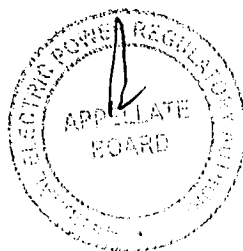
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variation is noticed in the consumption of disputed period in comparison with corresponding consumption of undisputed periods, which negates the version of LESCO that actual consumption was not recorded during the disputed period. Besides LESCO failed to produce any document, which could validate their stance that the respondent was stealing electricity through the tampered meter. As such there is no justification of aforesaid detection bill and POI has rightly declared the detection bill of Rs.75,351/- for 3,254 units for the period February 2014 to July 2014 (6 months) as null and void.

9. From the perusal of record, it is transpired that the respondent only assailed the detection bill of Rs.75,351/- for 3,254 units for the period February 2014 to July 2014 (6 months), whereas POI also cancelled the current bill for August 2014 amounting to Rs.17,529/- for 892 units besides the aforesaid detection bill. We are convinced with the arguments of LESCO that the current bill for August 2014 is payable by the respondent. Hence the impugned decision for cancellation of current bill for August 2014 is beyond the prayer of the respondent and liable to be withdrawn to this extent.

10. From the discussion in forgoing paragraphs, we have reached to the conclusion that:

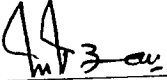
- i. Preliminary objections of LESCO regarding the jurisdiction of POI are invalid; therefore over ruled.






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- ii. Impugned detection bill of Rs.75,351/- for 3,254 units for the period February 2014 to July 2014 (6 months) charged to the respondent is not justified and should be withdrawn as already determined in the impugned decision.
 - iii. The respondent should pay the current bill amounting to Rs.17,529/- for 892 units charged in August 2014.
 - iv. The billing account of the respondent should be overhauled by the adjustment of payments already made (if any) against the aforesaid detection bill.
11. The appeal is disposed of and the impugned decision is modified in above terms.



Muhammad Qamar-uz-Zaman
Member



Muhammad Shafique
Member



Nadir Ali Khoso
Convener

Dated: 10.10.2017

