



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

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No. NEPRA/AB/Appeal-151/POI-2016/ *1569-1573*

October 30, 2017

1. Malik Tahir Sarfraz,
S/o Sarfraz Khan Malik,
R/o House No. 190-A,
Phase DHA, Lahore Cantt
2. Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore
3. Rana Abdul Haseeb Khan,
Advocate High Court,
123 A-1, GECHS Township,
Lahore
4. Sub Divisional Officer,
LESCO Ltd,
DHA East 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. Malik Tahir Sarfraz Against the Decision Dated 23.06.2016 of the Electric Inspector/POI to Government of the Punjab Lahore Region, Lahore

Please find enclosed herewith the Decision of the Appellate Board dated 25.10.2017, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

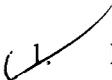
(Ikram Shakel)

No. NEPRA/AB/Appeal-151/POI-2016/ *1574*

October 30, 2017

Forwarded for information please.


Assistant Director
Appellate Board

 Registrar

CC:

1. Member (CA)



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-151/POI-2016

Lahore Electric Supply Company LimitedAppellant

Versus

Malik Tahir Sarfraz S/o Sarfaraz Khan Malik,
R/o House No. 190/A, Phase DHA, Lahore CanttRespondent

For the appellant:

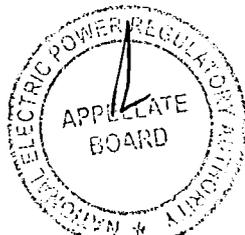
Rana Abdul Haseeb Khan advocate

For the respondent:

Tanveer Abdul Sattar advocate

DECISION

1. This decision shall dispose of the appeal filed by Lahore Electric Supply Company Limited (hereinafter referred to as LESCO) against the decision dated 23.06.2015 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 domestic consumer of LESCO bearing Ref No.10-11524-0929500 with a sanctioned load of 6 kW under A-1tariff. Electricity meter of the respondent was checked by LESCO on 24.02.2015 and allegedly it was found tampered (shunt provided in terminal block of two phases)

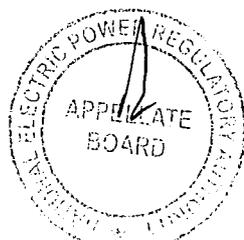




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for committing the theft of electricity, moreover the connected load was also noticed much above the sanctioned load. The meter of the respondent was removed and taken in custody by the Police and FIR No.170/2015 was also registered by LESCO against the respondent due to theft of electricity. After issuing notice to the respondent, a detection bill of Rs.200,000/- for the cost of 15,600 units for the period May 2014 to February 2015 (10 months) was debited to the respondent in February 2015.

3. The respondent challenged the aforesaid impugned detection bill before POI. Disputed meter of the respondent could not be checked by POI as SHO Defense-B Police Station did not facilitate the inspection of the said meter in-spite of order of Superintendent of Police. The matter was decided by POI vide its decision dated 23.05.2015, wherein the detection bill of Rs.200,000/- for 15,600 units for the period May 2014 to February 2015 was declared void and not payable by the respondent.
4. LESCO was dissatisfied with the decision dated 23.05.2015 of POI (hereinafter referred to as the impugned decision), therefore assailed the same through the instant appeal. LESCO in its appeal inter alia, contended that premises of the respondent was inspected by LESCO on 24.02.2015 and the respondent was found stealing electricity through tampering of the meter, therefore FIR No.170/2015 dated 24.02.2015 was registered with the Police against the respondent on account

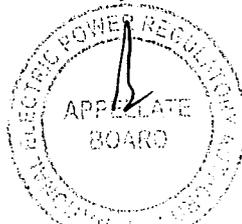




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of dishonest abstraction of electricity and the disputed meter was taken by the Police. As per LESCO, the detection bill of Rs.200,000/- for the cost of 15,600 units for the period May 2014 to February 2015 charged to the respondent is justified and the respondent is liable to pay the same. LESCO further pointed out that the impugned decision was passed by Electric Inspector on 23.05.2015 after lapse of statutory period of 90 days, in addition to that the impugned decision is not based on facts and law. LESCO finally prayed for acceptance of appeal and setting aside the impugned decision.

5. Notice for filing reply/parawise comments to the appeal was issued to the respondent but same were not filed.
6. Hearing of the appeal was conducted at Lahore on 03.10.2017, in which counsels for both the parties were in attendance. Learned counsel for LESCO repeated the same stance as taken in memo of the appeal and contended that during site visit dated 24.02.2015, LESCO observed that the respondent was stealing electricity through the tampered meter. As per learned counsel for LESCO, the said meter was removed and handed over to the Police and a FIR No.170/2015 was also registered for the illegal abstraction of electricity by the respondent. According to learned counsel of LESCO, the detection bill of Rs.200,000/- for the cost of 15,600 units for the period May 2014 to February 2015 was charged by LESCO to recover the loss sustained due to theft of electricity and the respondent is responsible for payment of the same. On the contrary learned counsel appearing for the respondent

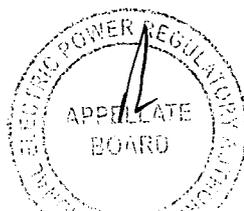




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raised the preliminary objection regarding the limitation and submitted that the appeal filed against the impugned decision is not maintainable being barred by time. Learned counsel further denied the allegation of theft leveled by LESCO and averred that neither disputed meter was produced before POI nor the theft of electricity was proved by LESCO. As regards FIR No.170/2015 dated 24.02.2015, learned counsel for the respondent provided a copy of the report submitted by the Police Station Defense-B under Section 173 of Code of Criminal Procedure, 1973, whereby it is held that no proof of theft of electricity was found against the respondent. Learned counsel for the respondent stated that there is no justification for charging the aforesaid detection bill to the respondent and impugned decision in this regard is correct and liable to be maintained.

7. Arguments heard, the record perused and following is observed:
 - i. As for as the objection of LESCO regarding the jurisdiction of POI after deciding the matter beyond 90 days of filing of complaint is concerned, it is clarified that the impugned decision was rendered by the officer in the capacity as POI (not an Electric Inspector) under Section 38(3) of NEPRA Act 1997, whereof there is no restriction of time limit. Objection of LESCO in this regard is invalid, therefore dismissed.
 - ii. During the hearing, the respondent objected the maintainability of the appeal on the ground of limitation. It is noted that copy of the impugned decision dated

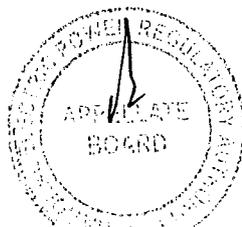




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23.06.2015 was received by LESCO on 22.07.2015 and the appeal against the same was filed before NEPRA on 27.07.2015, which is within the prescribed time limit of 30 days as envisaged under Section 38(3) of NEPRA Act 1997. The objection of the respondent in this regard is not sustainable.

- iii. There is no document produced by LESCO that allegation of theft of electricity was proved against the respondent.
- iv. Impugned detection bill of Rs.200,000/- for the cost of 15,600 units for the period May 2014 to February 2015 (10 months) was charged to the respondent by LESCO, which was agitated before POI.
- v. Charging the aforesaid detection bill for ten months to the respondent by LESCO is inconsistent with provisions of Consumer Service Manual (CSM). According to clause 9.1 c (3) of CSM, the respondent is liable to be billed maximum for three billing cycles being a general supply consumer bearing A-I tariff. Nothing has been placed on record by LESCO showing that approval for charging the detection bill beyond three months was obtained from the Chief Executive (or any officer authorized in this behalf) of the LESCO and action was also initiated against the officer in charge for not being vigilant.
- vi. As per CSM, the respondent could be charged maximum for three billing cycles i.e. December 2014 to February 2015, if justified. For this purpose following comparison of the consumption is hereby made:



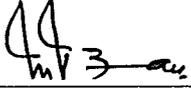


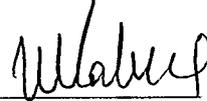
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| Period | Normal Mode Average Units/Month |
|---|---------------------------------|
| Corresponding undisputed period December 2013 to February 2014 | 469 |
| Disputed Period December 2014 to February 2015 | 1,496 |

From the above table, it is emerged that the normal average consumption recorded during the disputed period i.e. December 2014 to February 2015 is remarkably higher than the average consumption recorded during the corresponding undisputed period i.e. December 2013 to February 2014. Therefore there is no justification for charging a detection bill to the respondent during the disputed period. Hence, the detection bill of Rs.200,000/- for the cost of 15,600 units for the period May 2014 to February 2015 (10 months) charged to the respondent by LESCO is declared illegal and not recoverable from the respondent as determined by POI.

8. In view of what has been stated above, the appeal is dismissed.


Muhammad Qamar-uz-Zaman
Member


Nadir Ali Khoso
Convener


Muhammad Shafique
Member

Dated: 25.10.2017

