



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

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No. NEPRA/AB/Appeal-154/POI-2016/ 1581-1585

October 30, 2017

1. Qamar Din,
Through Muhammad Arif,
S/o Ghulam Muhammad,
R/o Bhani Sidhawan Cantt,
Lahore
2. Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore
3. Syed Ali Raza Rizvi
Advocate High Court,
Haji Chambers, 4-Mozang Road,
Lahore
4. SDO/AM (Operation),
LESCO Ltd,
Wahga 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. Qamar Din Against the Decision Dated 26.07.2011 of the Electric Inspector/POI to Government of the Punjab Lahore Region, Lahore

Please find enclosed herewith the Decision of the Appellate Board dated 26.10.2017, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(Ikram Shakeel)

October 30, 2017


Assistant Director
Appellate Board

No. NEPRA/AB/Appeal-154/POI-2016/ 1586
Forwarded for information please.

✓ Registrar

CC:

1. Member (CA)



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-154/POI-2016

Lahore Electric Supply Company Limited

.....Appellant

Versus

Qamar Din, Through Muhammad Arif, S/o Ghulam Muhammad,
R/o Bhani Sidhawan Cantt, Lahore

.....Respondent

For the appellant:

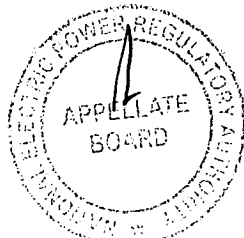
Syed Ali Raza Rizvi Advocate

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 26.07.2011 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 an agricultural consumer of LESCO bearing Ref No.45-11311-0329700 with a sanctioned load of 11 kW under D-1b tariff. The respondent initially filed an application before POI on 09.12.2010 and complained the charging of 6,000 units in excess by LESCO in the electricity bill for August 2010. During the pendency of the complaint before POI, the display of the meter of the respondent vanished and the respondent was charged the electricity bills for September



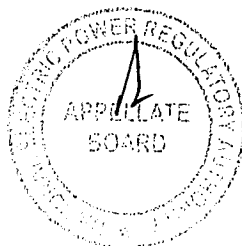


National Electric Power Regulatory Authority

2010 to November 2010 on the basis of consumption of corresponding months of previous year, which were also assailed by him before POI. The matter was decided by POI vide its decision dated 26.07.2011 with the following conclusion:

“The impugned excess charged 6,000 units during the month of August 2010 is void, unjustified and of no legal effect, therefore the petitioner is not liable to pay the same. However the monthly bills from 09/2010 to 11/2010 are justified and legal and the petitioner is liable to pay the same. The respondents are directed to over haul the account of the petitioner accordingly and any excess amount recovered be adjusted in future bills. The petition is disposed of in above terms”

3. LESCO has challenged the POI decision dated 26.07.2011 (hereinafter referred to as the impugned decision) through the instant appeal under Section 38 (3) of NEPRA Act 1997. In its appeal LESCO explained that copy of the impugned decision was obtained on 20.09.2011 against which an appeal was initially filed before the Advisory Board, Government of Punjab Lahore (Advisory Board) on 22.09.2011, but the said appeal was returned to LESCO by the Advisory Board vide its decision dated 14.07.2016 with the direction to approach NEPRA being the competent forum. As per LESCO, copy of the Advisory Board decision dated 14.07.2016 was received on 05.08.2016 and the appeal was filed before the NEPRA on 05.09.2016, which is within the prescribed time limit. LESCO objected the jurisdiction of POI on the ground that the matter was decided by POI after the statutory period of 90 days of receipt of the application as stipulated under Section 26(6) of Electricity Act 1910. LESCO further

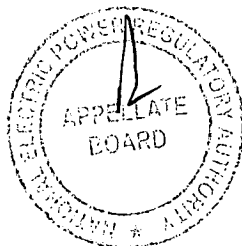




National Electric Power Regulatory Authority

submitted that POI did not apply his judicious and independent mind and completely relied upon the facts provided by the respondent while passing the impugned decision.

4. Notice of the appeal was served to the respondent for filing reply/parawise comments, the respondent however did not file the same.
5. After issuing notice to both parties, hearing of the appeal was conducted at Lahore on 03.10.2017, in which Syed Ali Raza advocate represented the appellant LESCO but no one entered appearance for the respondent. Regarding the limitation, learned counsel for LESCO reiterated the same stance as contained in the memo of the appeal and averred that the appeal was filed before the Advisory Board and NEPRA within the time limit as prescribed in the law and subsequently filed before NEPRA when returned by the Advisory Board. LESCO requested that delay, if any, may be condoned. Regarding the charging of the electricity bill for 8,560 units in the billing month of August 2010, learned counsel for LESCO contended that the meter was defective therefore 8,560 units for August 2010 charged on the basis corresponding undisputed consumption of preceding year are justified and payable by the respondent. Counsel for LESCO challenged the impugned decision partially and pleaded that the impugned decision to the extent of cancellation of the 6,000 units from the total 8,560 units charged in August 2010 is void and liable to be withdrawn.
6. We have heard the arguments of LESCO and examined the record placed before us. It is observed as under:
 - i. The request of LESCO for condonation of delay in filing the appeal is considered

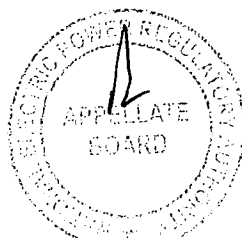




National Electric Power Regulatory Authority

valid due to the reason that earlier the appeal was filed before the Advisory Board and the same was returned from that forum for filing before NEPRA, therefore, the delay in filing the appeal is condoned.

- ii. As regards objection of LESCO that the impugned decision given after statutory period of 90 days under Section 26 (6) of Electricity Act 1910 is not relevant for the reason that the impugned decision was rendered by POI established under NEPRA Act 1997 and not as an Electric Inspector under Electricity Act, 1910. As such the objection of LESCO has no force, therefore dismissed.
- iii. The respondent challenged the electricity bills for the period August 2010 to November 2010 before POI. As per impugned decision, the electricity bills for the period September 2010 to November 2010 were declared justified and only the 6,000 units out of total 8,560 units charged in the billing month of August 2010 were declared null and void, against which the appeal has been filed before NEPRA.
- iv. Since the meter of the respondent became defective with display washed out, LESCO could have retrieved the consumption data of the defective meter for August 2010, which was not done. Pursuant to clause 4.4 (e) of Consumer Service Manual (CSM), for a defective meter, the respondent is liable to be charged on the basis of DEF-EST Code, which provides the charging of 100% of corresponding consumption of the preceding year or average of last eleven months, whichever is higher but in the instant case, this formula was neither applied by LESCO nor





National Electric Power Regulatory Authority

followed by POI in the impugned decision. Therefore the bill for August 2010 raised by LESCO as well as decided by POI in the impugned decision are not justified

7. In view of forgoing discussion, the impugned decision to the extent of cancellation of 6,000 units charged in excess for August 2010 is not justified and accordingly modified with direction to LESCO to charge the electricity bill for August 2010 on the basis of 100% corresponding consumption of preceding year i.e. August 2009 or average consumption of last eleven months i.e. August 2009 to July 2010, whichever is higher.
8. The appeal is disposed in above terms.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Date: 26.10.2017

