



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

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No. NEPRA/AB/Appeal-011/POI-2017/ 1155-1160

August 09, 2017

1. M/s Karachi Dying (Pvt.) Ltd,
Through its Director,
Muhammad Shahid,
152-Industrial Area,
Kot Lakhpat, Lahore
2. Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore
3. Mian Muhammad Mudassar Bodla,
Advocate Supreme Court,
Syed Law Building, 4-Mozang Road,
Lahore
4. A. D. Bhatti,
Advocate High Court,
Office No. 4, Rehmat Towers,
13-Fane Road, Lahore
5. Assistant Manager (Operation),
LESCO Ltd,
Green Town Sub Division,
Lahore
6. 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 Karachi Dying (Pvt.) Ltd Against the Decision Dated 13.12.2016 of the Electric Inspector/POI to Government of the Punjab Lahore Region, Lahore

Please find enclosed herewith the Decision of the Appellate Board dated 08.08.2017, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(Ikram Shakeel)

August 09 2017

Assistant Director
Appellate Board

No. NEPRA/AB/Appeal-011/POI-2017/ 1161

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-011/POI-2017

Lahore Electric Supply Company LimitedAppellant

Versus

M/s Karachi Dying (Pvt.) Ltd, Through its Director,
Muhammad Shahid, 152-Industrial Area Kot Lakhpat, LahoreRespondent

For the appellant:

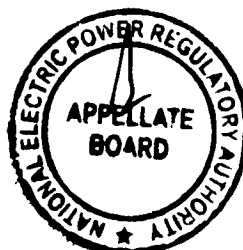
Mian Muhammad Mudassar Bodla advocate
Mr. Wahid Hameed Advocate
Mr. Khalid Mahmood CSD
Mr. Rai M Asghar XEN
Mr. Rub Yar SDO

For the respondent:

Mr. A.D Bhatti advocate
Mr. Muhammad Shahid Director

DECISION

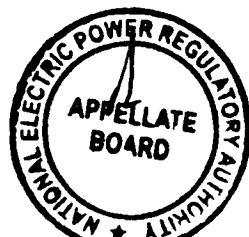
1. Through this decision an appeal filed by Lahore Electric Supply Company Limited (hereinafter referred to as LESCO) against the decision dated 13.12.2016 of the Provincial Office of Inspection/Electric Inspector Lahore Region, Lahore (hereinafter referred to as POI) is being disposed of.
2. Brief facts of the case are that the respondent is an industrial consumer of LESCO bearing Ref No.24-11213-1017300 with a sanctioned load of 485 kW under B-2b tariff. The metering equipment of the respondent was initially checked by standing committee LESCO on 09.10.2014 and reportedly the backup meter was found 33%





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slow, whereas the TOU billing meter was working within permissible limits. Both the TOU billing and backup meters of the respondent were again checked by LESCO on 23.06.2016 and both were declared 33% slow. LESCO issued a bill of Rs.4,588,691/- for June 2016, which was challenged by the respondent before Civil Court, Lahore. Pursuant to honorable Civil judge order dated 19.07.2016 the respondent deposited Rs.1,800,000/-. Thereafter the first detection bill of Rs.13,187,179/- for 888,720 units for the period 09.10.2014 to 03.07.2016 was charged to the respondent by LESCO in July 2016 due to enhancement in multiplication factor (MF) from 160 to 240 (@ 33 % slowness) of the backup meter, which was also assailed by him before the Civil Court, Lahore and he paid 25% amount of the aforementioned first detection bill as per directions of the honorable Civil Court order dated 15.08.2016. Second detection bill of Rs.6,159,240/- for 432,000 units for the period 09.10.2014 to 03.07.2016 was charged to the respondent in August 2016 due to the difference of readings of TOU billing and backup meters. Subsequently the Civil Suit was dismissed as withdrawn by the respondent with the plea to approach the POI being competent forum as reported in PLD 2012 SC 371. The respondent challenged the aforesaid first and second detection bills before POI vide applications dated 08.09.2016 and 19.09.2016 respectively. The metering equipment of the respondent was checked by POI on 22.09.2016 in presence of both the parties, wherein TOU billing meter was found 37% slow and the backup meter was found 35% slow. The matter was decided by POI vide its decision dated 13.12.2016 with the following conclusion:

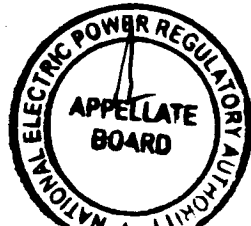




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“Summing the aforesaid discussion, it is held that the impugned TOU billing meter was correct till 22.06.2016 and it became 37% slow with effect from 23.06.2016 onward till its replacement; whereas the impugned detection bill of 888,720 units etc. charged in the bill for 07/2016 as Rs.13,187,179.49/- and detection bill of 432000 units etc. charged in the bill for 08/2016 as Rs.6,159,240.95/- are void, unjustified and of no legal effect therefore the petitioner is not liable to pay the same. The respondents are directed to withdraw the impugned above said detection bills and charge 37% slowness with effect from 23.06.2016 onward till replacement of the impugned metering equipment. The respondents are further directed to replace the defective meters by accurate meters immediately in the current billing cycle of December 2016 and shift billing on newly installed meters for recording of accurate consumption in future and overhaul the account of the petitioner company and any excess amount recovered be refunded to the petitioner company accordingly.”

3. Being dissatisfied with the decision dated 13.12.2016 of POI (hereinafter referred to as 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 NEPRA Act 1997). In its appeal LESCO inter alia, contended that both the TOU billing and backup meters of the respondent were checked by LESCO on 09.10.2014 and 33% slowness was observed in backup meter but TOU billing meter was working okay. As per LESCO, the metering equipment of the respondent was again checked by Standing

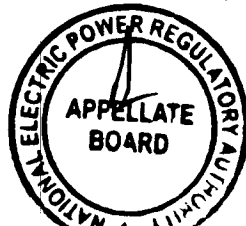




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Committee LESCO on 23.06.2016 and both the TOU billing and backup meters were found 33% slow, therefore the first detection bill of Rs.13,187,179/- for 888,720 units and second detection bill of Rs.6,159,240/- for 432,000 units for the period 09.10.2014 to 03.07.2016 charged by LESCO are justified and payable by the respondent. LESCO pointed out that the impugned decision rendered by POI is inconsistent with Section 26(6) of Electricity Act 1910, which empowers LESCO to charge the bill on account of less charged units due to the slowness of the meter.

4. Notice of the appeal was issued to the respondent for filing reply/parawise comments, which were filed on 22.03.2017. In his reply, the respondent rebutted the stance of LESCO and contended that neither any prior notice was issued nor the respondent was associated in the impugned checking dated 09.10.2014 of LESCO. The respondent further contended that LESCO issued a bill of Rs.4,588,691/- for June 2016, which was challenged by him before Civil Court, Lahore, whereby the honorable Civil Judge vide its order dated 19.07.2016 directed the respondent to deposit Rs.1,800,000/-, the same were paid accordingly. According to the respondent, first detection bill of Rs.13,187,179/- for 888,720 units for the period 09.10.2014 to 03.07.2016 charged by LESCO in July 2016 with multiplication factor (MF) enhanced from 160 to 240 of backup meter was also assailed by him before the Civil Court, Lahore and he paid 25% amount of the first detection bill as directed by the honorable Civil Court vide its order dated 15.08.2016. According to the respondent, LESCO again charged the second detection bill of Rs.6,159,240/- for 432,000 units for the period 09.10.2014 to

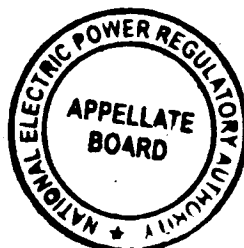




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03.07.2016 (21 months) in August 2016 due to the difference of readings of TOU billing and backup meters. The respondent termed the impugned decision as self-contained, well-reasoned and based on facts and law and prayed that the same should be upheld.

5. Hearing of the appeal was conducted at Lahore on 14.07.2017, which was attended by both the parties. Learned Counsel for LESCO contended that billing and backup meters of the respondent were checked by LESCO on 09.10.2014 and backup meter was found 33% slow due to one phase being dead, whereas TOU billing meter was working correctly. As per LESCO, both the meters were found 33% slow during a subsequent checking dated 23.06.2016, therefore the first detection bill amounting to Rs.13,187,179/- for 888,720 units for the period 09.10.2014 to 03.07.2016 (21 months) due to enhanced multiplication factor (MF) from 160 to 240 of backup meter and the second detection bill of Rs.6,159,240/- for 432000 units for the period 09.10.2014 to 03.07.2016 due to the consumption difference of TOU billing and backup meters charged to the respondent in July 2016 and August 2016 respectively are justified and the respondent is liable to pay the same. As per LESCO, TOU billing and backup meters when checked by POI in presence of both the parties on 22.09.2016 showed 37% and 35% slowness respectively, which justifies the charging of aforesaid detection bills. LESCO explained that the case was not rendered by Electric Inspector under the provisions of Electricity Act 1910 and the determination was based on the Consumer Service

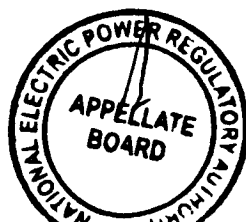




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Manual only, therefore the impugned decision is liable to be set aside. On the contrary, learned counsel for the respondent reiterated the same arguments as contained in his reply/parawise comments of the appeal and contended that since the metering equipment of the respondent was checked every month, therefore it is the responsibility of LESCO to point out any discrepancy if found. Learned counsel for the respondent averred that the consumption for the period October 2014 to October 2016 is higher as compared to the consumption of corresponding undisputed period October 2012 to October 2014, which proved that the billing meter was functioning correctly. Learned counsel for the respondent further submitted that there is no justification for charging the aforesaid both the detection bills for 21 months on the basis of defectiveness of the meter, which is inconsistent with the clause 4.4(e) of CSM.

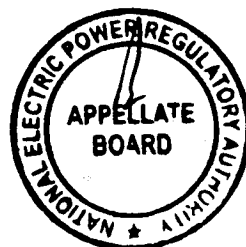
6. We have heard the arguments of both the parties and examined the record placed before us. As regards the objection of LESCO for deciding the matter under provisions of Electricity Act 1910, the same is not maintainable for the reason that the impugned decision was rendered by the officer in the capacity as POI under Section 38(3) of NEPRA Act 1997 and not an Electric Inspector under Electricity Act 1910. Regarding the factual position, the respondent challenged the first detection bill amounting to Rs.13,187,179/- for 888,720 units for the period 09.10.2014 to 03.07.2016 charged due to the enhanced MF from 160 to 240 of backup meter and the second detection bill of Rs.6,159,240/- for 432,000 units for the period 09.10.2014 to 03.07.2016 charged due to the difference of consumption





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recorded by TOU billing and backup meters in July 2016 and August 2016 vide his two applications filed before POI on 08.09.2016 and 19.09.2016 respectively. The metering equipment of the respondent was checked by LESCO on 09.10.2014 and 33% slowness was observed in backup meter whereas TOU billing meter was working correct. Both the TOU billing and backup meters were again checked by LESCO on 23.06.2016 and both were found 33% slow. Subsequently 37% slowness was observed in TOU billing meter and backup meter was found 33% slow during joint inspection of POI on 22.09.2016. Admittedly 37% slowness of TOU billing meter is observed by POI and now the controversy remains regarding the period of charging the detection bill. It is observed that the afore-referred both the detection bills charged for 21 months by LESCO to the respondent are inconsistent with 4.4 (e) of CSM, which restricts the DISCO's to charge the detection bill for maximum two billing cycles due to the slowness of the meter. It is admitted fact that TOU billing meter in the first checking dated 09.10.2014 was found working within permissible limit. Moreover it is the prime responsibility of LESCO officials to record the readings of the meters on monthly basis and report any discrepancy but in the instant case no such discrepancy was reported prior to the checking dated 23.06.2016. Moreover pursuant to clause 4.4(e) of CSM, detection billing due to a defective meter cannot be extended beyond two months. POI has rightly determined in the impugned decision that there is no justification for charging the first detection bill amounting to Rs.13,187,179/- for 888,720 units for the period 09.10.2014 to 03.07.2016 due to enhanced multiplication factor



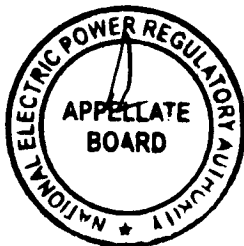


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(MF) from 160 to 240 of backup meter in July 2016 and second detection bill of Rs.6,159,240/- for 432,000 units for the period 09.10.2014 to 03.07.2016 due to the difference of consumption of TOU billing and backup meters in August 2016. Therefore both the aforesaid detection bills are declared null and void and not payable by the respondent. Since the TOU billing meter was found 37% slow during POI checking dated 22.09.2016. Therefore the respondent is liable to be charged the detection bill @ 37% slowness of the TOU meter w.e.f April 2016 and onwards till the replacement of the defective TOU billing meter in pursuance of clause 4.4(e) of CSM. Impugned decision is liable to be modified to this extent.

7. Forgoing in view, it is concluded as under:

- i. First detection bill amounting to Rs.13,187,179/- for 888,720 units for the period 09.10.2014 to 03.07.2016 charged due to enhanced MF from 160 to 240 of backup meter and second detection bill of Rs.6,159,240/- for 432,000 units for the period 09.10.2014 to 03.07.2016 charged due to the difference of reading of TOU billing and backup meters in July 2016 and August 2016 respectively are declared null and void as already determined in the impugned decision.
- ii. The respondent should be charged the detection bill w.e.f April 2016 and onwards till the replacement of the defective meters @ 37% slowness of the TOU billing meter.





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iii. The consumer account of the respondent should be overhauled after making the adjustment of the payments already made against the aforesaid detection bills.

8. The appeal is disposed of in above terms.

Muhammad Qamar-uz-Zaman
Member

Nadir Ali Khoso
Convener

Muhammad Shafique
Member

Date: 08.08.2017

