



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

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No. NEPRA/AB/Appeal-058/POI-2017/ *1195-1199*

August 10, 2017

1. Brig (Retd.) Nadeem Aslam Khan,
House No. 49, Street No. 16,
Sector-B, Ashari-11, Barki Road,
Lahore
2. Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore
3. Muhammad Nasir Khan,
Advocate High Court,
118-Gujjar House,
15-Link Farik Kot Road, Lahore
4. Assistant Manager (Operation),
LESCO Ltd,
Green Town 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. Brig (Retd.) Nadeem Aslam Khan Against the Decision Dated 07.03.2017 of the Electric Inspector/POI to Government of the Punjab Lahore Region, Lahore

Please find enclosed herewith the Decision of the Appellate Board dated 09.08.2017, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

No. NEPRA/AB/Appeal-058/POI-2017/ *1200*

Forwarded for information please.

(Ikram Shakeel)

August 10, 2017

(Signature)
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/Appeal-058/POI-2017

Lahore Electric Supply Company Limited

.....Appellant

Versus

Brig (Retd.), Nadeem Aslam Khan, House No.49,
Street No.16, Sector-B, Askari-11, Barki Road, Lahore

.....Respondent

For the appellant:

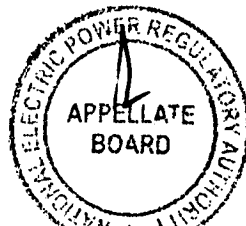
Mr. Muhammad Nasir Khan Advocate
Mr. Miraj Khalid SDO

For the respondent:

Brig (Retd.) Nadeem Aslam Khan

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 07.03.2017 of the Provincial Office of Inspection/Electric Inspector Lahore Region, Lahore (hereinafter referred to as POI).
2. Brief fact of the case are that the respondent is a domestic consumer of LESCO bearing Ref No.27-13242-6208102 with a sanctioned load of 9kW under A-1b3 tariff. As per respondent, the electricity bills charged by LESCO till October 2015 were paid



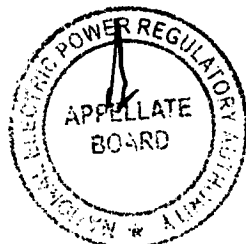


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regularly, however in November 2015, an electricity bill amounting to Rs.340,831/- for 14,341 units (OP= 0, P=14,341) was charged. Meter of the respondent was replaced by LESCO on 18.12.2015.

3. Being aggrieved, the respondent filed an application before POI on 11.01.2016 and challenged the aforesaid bill of Rs.340,831/- for 14,341 units for November 2015. Subsequently removed meter of the respondent was sent to metering and testing laboratory, whereby data retrieval on 17.05.2016 showed the discrepancy between the already charged and retrieved units (Off peak, Peak, Total). The defective meter of the respondent could not be checked by POI being already removed by LESCO. The matter was disposed of by POI vide its decision dated 07.03.2017, operative portion of which is reproduced below:

“Summing up the forgoing discussion, it is held that the impugned bill amounting to Rs.340,831/- for 14,341 units for the month of 11/2015 is void, unjustified and of no legal effect; therefore the petitioner is not liable to pay the same. However the respondents are allowed to charge a revised bill for the said month of 11/2015 and onwards till the replacement of the impugned meter/shifting of billing to an accurate meter, on the basis of the average consumption of 403 units per month recorded during the undisputed period of 05/2015 to 10/2015 after excluding the already charged units during the said period. The Respondents are directed to overhaul the





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account of the petitioner accordingly and any excess amount recovered be adjusted in future."

4. Being dissatisfied with the decision of POI dated 07.03.2017 (hereinafter referred to as the impugned decision), LESCO has filed the instant appeal before NEPRA 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 has raised the preliminary objection regarding the jurisdiction of POI and pleaded that the impugned decision was announced after the expiry of statutory period of 90 days as envisaged under Section 26(6) of Electricity Act 1910, hence the same became functus officio and liable to be set aside. Regarding the disputed electricity bill of Rs.340,831/- for 14,341 units for November 2015, LESCO contended that it was justified and the impugned decision for cancellation of the same and charging the revised bills@ 403 units/month w.e.f November 2015 till the replacement of the meter dated 18.12.2015 is illegal, void and of no legal consequences.
5. A notice of the appeal was issued to the respondent for filing reply/parawise comments, which were filed on 17.07.2017. In his reply, the respondent contended that he was making payments of electricity bills of LESCO regularly and had cleared all the electricity dues till October 2015. According to the respondent, the huge electricity bill of Rs.340,831/- for 14,341 units charged by LESCO in November 2015





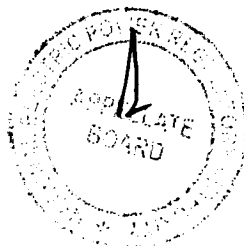
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was unjustified and not payable. The respondent defended the impugned decision and prayed for upholding the same.

6. Notice was issued and hearing of the appeal was held at Lahore on 24.07.2017, which was attended by both the parties. Muhammad Nasir Khan learned counsel for the appellant LESCO reiterated the same argument as given in memo of the appeal and contended that the meter of the respondent was defective, therefore replaced on 18.12.2015 on the request of the respondent. The data retrieval report of the disputed meter proved that 14,341 units were pending in peak hours, therefore the electricity bill amounting to Rs.340,831/- for 14,341 units (off peak=0, peak=14,341) charged to the respondent in November 2015 is justified and payable by him. However it was admitted by LESCO that there was software error in the meter and all 14,341 pending units were erroneously charged in peak hours segment, which would be split into peak and off peak units proportionately and accordingly revised electricity bill will be charged to the respondent. On the other hand, the respondent reiterated the same arguments as contained in his reply/parawise comments and pleaded for maintainability of the impugned decision.

7. We have heard the arguments of both the parties and examined the record placed before us, it is observed as under:

i. Electricity bill of amounting to Rs.340,831/- for 14,341 units (off peak=0,

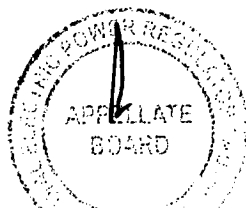




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peak=14,341) was charged to the respondent by LESCO in November 2015, which was assailed before POI on 11.01.2016.

- ii. As regards the objection of LESCO regarding the jurisdiction of POI for deciding the matter after prescribed time limit of 90 days as envisaged under Section 26(6) of Electricity Act 1910, it is clarified that the impugned decision was announced by POI (not an Electric Inspector) under Section 38 of NEPRA Act 1997 whereof no time limit is specified. Moreover this objection was not pressed by LESCO during arguments. Hence the objection of LESCO is over ruled.
- iii. There is controversy regarding the replacement of the disputed meter, LESCO claims to have it changed on the request of the respondent but the respondent denies it. No evidence has been provided by either party in support of their contention.
- iv. Admittedly the meter of the respondent had software problem and erroneously recorded all units in the peak segment. The disputed meter was not produced before POI for checking, similarly retrieval of data was carried out by LESCO unilaterally without participation of the respondent and POI, which makes this process suspicious. Hence the electricity bill amounting to Rs.340,831/- for the cost of (off peak=0, peak=14,341) units charged to the respondent by LESCO in November 2015 is void, of no legal effect and liable to be cancelled as already determined in the impugned decision.





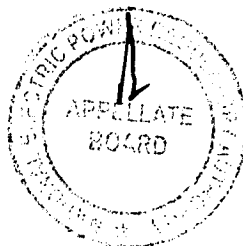
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v. Consumption data record as provided by LESCO is tabulated below:

Undisputed months before dispute			
Month	Peak	Off Peak	Total Units
Feb-15	22	150	172
Mar-15	20	70	90
Apr-15	23	111	134
May-15	20	330	350
Jun-15	40	261	301
Jul-15	60	490	550
Aug-15	91	440	531
Sep-15	60	282	342
Oct-15	51	291	342
Total	387	2,425	2,812
%	13.76	86.24	100

From the above table, it is established that TOU meter was healthy and recording peak and off peak units proportionately till October 2015 and it became defective w.e.f November 2015 and was replaced on 18.12.2015.

- vi. POI has correctly worked out 403 units/month on average, which is based on the undisputed consumption for the period May 2015 to October 2015. The respondent should be charged 403 units/month for the disputed period i.e. November 2015 till MCO dated 18.12.2015 as determined by POI.
- vii. The billing account of the respondent should be overhauled after the adjustment





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of payments made (if any) against the disputed bill.

8. Forgoing in view, we do not find any reason to interfere with the impugned decision, which is upheld and accordingly the appeal is dismissed.

Muhammad Qamar-uz-Zaman
Member

Nadir Ali Khoso
Convener

Date: 09.08.2017

