



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

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No. NEPRA/AB/Appeal-095/POI-2016/ 475-479

April 11, 2017

1. Abdul Hafeez Malik,  
Abdul Hameed Malik,  
Park LOane Towers Ltd,  
172-Tufail Road, Lahore
2. The Chief Executive Officer  
LESCO Ltd,  
22-A Queens Road,  
Lahore
3. Mian Muhammad Mudassar Bodla,  
Advocate High Court,  
Aneexy Auqaf Chowk,  
High Court, The Mall,  
Lahore
4. Assistant Manager (CS),  
LESCO Ltd,  
Cantt 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. Abdul Hafeez Malik Against the Decision Dated 08.05.2012 of the Electric Inspector/POI to Government of the Punjab Lahore Region, Lahore

Please find enclosed herewith the Decision of the Appellate Board dated 07.04.2017, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

No. NEPRA/AB/Appeal-095/POI-2016/ 480

Forwarded for information please.

(Ikram Shakeel)

April 11, 2017

  
Assistant Director  
Appellate Board

1. Registrar
2. Director (CAD)

CC:

1. Member (CA)



# National Electric Power Regulatory Authority

## Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-095/2016

Lahore Electric Supply Company Limited .....Appellant

Versus

Abdul Hafeez Malik, Abdul Hameed Malik,  
Park Lane Towers Ltd, 172-Tufail Road Lahore .....Respondent

For the appellant:

Mian Tabassum Ali Advocate  
Mr. Kashif Mahmood Revenue Officer  
Mr. Muhammad Nayyar Zaman

For the respondent:

Nemo

## DECISION

1. Through this decision an appeal filed by Lahore Electric Supply Company Limited (hereinafter referred to as LESCO) against the decision dated 08.05.2012 of Provincial Office of Inspection Lahore Region, Lahore (hereinafter referred to as POI) is being disposed of.
2. Brief facts of the case are that the respondent is a commercial consumer of LESCO bearing Ref No. 24-11542-9025901-U with a sanctioned load of 3,592 kW under



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A-2(b) tariff. As per version of the respondent, metering equipment of the respondent was checked by Standing Committee LESCO on 20.11.2008 and reportedly both TOU billing and backup meters were found accurate. Both the TOU billing and backup meters of the respondent were again checked by Standing Committee LESCO on 06.11.2009 and reportedly the backup meter was found accurate whereas the TOU billing meter was found 11.38% slow due to internal fault. LESCO declared the kWh part of the backup meter for units billing and kW part of TOU meter for MDI billing from 06.11.2009 and onwards. Subsequently a detection bill amounting to Rs.2,483,187/- for 194,420 units/1,470 kW for the period 20.11.2008 to 06.11.2009 was charged to the respondent due to difference between TOU billing and backup meters readings (both kWh and MDI). Both meters of the respondent were replaced by LESCO in August 2010.

3. Being aggrieved with the irregular billing, the respondent filed an application before POI on 25.10.2011 and disputed the amount of Rs.4,148,594/-. As per respondent, besides the detection bill of Rs.2,483,187/- for 194,420 units/1,470 kW for the period 20.11.2008 to 06.11.2009 charged due to difference between TOU billing and backup meters readings (kWh and MDI), the estimated bills amounting to Rs.1,663,735/- for the period 06.11.2009 to 31.07.2010 (November 2009 to July 2010) were also charged by LESCO @ 5.39% slowness in kWh (units) part of backup meter and 11.38% slowness on MDI (kW) part of TOU billing meter. In

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response, LESCO rebutted the contention of the respondent and averred that only one detection bill of Rs.2,483,187/- for 194,420 units/1470 kW for the period 20.11.2008 to 06.11.2009 was charged to the respondent due to difference between TOU billing and backup meters readings (kWh and MDI), whereas the amount of Rs.1,663,735/- was recovered from the respondent in terms of fuel price adjustment (FPA) and not a detection bill as claimed by the respondent. POI considered the grievances of the respondent as stated in the aforementioned application and pronounced its decision on 08.05.2012 on ex-parte basis, the operative portion of the decision is reproduced below:

*“ In view of the above, it is held that the impugned detection bill amounting to Rs.4,418,594/- charged by the respondent for the period from 20.11.2008 to 31.07.2010 is void, unjustified and of no legal effect, therefore the petitioner is not liable to pay the same. The respondents are directed to overhaul the account of the petitioner accordingly and the above mentioned excess amount recovered be adjusted in future bills. The petition is thus accepted. ”*

4. Being dissatisfied with the POI decision dated 08.05.2012 (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 the NEPRA Act 1997). In its appeal, LESCO inter alia, contended that TOU billing and backup meters of the respondent were initially checked by Standing Committee LESCO on 20.11.2008 and both were found within

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BSS limits. Metering equipment of the respondent was again checked by Standing Committee LESCO on 06.11.2009 and TOU billing meter of the respondent was found 11.38% slow due to internal fault and the backup meter was found correct, therefore the billing of kWh (units) was shifted on the backup meter and MDI (kW) continued on TOU billing meter w.e.f. 06.11.2009 and onwards. According to LESCO, a detection bill of Rs.2,483,187/- for 194,420 units/1470 kW for the period 20.11.2008 to 06.11.2009 was charged to the respondent due to difference between TOU billing and backup meters reading (kWh and MDI) and the respondent primarily agreed to pay the same without any protest. As per LESCO, only aforesaid detection bill was charged to the respondent and the amount of Rs.1,663,735/- charged to the respondent is on account of fuel price adjustment charges, therefore impugned decision for cancellation of FPA is not justified. LESCO further contended that an appeal against the impugned decision was initially filed before Advisory Board Government of Punjab Lahore (the Advisory Board), which was returned on 01.10.2015 to file the same before NEPRA. LESCO further explained that the Advisory Board decision dated 01.10.2015 was challenged by LESCO before Lahore High Court Lahore vide writ petition 4262/2016 but it was dismissed by the honorable High Court on 11.04.2016 due to lack of jurisdiction. As per LESCO, instant appeal has been filed before NEPRA on 13.05.2016 within 30 days of Lahore High Court decision dated 11.04.2016. LESCO averred that POI passed the impugned decision on



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ex-parte basis without listening them and did not consider the facts and circumstances of the case as a whole. LESCO pleaded that the impugned decision is liable to be set aside being illegal, null and void and barred by time. In response to the above appeal, the respondent was issued a notice for filing reply/parawise comments which, however were not filed.

5. Notice was issued to both the parties and hearing of the appeal was held in Lahore on 31.03.2017 in which Mian Tabassum Ali advocate along with LESCO officials entered their appearance and no one appeared for the respondent. Learned counsel for LESCO contended that TOU billing and backup meters of the respondent were checked by Standing Committee LESCO on 06.11.2009 and TOU billing meter of the respondent was found 11.38% slow due to internal fault and the backup meter was found correct, therefore the billing of kWh part (units) was shifted on backup meter and MDI (kW) continued on TOU billing meter w.e.f. 06.11.2009. According to LESCO, a detection bill of Rs.2,483,187/- for 194,420 units/1,470 kW for the period 20.11.2008 to 06.11.2009 was charged to the respondent due to difference between TOU billing and backup meter readings (both kWh and MDI) and the respondent had agreed to pay the same without any protest but later on assailed the same before POI. LESCO rebutted the contention of the respondent regarding charging of estimated bills of Rs.1,663,735/- for the period November 2009 to July 2010 and averred that only one detection bill amounting to Rs.2,483,187/- was charged to the respondent,



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whereas the amount of Rs.1,663,735/- are the fuel price adjustment charges, therefore impugned decision for cancellation of the FPA is not correct. Learned counsel for LESCO averred that the appeal against the impugned decision dated 08.05.2012 was initially filed before the Advisory Board, which was returned on 01.10.2015 to file the same before NEPRA. LESCO argued that the Advisory Board decision dated 01.10.2015 was challenged by LESCO before Lahore High Court, Lahore vide writ petition 4262/2016 and the same was also dismissed by the honorable High Court vide order dated 11.04.2016 due to lack of jurisdiction. As per LESCO, instant appeal has been filed before NEPRA within time and the delay if any caused in filing the appeal is not intentional and liable to be condoned.

6. We have heard the arguments of LESCO, perused the record placed before us.

Following are our observations:

- i. Admittedly copy of the impugned decision was received by LESCO on 18.06.2012 and the appeal against it was filed before the Advisory Board, which was returned by the Advisory Board vide its decision dated 01.10.2015 with the direction to file the same before NEPRA being competent forum. The Advisory Board decision dated 01.10.2015 was challenged by LESCO before Lahore High Court, Lahore vide writ petition 4262/2016, which was also dismissed by the honorable High Court on 11.04.2016. Therefore the appeal was filed by LESCO before NEPRA on 13.05.2016. Learned counsel for LESCO has justified the delay



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in filing the appeal as such the delay is hereby condoned.

- ii. As regards merits of the case, it is to be understood that the purpose of installation of a backup meter is to detect any discrepancy of the TOU billing meter. In the instant case, a senior officer of LESCO was responsible to record the readings and consumption of the respondent's meters. There is no report by LESCO regarding any discrepancy between the backup meter and TOU billing meter while recording the monthly readings and consumption during the disputed period 20.11.2008 to 06.11.2009. Moreover neither POI nor the respondent was associated on the checking of both the meters on 06.11.2009 and while calculating the difference between backup and TOU billing meter readings (kWh and MDI). No notice was served by LESCO to the respondent prior to the charging of detection bill of Rs.2,483,187/- for 194,420 units/1470 kW for the period 20.11.2008 to 06.11.2009 due to difference between TOU billing and backup meter readings. Charging of the aforesaid detection bill for 12 months is also inconsistent with clause 4.4 (e) of Consumer Service Manual (CSM) and therefore liable to be declared null and void as already determined in the impugned decision.
- iii. Since 11.38% slowness of the TOU billing meter was observed by LESCO in November 2009. Pursuant to clause 4.4 (e) of CSM, charging of the bill due to defective meter is restricted to two billing cycles only, therefore it would be fair

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and appropriate to charge the detection bill for September 2009 and October 2009 (two months) only due to 11.38% slowness of the TOU billing meter.

- iv. As regards claim of the respondent before POI regarding charging of the estimated bills amounting to Rs.1,663,735/- for the period 06.11.2009 to 31.07.2010 (November 2009 to July 2010)@ 5.39% slowness in kWh part of backup meter and 11.38% slowness on MDI part of TOU billing meter, LESCO has denied the contention of the respondent and submitted that the amount of Rs.1,663,735/- was charged to the respondent on account of FPA. We are inclined to agree with the stance of LESCO that as no detection bill for the period November 2009 to July 2010 was charged to the respondent, therefore impugned decision to the extent of cancellation of amount of Rs.1,663,735/- is unjustified and liable to be withdrawn. Since it is categorically stated by LESCO that no detection bill was raised between the period November 2009 to July 2010, therefore LESCO is not entitled to claim any detection bill during the same period.

7. From the discussion in preceding paragraphs, it is concluded as under:

- i. Detection bill of Rs.2,483,187/- for 194,420 units/1470 kW for the period 20.11.2008 to 06.11.2009 charged by LESCO to the respondent due to difference between TOU billing and backup meters reading is unjustified and therefore cancelled as already determined in the impugned decision.

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- ii. The respondent is obligated to pay the detection bill @ 11.38% slowness of TOU billing meter for September 2009 and October 2009. Impugned decision to this extent is modified.
- iii. Impugned decision for cancellation of bill of Rs.1,663,735/- is void and therefore set aside to this extent.
8. The appeal is disposed of in above terms.

Muhammad Qamar-uz-Zaman  
Member

Muhammad Shafique  
Member

Nadir Ali Khoso  
Convener

Dated: 07.04.2017