



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

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No. NEPRA/AB/Appeal-097/POI-2016/ 481-484

April 11, 2017

1. Muhammad Iqbal Butt,  
S/o Chand Ali Butt,  
R/o Village Chappa,  
Post Office Bata Pur,  
G. T. Road, Lahore
2. The Chief Executive Officer  
LESCO Ltd,  
22-A Queens Road,  
Lahore
3. Syed Ali Raza Rizvi,  
Advocate High Court,  
4-Mozang Road, Lahore
4. Assistant Manager (Operation),  
LESCO Ltd,  
Bata Pur 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. Muhammad Iqbal Butt Against the Decision Dated 26.04.2016 of the Electric Inspector/POI to Government of the Punjab Lahore Region, Lahore

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

Encl: As Above

(Ikram Shakeel)

No. NEPRA/AB/Appeal-097/POI-2016/ 485

April 11, 2017

Forwarded for information please.

  
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-097/POI-2016

Lahore Electric Supply Company Limited .....Appellant

Versus

Muhammad Iqbal Butt c/o Chand Ali Butt, R/o Village Chappa,  
Post Office Bata Pur, G.T Road, Lahore .....Respondent

For the appellant:

Syed Ali Raza Advocate  
Mr. Muhammad Aleem Mustufa SDO

For the respondent:

Mr. Atta Mustafa Rizwi Advocate

## 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 26.04.2016 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).

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2. Brief fact of the case are that the respondent is an agricultural consumer of LESCO bearing Ref No.45-11312-0292200-R with a sanctioned load of 14.92 kW under D-1b tariff. Meter of the respondent was checked by Metering & Testing (M&T) LESCO on 27.04.2012 and reportedly it was found 33.33% slow due to blue phase being dead and the connected load of the respondent was observed as 29 kW, being higher than the sanctioned load. The defective meter of the respondent was replaced by LESCO in September 2012 and a detection bill of Rs.317,615/- for 27,430 units for the period September 2011 to May 2012 (9 months) was charged to the respondent in September 2012 @ 33.33% slowness.

3. Being aggrieved, the respondent initially filed a civil suit before Civil Judge, Lahore on 20.09.2012 and challenged the detection bill of Rs.317,615/- for 27,430 units for the period September 2011 to May 2012 charged in September 2012 @ 33.33% slowness. The civil suit was returned by the honorable Civil Court, Lahore on 15.09.2014 due to lack of jurisdiction. Later on, the respondent filed an application before POI on 09.10.2014 and challenged the aforesaid detection bill, which was disposed of by POI vide its decision dated 26.04.2016, operative portion of which is reproduced below:

*“Summing up the aforesaid discussion, it is held that: i. The impugned energy meter recorded correct consumption up to the billing month of April 2012 and it became 33.33.33% slow in the billing month of May 2012. ii. The detection bill amounting to Rs.317,615/- added as arrears in the billing month of July 2012 is null, void and of no legal consequence and the petitioner is not liable to pay the same. The Respondents are*

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*directed to charge the petitioner @ 33.33.33% slowness w.e.f May 2012 to installation/replacement of new meter and over haul the account of the petitioner accordingly.”*

4. Being dissatisfied with the decision of POI dated 26.04.2016 (hereinafter referred to as the impugned decision), LESCO has filed the instant appeal before NEPRA. In its appeal LESCO inter alia, contended that meter of the respondent was found 33.33% slow during M&T checking dated 27.04.2012, therefore the detection bill of Rs.317,615/- for 27,430 units for the period September 2011 to May 2012 charged to the respondent in September 2012 @ 33.33% slowness is legal, valid and justified and the respondent is liable to pay the same. LESCO pointed out that impugned decision was pronounced by POI after prescribed time limit of 90 days, hence it became null and void as envisaged under Section 26(6) of Electricity Act 1910.
5. A notice of the appeal was issued to the respondent for filing reply/parawise comments, which were filed on 02.08.2016. In his reply, the respondent contended that the impugned decision rendered by POI was accepted and implemented by LESCO without any protest, therefore LESCO is estopped to challenge the same before NEPRA. The respondent further contended that SDO LESCO is not authorized to file the appeal before NEPRA. The respondent rebutted the contention of LESCO regarding jurisdiction of POI after 90 days and submitted that the impugned decision was rendered by the officer as POI under Section 38 of NEPRA Act 1997, which does not impose any restriction of time.

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6. Notice was issued and hearing of the appeal was held at Lahore on 31.03.2017, which was attended by both the parties. Syed Ali Zafar learned counsel for the appellant LESCO reiterated the same argument as given in memo of the appeal and contended that the disputed meter was found 33.33% slow by M&T LESCO on 27.04.2012. According to the learned counsel for LESCO, the detection bill of Rs.317,615/- for 27,430 units for the period September 2011 to May 2012 charged to the respondent in September 2012 @ 33.33% slowness is legal, justified and the determination of POI to cancel the aforesaid detection bill is not based on merits. Conversely Mr. Atta Mustafa Rizwi learned counsel for the respondent raised the preliminary objection and contended that the appeal is not filed before NEPRA through an authorized person, therefore the same is not liable to be entertained. Learned counsel for the respondent defended the impugned decision and pleaded for dismissal of the appeal.
7. We have heard the arguments of both the parties and examined the record placed before us. It is observed as under:
  - i. LESCO raised the objection 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. We are inclined to agree with the argument of the respondent that the impugned decision was rendered by POI under Section 38 of NEPRA Act 1997 whereof no time limit is specified. Moreover the objection was not pressed by LESCO. Hence the objection of LESCO is over ruled.



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- ii. As regards objection of the respondent that SDO LESCO is not authorized to file the appeal on behalf of LESCO, it is observed that SDO LESCO was representing LESCO before POI and no such objection was raised before that forum. Hence raising this objection at this stage is not valid and therefore dismissed.
- iii. Electricity meter of the respondent was found 33.33% slow during M&T checking on 27.04.2012. However in order to ascertain whether the meter was 33.33% slow in the past or otherwise, the analysis of consumption data is made here under:

<b>Undisputed Months</b>	<b>KWH</b>	<b>Disputed Months</b>	<b>KWH</b>
September 2010	8,415	September 2011	2,729
October 2010	7,793	October 2011	6,358
November 2010	5,018	November 2011	3,891
December 2010	5,269	December 2011	6,158
January 2011	4,272	January 2012	3,328
February 2011	1,989	February 2012	5,216
March 2011	6,758	March 2012	7,448
April 2011	6,167	April 2012	10,104
<b>Total</b>	<b>45,681</b>	<b>Total</b>	<b>45,232</b>

From the above table, it is evident that the consumption recorded in normal mode during the disputed period is equivalent to the consumption of corresponding undisputed period, which establishes that the meter was correct up-to April 2012 as already analyzed by POI. Under these circumstances, the detection bill amounting to Rs.317,615/- for 27,430 units for the period September 2011 to May 2012 charged to the respondent in September 2012 @ 33.33% slowness has no justification and therefore declared null and void as already determined in the impugned decision.

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8. In view of above discussion, we do not find any reason to interfere with the impugned decision, the same is upheld and accordingly the appeal is dismissed.

Muhammad Qamar-uz-Zaman  
Member

Nadir Ali Khoso  
Convener

Muhammad Shafique  
Member

Dated: 07.04.2017