



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

NEPRA Office , Atta Turk Avenue (East), G5/1, Islamabad
Tel. No. +92 051 2013200 Fax No. +92 051 2600030
Website: www.nepra.org.pk E-mail: office@nepra.org.pk

No. NEPRA/AB/Appeal-102/POI-2016/ 773-778

May 26, 2017

1. M/s AZGARD-9 Limited,
Having Office and Business at,
2.5 KM, Off Manga Raiwind Road,
Manga Mandi, District Kasur
2. Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore
3. Saeed Ahmed Bhatti,
Advocate High Court,
Second Floor, Akram Mansion,
Neela Gumbad, Lahore
4. Mian Asghar ali,
Asghar Ali & Associates,
Office No. 2, First Floor,
SAF Centre, 8-Fane Road,
Lahore
5. Assistant Manager (Operation),
LESCO Ltd,
Industrial Sub Division,
Manga Mandi, District Kasur
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 AZGARD-9 Limited Against the Decision Dated 03.05.2016 of the Electric Inspector/POI to Government of the Punjab Lahore Region, Lahore

Please find enclosed herewith the Decision of the Appellate Board dated 24.05.2017, regarding the subject matter, for information and necessary action accordingly.

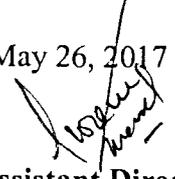
Encl: As Above

No. NEPRA/AB/Appeal-102/POI-2016/ 779

Forwarded for information please.

(Ikram Shakeel)

May 26, 2017


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-102/POI-2016

Lahore Electric Supply Company LimitedAppellant

Versus

M/s AZGARD-9 Limited, Having Office and Business at 2.5 KM,
Off Manga Raiwind Road, Manga Mandi, District KasurRespondent

For the appellant:

Mr. Saeed Ahmed Bhatti Advocate

Mr. Asif Mehmood SDO

For the respondent:

Mian Asghar Ali Advocate

Mr. Shahzad Afzal General Manager (Hr)

Malik Asjed Sultan Assistant General Manager

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 03.05.2016 of the Provincial Office of Inspection/Electric Inspector 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).

1



National Electric Power Regulatory Authority

2. As per facts of the case, the respondent is an industrial consumer of LESCO bearing Ref No. 24-11919-0228000 with a sanctioned load of 4,493 kW under B-3tariff. Electric connection of the respondent was provided by LESCO on 24.08.2001 and the billing was based on a TOU billing meter. Subsequently a TOU backup meter was also installed in series with TOU billing meter on 14.05.2013. The respondent filed an application before POI on 10.09.2015 and challenged the bills of Rs.37,611,453/- for the period June 2013 to October 2014 on the ground that the off peak and peak components of TOU billing meter were erroneous and as such the peak and off peak tariff was incorrectly applied. Both the TOU billing and backup meters were checked by POI on 11.04.2016 and it was confirmed that date and time of TOU billing meter were disturbed, whereas the TOU backup meter was functioning correctly. The check report was signed by both the parties. The matter was disposed of by POI vide its decision dated 03.05.2016, the operative portion of which is reproduced below:

"For the reasons what has been discussed above, it is held that the date and time of the impugned TOU billing meter (Sr. No.00047/PEL) was disturbed due to software error with effect from 06/2013 to 12/2014 and the consumption charged and billing during the above said period as off peak hours and peak hours is unjustified, void and illegal and the petitioner is not liable to pay the same. The respondents are directed to withdraw the billing charged during the disputed period from 06/2013 to 12/2014 and charge revised billing for the said period by splitting



National Electric Power Regulatory Authority

the total monthly consumption as 97.28% for off peak hours and 2.72% for peak hours as calculated on the basis of consumption recorded for off peak hours and peak hours by the undisputed TOU backup meter/presently billing meter (Sr. No.L-100447/KBK) and the same formula shall be applied for KVARH part of the impugned TOU meter for computation of power factor. The respondents are directed to over-haul the account of the petitioner and excess amount recovered be refunded to the petitioner company accordingly."

3. Being dissatisfied with the decision of POI dated 03.05.2016 (hereinafter referred to as the impugned decision), LESCO has filed the instant appeal before NEPRA. In its appeal LESCO raised the preliminary objection regarding the jurisdiction of POI and inter alia, contended that the application was filed by the respondent on 10.09.2015 whereas the same was decided by POI on 03.05.2016 after prescribed time limit of 90 days as envisaged under Section 26(6) of Electricity Act 1910. LESCO further contended that the monthly bills for the period June 2013 to October 2014 were paid by the respondent willingly and without any protest, which proves that these bills are legal, valid and justified. According to LESCO, the consumption data from January 2008 to December 2012 established that the ratio of peak consumption varied from 13% to 20% of the total consumption, whereas POI in the impugned decision has declared the peak hour units ratio as 2.72% only by basing the same on the future consumption, which is not correct. LESCO pleaded that the impugned decision is illegal, unlawful, without jurisdiction and therefore liable to be set aside.





National Electric Power Regulatory Authority

4. A notice of the appeal was issued to the respondent for filing reply/parawise comments, which were filed on 22.08.2016. In its reply, the respondent inter alia rebutted the stance of LESCO and stated that the restriction of 90 days under Section 26(6) of Electricity Act 1910 was applicable against the Electric Inspector, whereas the impugned decision was passed by POI under Section 38(3) of NEPRA Act 1997. The respondent contended that as per backup meter ratio of peak to off peak units was (1.4:98.6) for the disputed period June 2013 to December 2014, which was even lesser than the assessments made by POI. The respondent pleaded that the appeal may be dismissed and the impugned decision of POI be modified in view of backup meter consumption recorded during the period June 2013 to December 2014.
5. Notice was issued and hearing of the appeal was held at Lahore on 20.04.2017, which was attended by both the parties. Mr. Saeed Ahmed Bhatti learned counsel for the appellant LESCO argued that the billing during the period June 2013 to December 2014 was not disputed by the respondent and payments made without any protest that the bills were correct and the same are not liable to be disputed at the belated stage. However as per counsel for LESCO, during POI checking on 11.04.2016, the time and date were admittedly disturbed. Learned counsel pointed out that while deciding the matter, POI ignored the previous consumption pattern of peak and off peak hours and relied upon future consumption in which the respondent managed the supply in peak hours through self-generation, which is therefore not justified. According to him, the previous undisputed consumption should be analyzed for peak and off peak

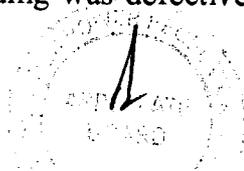




National Electric Power Regulatory Authority

hours. Conversely learned counsel for the respondent pleaded that the billing during the period June 2013 to December 2014 was wrong as during the said period TOU billing meter was disturbed, whereby the peak and off peak units were not recorded correctly. Therefore the bill amounting to Rs.37,611,453/- for the period June 2013 to October 2014 was charged in excess and liable to be refunded. Learned counsel further averred that the consumption in peak hours reduced drastically as the self-generated electric supply was made available during the peak hours due to availability of gas since June 2013.

6. 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 preliminary 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. In this regard, it is clarified that the impugned decision was pronounced by POI under Section 38 of NEPRA Act 1997 and the restriction of 90 days under Electricity Act 1910 is not applicable to POI. Objection of LESCO is invalid.
 - ii. The respondent disputed the bills amounting to Rs.37,611,453/- for the period June 2013 to October 2014 before POI vide his application on 10.09.2015.
 - iii. It has been established that TOU billing meter of the respondent with regard to peak and off peak reading was defective as confirmed by POI. In the presence





National Electric Power Regulatory Authority

of TOU backup meter, peak hour and off peak hour units could be worked out from the data of backup meter since its installation 14.05.2013 till the inspection carried out by POI on 11.04.2016.

TOU Backup Meter	(A) Date of installation 14.05.2013	(B) POI inspection dated 11.04.2016	Difference (B-A) x MF	Units
Off peak reading	0.14	7,615.10	(7,615.10-0.14) x 8,000	60,919,680
Peak reading	0.00	212.79	(212.79-0.0) x 8,000	1,702,320
Total Units				62,622,000

- Percentage Peak Hour = $\frac{\text{Peak Units} \times 100}{\text{Total Units}} = \frac{1,702,320 \times 100}{62,622,000} = 2.72\%$
- Percentage Off Peak Hour = $\frac{\text{Off Peak Units} \times 100}{\text{Total Units}} = \frac{60,919,680 \times 100}{62,622,000} = 97.28\%$

iv. From the analysis of preceding paragraphs, it is established that 2.72% peak hour units and 97.28% off peak hour units were recorded by the TOU backup meter since its installation i.e. 14.05.2013 till POI checking dated 11.04.2016. POI has rightly determined in the impugned decision that the electricity bills for the disputed period June 2013 to December 2014 charged to the respondent are null and void. The respondent should be charged on the basis of 2.72 % peak hour consumption and 97.28 % off peak hour consumption as calculated above for the same dispute period.





National Electric Power Regulatory Authority

7. In view forgoing discussion, we do not find any reason to interfere with the impugned decision, which is upheld and consequently the appeal is dismissed.

Muhammad Qamar-uz-Zaman
Member

Nadir Ali Khoso
Convener

Muhammad Shafique
Member

Dated: 24.05.2017

