



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

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No. NEPRA/AB/Appeal-116/POI-2016/ 529-534

April 14, 2017

1. M/s Golden Textile Mills (Pvt.) Ltd,
Through Muhammad Saleem,
Its General Manager,
46-KM, Lahore Multan Road,
Phool Nagar, District Kasur
2. The Chief Executive Officer
LESCO Ltd,
22-A Queens Road,
Lahore
3. Saeed Ahmed Bhatti,,
Advocate High Court,
2nd Floor, Akram Mansion,
Neela Gumbad, Lahore
4. Mian Mahmood Rashid,
Advocate Supreme Court,
Rashid Law Associates,
3rd Ajmal House,
27-Egerton Road, Lahore
5. Asif Mahmood,
Assistant Manager (Opr),
LESCO Ltd,
Industrial Area 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 Golden Textile Mills (Pvt.) Ltd Against the Decision Dated 26.05.2016 of the Electric Inspector/POI to Government of the Punjab Lahore Region, Lahore

Please find enclosed herewith the Decision of the Appellate Board dated 12.04.2017, regarding the subject matter, for information and necessary action accordingly.

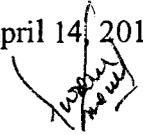
Encl: As Above

(Ikram Shakeel)

No. NEPRA/AB/Appeal-116/POI-2016/ 535

April 14, 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-116/POI-2016

Lahore Electric Supply Company Limited

.....Appellant

Versus

M/s Golden Textile Mills (Pvt.) Ltd,
Through Muhammad Saleem, General Manager, 46-KM,
Lahore Multan Road, Phool Nagar, District Kasur

.....Respondent

For the appellant:

Mr. Saeed Ahmed Bhatti Advocate
Mr. Asif Mahmood SDO

For the respondent:

Hafiz Muhammad Azhar Ali Advocate

DECISION

1. This appeal has been directed against the decision dated 26.05.2016 of the Provincial Office of Inspection Lahore Region, Lahore (hereinafter referred to as POI) whereby the complaint filed against the petitioner was allowed.
2. The brief facts of the case are that a bill of Rs. Rs.9,828,960/-for February 2015, payable by 20.3.2015 was served upon the respondent who approached the appellant for correction as well as extension of due date, which however was not done. The respondent



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therefore paid the total bill amounting to Rs.10,801,597/- including Rs.973,637/- as Late Payment Surcharge (LPS) on 26.03.2015.

3. The respondent being aggrieved filed an application before POI on 31.03.2015, which was disposed of by POI vide its decision dated 26.05.2016 while holding that the impugned bill for 02/2015 contains excessive and incorrect reading as recorded on 02.03.2015 instead of as required on 27.02.2015; therefore the LPS amount Rs.973,637/- recovered in the amount Rs.10,801,597/- as bill for 02/2015 is void, unjustified and of no legal effect and the petitioner is not liable to pay the same.
4. Being dissatisfied with the decision of POI dated 26.05.2016, this appeal has been filed inter-alia on the grounds that the decision is void since it was issued after 90 days as per section 26(6) of Electricity Act, 1910; that the bill amounting to Rs.9,828,960/- for February 2015 was payable by 20.03.2015 but the respondent failed to do so, therefore LPS of Rs.973,637/- was recovered from the respondent and that the impugned decision is illegal, unlawful, void ab-initio and liable to be set aside.
5. Notice of the appeal was issued to the respondent for filing reply/parawise comments, which were filed on 26.08.2016. In its reply, the respondent averred that the impugned decision was rendered by POI under NEPRA Act 1997, which does not prescribe time limit for decision. The respondent contended that the bill amounting to Rs.10,801,597/- including LPS of Rs.973,637/- served by LESCO was incorrect as excessive units were charged by recording the meter reading 2 to 3 days late instead of on 27.02.2015 with

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malafide intention as consumer card was not maintained by LESCO. Moreover as per respondent, the due date for payment was revised to 20th instead of 24th of the month. The respondent stated that both the matters were brought into notice of LESCO but all went in vain. The respondent finally prayed that the impugned decision be upheld.

6. Hearing of the appeal was conducted at NEPRA's local office of Lahore on 31.03.2017, in which both the parties entered their appearance. Mr. Saeed Ahmed Bhatti, learned counsel for the appellant contended that the electricity bill amounting to Rs.10,801,597/- including LPS of Rs.973,637/- for February 2015 was issued to the respondent as per actual meter reading and no excessive units were charged to the respondent. According to learned counsel for LESCO, aforesaid bill was issued on 05.03.2015 and the due date was 20.03.2015 in accordance with the Consumer Service Manual. As regards the request for extension of time, the learned counsel pleaded that the matter was placed before BOD LESCO but it was denied. Since the respondent failed to make the payment by the due date, therefore LPS of Rs.973,637/- imposed and received from the respondent is legal and justified. The counsel further clarified that merely a request by the respondent for extension of date does not create a legal right for the respondent. On the contrary, the learned counsel for the respondent contended that it has been established that the meter reading date as per bill for February 2015 was 27.02.2015 but consumption charged in the bill was as per meter reading on 04.03.2015. Since excessive billing was made therefore a timely request was made to LESCO for correction of bill and time extension



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but unfortunately the responsible officers of LESCO kept them in waiting and refused the same on 24.03.2015 when the dead line for payment had already expired and LPS became due. As per version of the respondent, he was penalized for no fault on his part. The counsel for the respondent further informed that it was a routine that the application for the extension of time of payment presented to the LESCO every month was accepted and the extension was granted. The learned counsel for the respondent defended the impugned decision, which according to him was on facts and law and liable to be maintained.

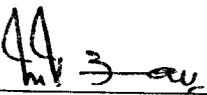
7. Arguments heard and record perused. As regards the objection raised by the appellant for passing of impugned decision by POI after statutory period of 90 days, it is to be observed that the period of 90 days may be relevant for the Electric Inspectors under section 26(6) of Electricity Act, 1910, however, NEPRA has nothing to do with the decisions of Electric Inspectors rather it is the appellate authority for decisions given by the Provincial Offices of Inspection as per section 38 of NEPRA Act, 1997. Therefore, the objection of appellant is totally irrelevant. It is also an admitted position that the meter reading date printed on the bill was 27.02.2015 but in fact the reading of 04.03.2015 was incorporated in the bill for February 2015 due to which more units were added in the bill. The request of the respondent for the correction of bill and extension of date was made in time by the respondent, which was not decided by LESCO before the due date for payment i.e.20.03.2015. Denial of the request was conveyed to the



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respondent on 24.03.2015 after the expiry of due date, which made the respondent liable to pay LPS of Rs.973,637/-. Requests for extension of date in routine were accepted, a fact which is not denied by the appellant. Even otherwise, the respondent had legitimate expectancy that due date would be extended and he will be able to make payment of electricity bill for February 2015 without LPS as usual. Payment of the bill along with LPS for February 2015 indicates that the respondent was inclined to make payment by due date but waited for the decision of LESCO regarding extension. Moreover the mistake regarding excessive consumption was not rectified by LESCO, as such the respondent is not liable to make payment of LPS of Rs.973,637/-. We are inclined to agree with the contention of the respondent that the bill was not correct as such LPS is not justified.

8. From what has been discussed above, we do not find any reason to interfere with the impugned decision and accordingly the appeal is dismissed.



Muhammad Qamar-uz-Zaman
Member



Nadir Ali Khoso
Convener



Muhammad Shafique
Member

Dated: 12.04.2017