



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

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No. NEPRA/AB/Appeal-118/POI-2016/ 834-838

June 01, 2017

1. Muhammad Arshad Chaudhary,
S/o Nazir Muhammad,
R/o 104-Mcleoad Road,
Basement Capital Hospital,
Lahore
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. Sub Divisional Officer (Operation),
LESCO Ltd,
Royal 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 Arshad Ch. Against the Decision Dated 15.03.2016 of the Electric Inspector/POI to Government of the Punjab Lahore Region, Lahore

Please find enclosed herewith the Decision of the Appellate Board dated 31.05.2017, regarding the subject matter, for information and necessary action accordingly.

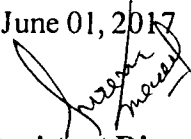
Encl: As Above

(Ikram Shakeel)

No. NEPRA/AB/Appeal-118/POI-2016/ 839

Forwarded for information please.

June 01, 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-118/POI-2016

Lahore Electric Supply Company LimitedAppellant

Versus

Muhammad Arshad Chaudhary, S/o Nazir Muhammad,
R/o 104-Mcleod Road, Basement Capital Hospital, LahoreRespondent

For the appellant:

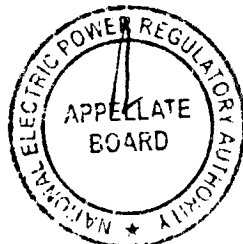
Mr. Saeed Ahmed Bhatti Advocate

For the respondent:

Mr. Muhammad Arshad

DECISION

1. Through this decision an appeal filed by Lahore Electric Supply Company Limited (hereinafter referred to as LESCO) against the decision dated 15.03.2016 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) is being disposed of.



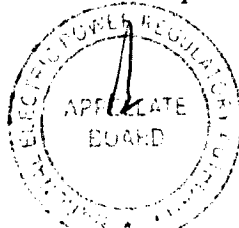


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2. Brief facts of the case are that the respondent is a commercial consumer of LESCO bearing Ref No.43-11333-273700 with a sanctioned load of 09 kW under A-2c tariff. Meter of the respondent was checked by Metering and Testing (M&T) LESCO on 01.09.2004 and it is alleged that the same was found tampered for dishonest abstraction of electricity. A notice dated 06.09.2004 for the aforementioned discrepancy was issued to the respondent. The respondent filed a civil suit before Civil Judge Lahore for declaration, mandatory and permanent injunction challenging therein aforesaid notice dated 06.09.2004, electricity bill for 3,690 units and 6,478 units for July 2004 and August 2004 respectively. However the aforesaid suit was withdrawn by the respondent and a detection bill of Rs. 346,596/- for February 2004 to July 2004 (06 months) on the basis of consumption of 6,478 units as recorded in the month August 2008 was issued by LESCO on 28.02.2013 after the withdrawal of suit. The respondent filed a petition before POI on 15.03.2013, assailed the bills for 3,690 units and 6,478 units for July 2004 and August 2004 respectively and the detection bill of Rs. 346,596/- for February 2004 to July 2004. The petition was disposed of by POI vide its decision dated 15.03.2016., the operative portion of which is reproduced below:

“Summing up the aforesaid discussion, it is held that:

- i. *The detection bill amounting to Rs. 3,46,596/- dated 28.02.2013 added as arrears for 31638 Units w.e.f. 02/2004 to 07/2004 is held as null, void and of no legal consequence and the petitioner is not liable to pay the same.*



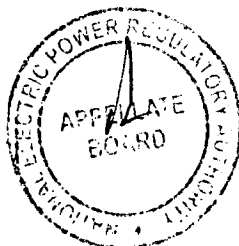


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The Respondents are directed to charge the petitioner @ 3285 KWH/Month for 07/2004 and 08/2004 by adjusting already charged units accordingly.

ii. The disputed energy meter (Meter No. 78760, SB) was found having scratches at the 1000th and 100th places of the dial train register as checked by this forum on 06.03.2014 in the presence of all the parties. ”

3. Being dissatisfied with the aforesaid decision of POI dated 15.03.2016 (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 maintainability of the appeal on the jurisdiction of POI and contended that the petition dated 15.03.2013 was decided by Electric Inspector vide its impugned decision dated 15.03.2016 in violation of time limit of 90 days as prescribed under section 26 (6) of Electricity Act 1910. LESCO further contended that the bills for 3,690 units and 6,478 units for July 2004 and August 2004 respectively and a detection bill of Rs. 346,596/- for February 2004 to July 2004 are justified and payable. LESCO termed the impugned decision as illegal, unlawful, void ab-initio and biased.
4. Notice of the appeal was issued to the respondent for filing reply/parawise comments, which were however not filed. The hearing of the appeal was held in Lahore on 22.05.2017, in which both the parties entered their appearance. Mr. Saeed Ahmed Bhatti, learned counsel for LESCO reiterated his stance as contained in the

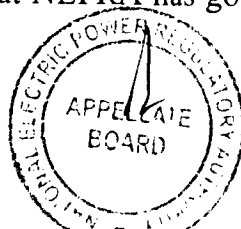




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memorandum of appeal and averred that the bills for 3,690 units and 6,478 units for July 2004 and August 2004 respectively as per actual meter reading are justified and payable by the respondent, which were declared null and void without any reason. The learned counsel for LESCO further argued that the respondent was involved in theft of electricity by tampering the meter observed in the checking on 01.09.2004, therefore the detection bill of Rs. 346,596/- for 31,638 units for the period February 2004 to July 2004 charged to the respondent to recover the revenue loss sustained by the department is justified. On the contrary, Mr. Muhammad Arshad the respondent appearing in person refuted the allegation of the theft of electricity and prayed that the impugned decision being legal and justified be maintained.

5. We have heard the arguments of both the parties and examined the record placed before us. As regards the preliminary objection of LESCO regarding lack of jurisdiction of POI due to disposal of complaint after prescribed time limit of 90 days under section 26 (6) of Electricity Act 1910, the same has got no force at all because the decision was rendered by POI under section 38 (3) of NEPRA Act 1997 for which no time period for disposal of complaint is prescribed. It needs to be clarified that both the offices of Electric Inspector and Provincial Office of Inspection are two separate offices working under different legal framework. Office of Electric Inspector has been established under the provisions of Electricity Act, 1910 whereas the office of POI has been established under NEPRA Act, 1997. It may also be relevant to mention here that NEPRA has got nothing to do with the decisions given

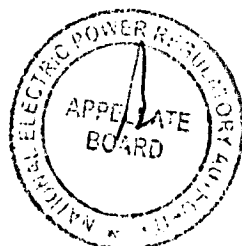




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by Electric Inspector under Electricity Act, 1910 rather it is the appellate Authority against the decisions of POI which is established under the provisions of NEPRA Act, 1997. In this view of the matter, the objection of LESCO has no legal basis and accordingly the same is rejected. As regards merits of the case, the respondent disputed the bill for 3,690 units and 6,478 units for July 2004 and August 2004 respectively and the detection bill of Rs. 346,596/- for February 2004 to July 2004. A comparison of the consumption data for the period February 2003 to July 2003 with the corresponding disputed period of February 2004 to July 2004 has revealed that the consumption during the disputed period was higher than the undisputed period. Therefore POI has rightly determined that the detection bill of Rs. 346,596/- for February 2004 to July 2004 is not justified and liable to be cancelled. Since the bill for 3,690 units and 6,478 units for July 2004 and August 2004 respectively were charged as per actual meter reading, the same are liable to be paid by the respondent. The determination of POI to charge the bill @ 3,285 kWh/month for July 2004 and August 2004 has no basis and liable to be set aside to that extent.

6. Foregoing in consideration it is concluded that:
 - i. The detection bill of Rs. 346,596/- is null and void and the respondent is not liable to pay the same.
 - ii. The bill for 3,690 units and 6,478 units for July 2004 and August 2004 respectively already charged by LESCO are justified and payable





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by the respondent.

7. The appeal is disposed of in above terms.

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Muhammad Qamar-uz-Zaman
Member

A handwritten signature in black ink, appearing to read 'Shafique', is written above a horizontal line.

Muhammad Shafique
Member

A handwritten signature in black ink, appearing to read 'Nadir Ali Khoso', is written above a horizontal line.

Nadir Ali Khoso
Convener

Dated: 31.05.2017

