



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

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No. NEPRA/AB/Appeal-121/POI-2016/ 1052-1056

July 14, 2017

1. Muhammad Naeem,  
S/o Feroze Din,  
Prop: Karmanwala Flour Mills,  
Chak No. 12/1-AL,  
Renala Khurd, Okara
2. Chief Executive Officer  
LESCO Ltd,  
22-A, Queens Road,  
Lahore
3. Mehar Shahid Mahmood  
Advocate High Court,  
Office No. 25, 3<sup>rd</sup> Floor,  
Ali Plaza, 3-Mozang Road,  
Lahore
4. Ch. Muhammad  
Advocate High Court,  
Lahore
5. Revenue Officer (RO),  
LESCO Ltd,  
Renal Divisional,  
Renala Khurd Renala
6. Electric Inspector  
Lahore Region, Energy Department,  
Govt. of Punjab, Block No. 1,  
Irrigation Complex, Canal Bank,  
Dharampura, Lahore

Subject: Appeal Titled LESCO Vs. Muhammad Naeem Against the Decision Dated 14.06.2016 of the Electric Inspector/POI to Government of the Punjab Lahore Region, Lahore

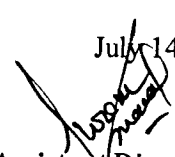
Please find enclosed herewith the Decision of the Appellate Board dated 13.07.2017, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(Ikram Shakeel)

No. NEPRA/AB/Appeal-121/POI-2016/ 1057  
Forwarded for information please.

July 14, 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-121/POI-2016

Lahore Electric Supply Company Limited .....Appellant

Versus

Muhammad Nacem S/o Feroze Din, Prop: Karamanwala  
Flour Mills, Chak No.12/1-AL, Renala Khurd, Okara .....Respondent

For the appellant:

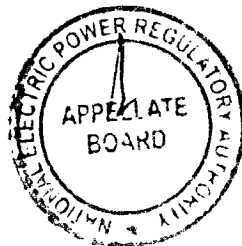
Mehar Shahid Mehmood Advocate

For the respondent:

Mr. Muhammad Azam Jutt Advocate

## DECISION

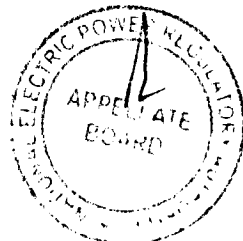
1. This decision shall dispose of an appeal filed by Lahore Electric Supply Company Limited (hereinafter referred to as LESCO) against the decision dated 14.06.2016 of the Provincial Office of Inspection/Electric Inspector Lahore Region, Lahore (hereinafter referred to as POI) under Section 38 (3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (hereinafter referred to as NEPRA Act 1997).
2. As per facts of the case, the respondent is an industrial consumer of LESCO bearing Ref No.13-11424-0830502 with a sanctioned load of 360 kW under B-2b tariff. As per LESCO, first billing meter of the respondent was found defective





## National Electric Power Regulatory Authority

with display washed out, therefore the billing was shifted on the backup meter (second billing meter) of the respondent on 25.01.2011. Later on second billing meter of the respondent was checked by LESCO on 22.11.2012 and reportedly it was found 33% slow due to one phase being dead, hence the detection bill of Rs.77,459/- for the period August 2012 to November 2012 (4 months) was debited to the respondent @ 33% slowness, which was not challenged by the respondent. Furthermore multiplication factor (MF) was enhanced from 160 to 239 by LESCO w.e.f December 2012 and onwards till the replacement of the second billing meter. Subsequently premises of the respondent was raided by LESCO along with Police on 20.09.2013 and the postal orders of the second billing meter were found torn out and allegedly the respondent was found involved in dishonest abstraction of electricity through shifting load of dead phase of the second billing meter on another single phase meter. FIR No.397/2013 dated 20.09.2013 was lodged against the respondent and another detection bill (hereinafter referred to as the impugned detection bill) of Rs.3,737,737/- for 207,654 units for the period November 2012 to August 2013 (10 months) was charged to the respondent in September 2013 @ 60% load factor of single phase 15 kW and 47% load factor of 360 kW of industrial load. The respondent initially challenged the aforesaid impugned detection bill before Civil Court where injunction was granted against the impugned detection bill vide order 07.02.2015 against which LESCO filed WP No.25738/2013 before Lahore High Court Lahore, whereby The honorable high Court vide the order dated 26.08.2015 observed that Civil Court has no jurisdiction



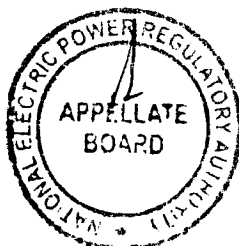


## National Electric Power Regulatory Authority

to adjudicate upon the matter. As regards the FIR, the respondent was acquitted by WAPDA Magistrate Section 30, Okara vide its order dated 20.01.2016. Afterwards the respondent filed an application before POI and challenged the aforesaid impugned detection bill, which was decided by POI vide its decision dated 14.06.2016 with the following conclusion:

*“Summing the aforesaid discussion, it is held that: (i) Detection bill amounting to Rs.3,737,737/- in the bill of 09/2013 for net chargeable units 207654 KWH (467447 KWH-already charged 259793 KWH=207654 KWH) for the period of 10 months (11/2012 to 08/2013) calculated @ single phase 15 KW Load @ 60% load factor and for sanctioned load of 3 phase supply 360 KW @47% Load Factor and without charging of MDI for this detection period of 11/2012 to 08/2013 is null, void and illegal and not payable by the petitioner.”*

3. Being dissatisfied with the decision dated 14.06.2016 of POI (hereinafter referred to as the impugned decision), LESCO has filed the instant appeal and inter alia, contended that premises of the respondent was inspected by LESCO along with DCO task force on 20.09.2013 and the respondent was found stealing electricity by shifting intended load of the dead phase of second billing meter on a domestic single phase meter. As per LESCO, impugned detection bill of Rs.3,737,737/- for 207,654 units for the period November 2012 to August 2013 charged to the respondent @ 60% load factor of single phase 15 kW and 47% load factor of 360 kW of industrial load is justified and the respondent is liable to pay the same. LESCO pointed out that the the impugned decision was passed by Electric Inspector on 14.06.2016 after lapse of statutory period of 90 days as envisaged

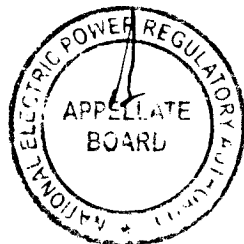




## National Electric Power Regulatory Authority

under Section 26(6) of Electricity Act 1910, hence the impugned decision became functus officio, void ab-initio and corum non iudice, therefore liable to be set aside.

4. A notice of the appeal was issued to the respondent for filing reply/parawise comments, which were filed on 01.09.2016. In his reply, the respondent raised the preliminary objection regarding maintainability of the appeal and contended that the appeal is barred by time. The respondent refuted the allegation of LESCO regarding dishonest abstraction of electricity and further contended that he neither committed the illegal abstraction of electricity nor even pointed out by LESCO, therefore the impugned detection bill amounting to Rs.3,737,737/- charged by LESCO in September 2013 is illegal, unjustified and he is not liable to pay the same. As per respondent, FIR No.397/2013 dated 20.09.2013 was lodged against him alleging dishonest abstraction of electricity, which was assailed by the respondent before WAPDA Magistrate Section 30, Okara, whereby the honorable Magistrate acquitted the respondent vide the decision dated 20.01.2016. The respondent prayed that the impugned decision is based on facts and law and the same is liable to be upheld.
5. Notice was issued and hearing of the appeal was held at Lahore on 19.06.2017, which was attended by both the parties. Learned Counsel for LESCO contended that second billing meter of the respondent was checked by LESCO on 22.11.2012

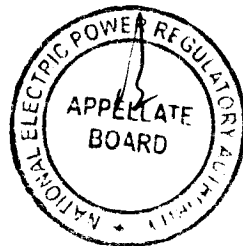




## National Electric Power Regulatory Authority

and it was found 33% slow due to one phase being dead, therefore the detection bill of Rs.77,459/- for the period August 2012 to November 2012 was charged to the respondent and MF was raised from 160 to 239 w.c.f December 2012 and onwards. According to LESCO, subsequently premises of the respondent was raided by LESCO along with Police on 20.09.2013 and allegedly the respondent was found stealing electricity through shifting load of dead phase of second billing meter on another single phase meter, hence impugned detection bill of Rs.3,737,737/- for 207,654 units for the period November 2012 to August 2013 charged to the respondent in September 2013 @ 60% load factor of single phase 15 kW and 47% load factor of 360 kW of industrial load is justified and payable by the respondent. Conversely the learned counsel for the respondent defended the impugned decision and prayed for upholding the same.

6. We have heard the arguments of both the parties and examined the record placed before us. It is observed as under:
  - i. Objection of LESCO for deciding the matter after period of 90 days was not pressed during the arguments. It is clarified that the impugned decision was rendered by POI under Section 38(3) of NEPRA Act 1997 (not an Electric Inspector under Electricity Act 1910), whereof there is no restriction of time limit. Objection of LESCO is devoid of force, therefore over ruled.
  - ii. In his reply/parawise comments of the appeal the respondent raised the

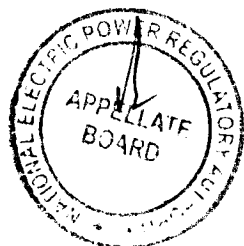




## National Electric Power Regulatory Authority

objection regarding limitation and contended that the appeal was time barred but this objection was not pressed before us during the arguments. It is observed that the appeal was filed against the impugned decision dated 14.06.2016 before NEPRA on 11.07.2016, which is within time limit of 30 days as specified under Section 38(3) of NEPRA Act 1997. The objection of the respondent is not valid, therefore rejected.

- iii. As regards merit of the case, premises of the respondent was inspected by LESCO on 20.09.2013 and the postal orders of the second billing meter were found torn out and the respondent was allegedly stealing electricity by shifting load of dead phase of second billing meter on another single phase meter. Impugned detection bill of Rs. 3,737,737/- for 207,654 units for the period November 2012 to August 2013 (10 months) was charged to the respondent @ 60% load factor of single phase 15 kW and 47% load factor of 360 kW of industrial load, which was agitated by him before POI.
- iv. POI in the impugned decision has rightly analyzed that the supply of electricity to the respondent's connection was made available with all three phases, only one phase of the second billing meter was dead, which made the second billing meter 33% slow and could not record the actual consumption. We are inclined to agree with the analysis of POI that technically there was neither any need nor any justification for shifting of the load of one phase of the second billing meter, which is already live to another phase of single





## National Electric Power Regulatory Authority

phase meter. Theft of electricity has neither been proved in a court of law nor has been established departmentally as per provisions of chapter 9 of CSM. The respondent being already charged the detection bill of Rs.77,459/- and with enhanced MF =239 for the period August 2012 and onwards till the replacement of second billing meter i.e. October 2013 and there is no justification for charging the impugned detection bill of Rs.3,737,737/- for 207,654 units to the respondent on the allegation of theft of electricity for the same period.

7. From the discussion in forgoing paragraphs, the impugned detection bill of Rs.3,737,737/- for 207,654 units for the period November 2012 to August 2013 charged to the respondent @ 60% load factor of single phase 15 kW and 47% load factor of 360 kW of industrial load is not justified and withdrawn as already determined in the impugned decision and the appeal is dismissed accordingly.

Muhammad Qamar-uz-Zaman  
Member

Muhammad Shafique  
Member

Nadir Ali Khoso  
Convener

Dated: 13.07.2017

