



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

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No. NEPRA/AB/Appeal-126/POI-2016/1376 — 1380

September 20, 2017

1. M/s Umair Tariq Steel Foundry,
Through Zafar Hussain Khan,
Advocate Supreme Court,
2-Court Street, 26-Lower Mall,
Lahore
2. Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore
3. Syed Ali Raza Rizvi,
Advocate High Court,
2-Haji Chambers,
4-Mozang Road, Lahore
4. SDO/Assistant Manager ,
LESCO Ltd,
Mehmood Booti 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. M/s. Umair Tariq Steel Foundry Against the Decision Dated 30.06.2016 of the Electric Inspector/POI to Government of the Punjab Lahore Region, Lahore

Please find enclosed herewith the Decision of the Appellate Board dated 19.09.2017, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(Ikram Shakeel)

No. NEPRA/AB/Appeal-126/POI-2016/1381

August 10, 2017

Forwarded for information please.

Assistant Director
Appellate Board

✓ Registrar

CC:

1. Member (CA)



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-126/POI-2016

Lahore Electric Supply Company Limited

.....Appellant

Versus

M/s. Umair Tariq Steel Foundry,
Through Zafar Hussain Khan, Advocate Supreme Court,
2-Court Street, 26-Lower Mall, Lahore

.....Respondent

For the respondent:

Syed Ali Raza advocate

Mr. Abdullah Shabir Ahmed AMO

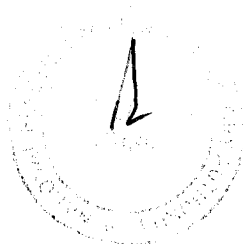
For the respondent:

Mr. Zafar Hussain Khan advocate

Mr. Umair Tariq

DECISION

1. Through this decision, an appeal filed by Lahore Electric Supply Company Limited (hereinafter referred to as LESCO) against the decision dated 30.06.2016 of the Provincial Office of Inspection/Electric Inspector Lahore Region, Lahore (hereinafter referred to as POI) is being disposed of.
2. LESCO is a licensee of National Electric Power Regulatory Authority (hereinafter referred to as NEPRA) for distribution of electricity in the territory specified as per terms and conditions of the license and the respondent is an industrial consumer

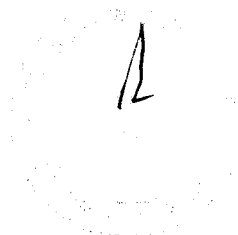




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of LESCO bearing Ref No.24-11355-9005102 with a sanctioned load of 480 kW under B-2 tariff. As per fact of the case, metering equipment of the respondent was checked by LESCO on 07.12.2012 and reportedly display of the TOU billing meter was found vanished, whereas the backup meter was working within specified limits. Metering equipment of the respondent was again checked by LESCO on 08.01.2013 and reportedly the TOU billing meter was found dead stop with display washed out and the backup meter was functioning correctly. Billing of the respondent was shifted on the backup meter vide meter change order (MCO) dated 08.01.2013. Subsequently a bill amounting to Rs.10,231,843/- for 983,040 units (OP=970,080, P=12,960)/536 kW MDI was issued by LESCO to the respondent, which contained a bill for 905,280 units on account of the difference between already charged units and the existing backup meter reading and the current bill of 77,760 units for December 2012.

3. Respondent was aggrieved with the bill of Rs.10,231,843/- for 983,040 units/ 536 kW MDI charged by LESCO in December 2012, hence challenged the same vide the civil suit dated 08.02.2013. The honorable Civil Court vide its Order dated 11.02.2015 referred the matter to POI for decision. The respondent filed an application before POI on 02.03.2015 and agitated the aforesaid bill. The matter was





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disposed of by POI vide its decision dated 30.06.2016 (hereinafter referred to as the impugned decision) with the following conclusion:

“Summing up the aforesaid discussion, it is held, (I) That the bill of December 2012 for Rs.10231843/- charged for 970080 KWH (off peak), 447 KW MDI (off peak), 12960 KWH (peak) and 89 KW MDI (peak) against the sanctioned load of 480 KW of the Steel Foundry and difference of reading of 905280 KWH between defective LT TOU Billing Meter and the Backup Meter as posted with the current consumption of December 2012 is null, void and of no legal consequence and the petitioner is not liable to pay the same. (II)The disputed LT TOU Billing Meter became slow/defective w.e.f the billing month of January 2012 to 08.01.2013 (MCO) and the respondents are directed to charge the petitioner @ 99,765 KWH/540 KW or @ its previous corresponding month consumption whichever is higher for the period of January 2012 to 08.01.2013 (MCO) in the light of Clause 4.4(e) of CSM, 2010 approved by NEPRA Authorities. The respondents are directed to overhaul the account of the petitioner accordingly and on deposit of the overhauled bill in the light of this decision by the petitioner, Respondents shall restore the supply of the petitioner immediately in accordance with the law.”

4. The impugned decision has been assailed by LESCO through the instant appeal filed before NEPRA under Section 38 (3) of the NEPRA Act 1997. In its appeal LESCO raised the preliminary objection regarding the jurisdiction of POI and contended that

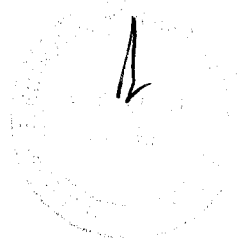




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POI is bound to decide the matter within 90 days of receipt of the complaint as envisaged under Section 26(6) of Electricity Act 1910, whereas it was decided by POI after lapse of 15 months of the filing of the complaint, hence the impugned decision is not maintainable in the eye of law. LESCO further contended that metering equipment of the respondent was checked by LESCO on 07.12.2012 and 08.01.2013 and on both the occasions, LT TOU billing meter of the respondent was found defective with display washed out and the backup meter was working within permissible limits, therefore bill of Rs.10,231,843/- for 983,040 units (OP=970,080, P=12,960)/536 kW MDI was charged, which includes a bill for 905,280 units due to the difference of already charged units and last reading of backup meter and the current bill of 77,760 units for December 2012. As per LESCO, on the request of the respondent six installments of the aforementioned bill were approved and the respondent paid one installment without any protest. LESCO finally prayed for setting aside the impugned decision.

5. In response to the notice for filing reply/parawise comments, the respondent filed reply on 26.08.2016. In his reply, the respondent rebutted the contentions of LESCO regarding the defectiveness of LT TOU billing meter and submitted that no such discrepancy was pointed out by SDO LESCO during the monthly readings. The respondent further asserted that the consumption record of the backup meter also

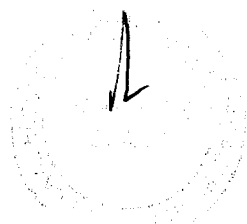




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confirmed that the billing was done on the basis of actual consumption. As regards the claim of LESCO for payment of one installment of the disputed bill, the respondent confirmed for payment of Rs. 2.5 million under coercion. The respondent defended the impugned decision and pleaded for dismissal of the appeal.

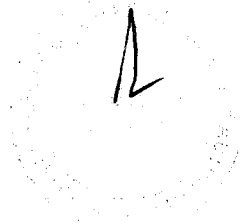
6. After issuing notice, the appeal was heard at Lahore on 15.08.2017, wherein both the parties were in attendance. Learned counsel for LESCO repeated the same arguments as described in memo of the appeal and contended that the TOU billing meter of the respondent was found defective with display washed out, hence a bill of Rs.10,231,843/- for 983,040 units (OP=970,080, P=12,960)/536 kW MDI was charged to the respondent, which contained a bill for 905,280 units on account of the difference of already charged units and the existing backup meter reading and the current bill of 77,760 units for December 2012. As per LESCO, the aforesaid bill charged to the respondent is justified, the respondent had agreed for payment and in fact made payment of one installment without raising any objection. Conversely, learned counsel for the respondent pointed out that neither any difference between the TOU billing and backup meters reading was noticed earlier nor data of the disputed TOU billing meter was retrieved, as such no bill on the basis of the difference of already charged units and backup meter is justified and payable by the respondent. Learned counsel for the respondent supported the impugned decision and pleaded for upholding the same.





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7. We have heard the arguments of both the parties and perused 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. It is clarified that the impugned decision was announced by the officer in the capacity as POI under Section 38 of NEPRA Act 1997, which does not prescribe any time limit. Besides the objection was not pressed by LESCO during the arguments. Hence the objection of LESCO is invalid.
 - ii. TOU billing meter of the respondent was found defective with display washed out during LESCO checking dated 07.12.2012 and 08.01.2013. Therefore LESCO charged a bill of Rs.10,231,843/- for 983,040 units (OP=970,080, P=12,960)/536 kW MDI to the respondent, which comprises of a bill for 905,280 units on account of the difference of already charged units and the existing backup meter reading and the current bill of 77,760 units for December 2012, the aforesaid bill was agitated by the respondent before POI.
 - iii. It is observed that no discrepancy was noticed by SDO LESCO during monthly readings prior LESCO checking dated 07.12.2012, moreover the respondent was neither associated during LESCO checking dated 07.12.2012 and 08.01.2013 nor the TOU billing and backup meters were produced before POI to ascertain





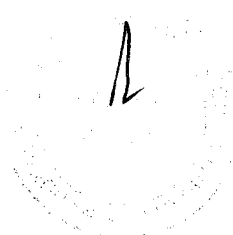
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their accuracy. Moreover LESCO failed to retrieve data of the disputed TOU billing meter, which could substantiate their stance regarding charging the aforesaid bill of Rs.10,231,843/- in December 2012.

- iv. In order to assess the accuracy of said TOU billing meter, comparison of the consumption of disputed and corresponding undisputed periods is tabulated below:

Period	Normal Mode Average units/month
Corresponding period before dispute January 2011 to December 2011(12 months)	99,765
Disputed period January 2012 to December 2012(12 months)	102,585
Corresponding period after dispute January 2013 to December 2013(12 months)	87,133

It is evident from the above table that the average consumption charged by LESCO in normal mode during the disputed period is higher than the normal average consumption of corresponding undisputed periods before and after dispute, which proves that the actual consumption was recorded by the TOU billing meter during the disputed period. Under these circumstances, the bill of Rs.10,231,843/- for 983,040 units (OP=970,080, P=12,960)/536 kW MDI consisting a bill for 905,280 units on account of the difference of already





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charged units and the existing backup meter reading and the current bill of 77,760 units for December 2012 is unjustified and liable to be cancelled as already determined in the impugned decision.

- v. Impugned decision for charging the bill for the period January 2012 to December 2012 (12 months) on the basis of corresponding consumption of previous year 2011 is not correct and liable to be withdrawn to this extent. The respondent is responsible for payment of the bills @ 102,585 units/466 kW MDI for the same period as already charged by LESCO. Impugned decision is liable to be modified to this extent.

8. In view of the forgoing discussion, we have concluded as under:

- i. Bill of Rs.10,231,843/- for 983,040 units (OP=970,080, P=12,960)/536 kW MDI along with a bill for 905,280 units on account of the difference of already charged units and the existing backup meter reading and the current bill of 77,760 units for December 2012 is declared null, void and the respondent is not liable to pay the same. Impugned decision is maintained to this extent.
- ii. The respondent is obligated for payment of electricity bills @ 102,585 units/466 kW MDI per month for the period January 2012 to December 2012 as





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already charged by LESCO. Billing account of the respondent should be overhauled accordingly and the payments already made be adjusted.

9. The impugned decision is modified in above terms.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Dated: 19.09.2017

