



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

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No. NEPRA/AB/Appeal-167/POI-2016/ *1206-1205*

August 10, 2017

1. Dr. Fariha Farooq,
Owner CNG Pump,
50-Lower Mall Road,
Beside M.A.O College,
Lahore
2. Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore
3. Mian Muhammad Mudassar Bodla,
Advocate Supreme Court,
Syed Law Building, 4-Mozang Road,
Lahore
4. Assistant Manager (Operation),
LESCO Ltd,
Islampura 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. Dr. Fariha Farooq Against the Decision Dated 09.09.2016 of the Electric Inspector/POI to Government of the Punjab Lahore Region, Lahore

Please find enclosed herewith the Decision of the Appellate Board dated 10.08.2017, regarding the subject matter, for information and necessary action accordingly.

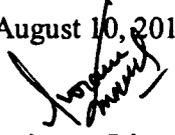
Encl: As Above

No. NEPRA/AB/Appeal-167/POI-2016/ *1206*

Forwarded for information please.

(Ikram Shakeel)

August 10, 2017


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-167/POI-2016

Lahore Electric Supply Company Limited

.....Appellant

Versus

Dr. Fariha Farooq, 50-Lower Mall Road,
Beside M.A.O College, Lahore

.....Respondent

For the appellant:

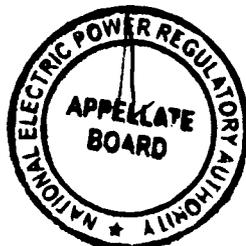
Mian Muhammad Mudassar Bodla Advocate
Mr. Muhammad Asghar SDO

For the respondent:

Dr. Farooq Saeed

DECISION

1. This decision shall dispose of the appeal filed by Lahore Electric Company Limited (hereinafter referred to as LESCO) against the decision dated 09.09.2016 of Provincial Office of Inspection/Electric Inspector, Lahore Region, Lahore (hereinafter referred to as POI).
2. As per fact of the case, the respondent is an owner of petrol pump and commercial consumer of LESCO bearing Ref No. 24-11242-9902900 with a sanctioned load of 130kW under A-2b tariff. Metering equipment of the respondent was checked by Metering and Testing (M&T) LESCO on 26.09.2014 and reportedly the TOU billing meter was found defective and the backup meter was found within BSS limits. Moreover a difference of 62,852 units was noticed between the consumption of TOU billing and backup meters, hence a difference bill amounting to Rs.1,722,327/-for





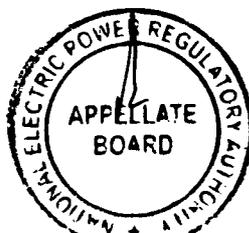
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6,285 units was charged by LESCO to the respondent in October 2014. Billing of the respondent was shifted to backup meter by LESCO vide meter change order (MCO) dated 06.11.2014.

3. Being aggrieved, the respondent filed an application before POI on 20.11.2014 and challenged the aforesaid difference bill. Both the meters were checked by POI in presence of both the parties on 29.04.2015 and 13.07.2016, comparison between the TOU billing and backup meters readings displayed 9.86% slowness of TOU billing meter. However the metering equipment of the respondent when checked jointly by POI on 01.08.2016 were found within BSS limits. The matter was disposed of by POI vide its decision dated 09.09.2016 with the following conclusion:

“Summing up the aforesaid discussion, it is held that: (i) Difference of reading of 62852 units added in the bill of October/2014 amounting to Rs.1,722,327/- is null, void and illegal and the petitioner is not liable to pay the same. (ii) The Respondents are directed to replace the defective meter with accurate new meter immediately and overhaul the account of the petitioner accordingly.”

4. Being dissatisfied with the POI decision dated 09.09.2016 (hereinafter referred to as the impugned decision), LESCO has filed the instant appeal under Section 38 (3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (hereinafter referred to as the NEPRA Act 1997). In its appeal, LESCO inter alia, raised preliminary objection regarding the jurisdiction of POI for announcement of the impugned decision after statutory period of 90 days as envisaged under Section 26 (6) of Electricity Act 1910. LESCO contended that metering equipment of the respondent was checked by LESCO on 26.09.2014 and the TOU billing meter was found defective with software error, whereas the backup

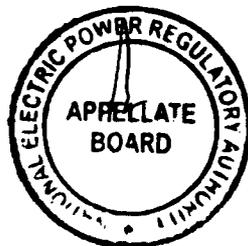




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meter was functioning within BSS limits, in addition a difference of 62,852 units was noticed between the TOU billing and backup meters. As per LESCO, the difference bill of Rs.1,722,327/- for 62,852 units charged to the respondent in October 2014 is legal, valid, justified and payable by the respondent. According to LESCO, POI neither considered the 9.86% slowness of the TOU billing meter as observed during joint checking dated 13.07.2016 nor the consumption recorded by the TOU billing meter during previous years, hence the impugned decision is against the facts and law 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 07.12.2016. In her reply, the respondent raised the preliminary objection regarding limitation and contended that the appeal filed against the impugned decision before NEPRA is barred by time and liable to be dismissed. The respondent inter alia, contended that both the TOU billing and backup meters functioned correctly since their installation in the year 2003 till September 2014 and no defect was pointed out by LESCO during this period. Hence there is no justification for charging the bill due to difference of TOU billing and backup meter readings for last 11 years pleaded the respondent. The respondent prayed that the impugned decision rendered by POI is well reasoned, justified, legal, lawful, within four corners of law, based on facts and figures and liable to be upheld.
6. Notice was issued and the appeal was heard in Lahore on 24.07.2017, wherein both the parties entered their appearance. In the outset of hearing, the respondent objected maintainability of the appeal being barred by time. In response LESCO explained that the impugned decision was pronounced by POI on 09.09.2016, copy whereof was obtained by LESCO on 26.09.2016 and the appeal against the impugned

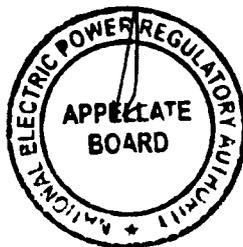




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decision was filed before NEPRA on 10.10.2016 with in time limit as stipulated under Section 38(3) of NEPRA Act 1997. On merits, learned counsel for LESCO reiterated the same arguments as narrated in memo of the appeal and contended that 9.61% slowness of TOU billing meter was established by POI during joint checking dated 13.07.2016, but POI has based the impugned decision by considering the 1.61% slowness of TOU meter, which is incorrect and liable to be set aside. LESCO further averred that the consumption of the respondent increased due to the conversion of business from CNG to petrol pump. On the contrary, the respondent contended that the TOU billing meter since its installation i.e. year 2003 functioned correctly till September 2014, as no discrepancy was noticed by LESCO between the consumption of TOU billing and backup meters, hence the bill for 62,852 units on the pretext of the difference of readings between the TOU billing and backup meters has no justification and liable to be withdrawn. The respondent defended the impugned decision and prayed for upholding the same.

7. Arguments heard, the record placed before us perused and following observed:
- i. The impugned decision was pronounced by POI on 09.09.2016, copy of the same was obtained by LESCO on 26.09.2016, therefore the appeal against the impugned decision filed before NEPRA on 10.10.2016 is within 30 days of receipt of the impugned decision. Since the appeal was filed within time limit as contemplated under Section 38(3) of NEPRA Act 1997, the objection raised by the respondent in this regard is therefore dismissed.
 - ii. 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

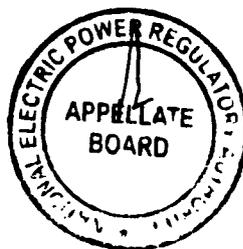




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was announced by the officer in the capacity as POI under Section 38 of NEPRA Act 1997, which does not prescribe any time limit for deciding the matter by POI. Besides the objection was not pressed by LESCO during the arguments before us. Hence the objection of LESCO is invalid and over ruled.

- iii. LESCO has charged the difference bill of Rs.1,722,327/- for 62,852 units to the respondent in October 2014, which was agitated by the respondent before POI.
- iv. Since the TOU billing meter of the respondent was found defective with software error by M&T LESCO on 26.09.2014 and the erratic behaviour of TOU billing meter was also confirmed by POI during its various checking, the respondent is liable to be charged for maximum two billing cycles due to a defective/slow meter, pursuant to clause 4.4 (e) of CSM, whereas in the instant case LESCO charged the bill for 62,852 units due to the difference of reading between TOU billing and backup meters for the period year 2003 to September 2014, which is contrary to the provisions of CSM. Moreover no such discrepancy was noted by SDO LESCO during monthly readings prior to M&T checking dated 26.09.2014. Under these circumstances, the difference bill amounting to Rs.1,722,327/- for 62,852 units charged to the respondent in October 2014 is not justified and liable to be declared null and void as already determined by POI in the impugned decision.
- v. Since the TOU billing meter was found defective in September 2014, therefore the respondent is liable to be charged the detection bill for July 2014 and August 2014 i.e. two months only on the basis of consumption recorded for July 2013 and August 2013.





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Period		To be charged as per consumption of July 2013 and August 2013	Already charged	Net to be charged
July 2014 and August 2014	Units	11,040 kWh + 18,480 kWh = 29,520 kWh	10,880 kWh + 13,280 kWh = 24,160 kWh	5,360 kWh
	MDI	102 kW + 93 kW = 195 kW	101 kW + 93 kW = 194 kW	01 kW

8. Forgoing in view, we have reached to the conclusion that:

- i. The difference bill of Rs.1,722,327/- for 62,852 units charged by LESCO in October 2014 is declared null and void as already determined in the impugned decision.
- ii. The respondent should be charged detection bill for 5,360 units/01 kW MDI for July 2014 and August 2014. The billing account of the respondent should be revised, overhauled and the payment made (if any) should be adjusted accordingly.

9. The impugned decision is modified in above terms.

Muhammad Qamar-uz-Zaman
Member

Nadir Ali Khoso
Convener

Date: 10.08.2017

