



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

NEPRA Office , Atta Turk Avenue (East), G5/1, Islamabad
Tel. No.+92 051 2013200 Fax No. +92 051 2600030
Website: www.nepra.org.pk E-mail: office@nepra.org.pk

No. NEPRA/AB/Appeal-170/POI-2016/ *896-901*

June 01, 2017

1. Hakim Ali Bhatti,
Chief Executive Officer,
M/s Heaven Hotel,
Centre Main Boulevard,
Defence, Lahore
2. Chief Executive Officer,
LESCO Ltd,
22-A, Queens Road,
Lahore
3. Malik Zahid Hussain,
Advocate High Court,
Corporate Law Advisors,
10-A, Turner Road, Lahore
4. Adnan Saeed Ch.
Advocate High Court,
First Floor, The state Life Building,
23-The Mall, Lahore
5. Sub Divisional Officer,
LESCO Ltd,
Defence Sub Division,
Lahore
6. Electric Inspector
Lahore Region, Energy
Department,
Govt. of Punjab, Block No. 1,
Irrigation Complex, Canal Bank,
Dharampura, Lahore

Subject: Appeal Titled LESCO Vs. Hakim Ali Bhatti Against the Decision Dated 07.09.2016 of the Electric Inspector/POI to Government of the Punjab Lahore Region, Lahore

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


Encl: As Above

No. NEPRA/AB/Appeal-170/POI-2016/ *902*

Forwarded for information please.

(Ikram Shakeel)

June 01, 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-170/POI-2016

Lahore Electric Supply Company LimitedAppellant

Versus

Hakim Ali Bhatti, Chief Executive Officer, Heaven Hotel,
Center Main Boulevard, Defence LahoreRespondent

For the appellant:

Malik Zahid Hussain Advocate

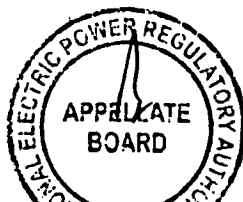
For the respondent:

Dr. Munir Ahmed CEO

Rai Shaban Ali 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 07.09.2016 of the Provincial Office of Inspection 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. Brief fact of the case are that the respondent is a commercial consumer of LESCO bearing Ref No. 24-11523-9011802-U with a sanctioned load of 128 kW under A-2Tariff. The meter of the respondent was checked by Standing Committee LESCO

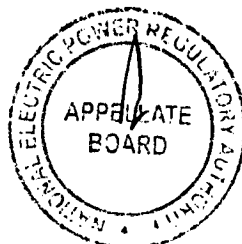




National Electric Power Regulatory Authority

on 02.10.2012 and reportedly it was found 33.3% slow due to blue phase being dead. Notice dated 03.10.2012 was issued to the respondent regarding above discrepancy and a bill amounting to Rs. 3,177,238/- for September 2012 was issued to the respondent, which contained a current bill of Rs. 878,071/- and a detection bill of Rs. 2,259,167/- for 203,600 units/383 kW for the period January 2012 to August 2012(8 months) charged @ 33.3% slowness. The whole amount was paid under protest as claimed by the respondent.

3. Being aggrieved, the respondent initially filed a complaint before Wafaqi Muhtasib for the above matter, which was withdrawn and the writ petition No. 1611/2015 was filed before Lahore High Court Lahore. The honorable High Court vide its decision dated 12.01.2015 dismissed the petition as withdrawn by the respondent. Subsequently an application was filed by the respondent before POI on 18.06.2015 and the bill of Rs. 3,177,238/- for September 2012 was challenged, which included the current bill of Rs. 878,071/- for September 2012 and the detection bill of Rs. 2,259,167/-for 203,600 units/383 kW for the period January 2012 to August 2012. The disputed meter could not be checked by POI as it was already replaced by a check meter on 05.11.2012 and the billing was shifted on the newly installed meter. The complaint was decided by the POI vide its decision dated 07.09.2016 whereby it was held as under:-

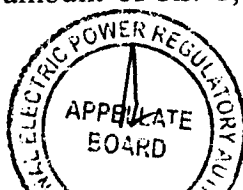




National Electric Power Regulatory Authority

“Summing up the aforesaid discussion, it is held that: i. The impugned energy meter became 33.3% slow w.e.f. the billing month of August 2012 to installation of check meter on 05.11.2012. ii. The detection bill amounting to Rs.2,259,167/- for 203600 KWH/383 KW for the period of 01/2012 to 08/2012 for 8 months, the current bill of September 2012 amounting to Rs.8,78,071/- for readings, the bill of October/2012 and the billing of first 5 days of November 2012 are null, void and illegal and the petitioner is not liable to pay the same.iii. The Respondents are directed to charge the petitioner KWH/MDI KW @ 33.3% slowness w.e.f the actual reading on 31.07.2012 (11321+2131=13452)(bill of August 2012) to actual reading on 05.11.2012 installation of check meter (12559+2433=14992.3) accordingly and proportionately. The respondents are also directed to declare the check meter (Meter No.203972, KBK) as billing meter w.e.f. 05.11.2012 and shift the billing on check meter on 05.11.2012 and shift the billing on check meter w.e.f 05.11.2012 and refund the excessively charged and recovered amounts through adjustment in the future bills and overhaul the account of the petitioner accordingly.”

4. The appeal in hand has been filed against the above referred decision; inter-alia on the grounds that the meter of the respondent was found 33.3% slow during checking dated 02.10.2012, therefore the detection bill of Rs. 2,259,167/- for 203,600 units/383 kW for the period January 2012 to August 2012 was charged @ 33.3% slowness and the respondent deposited the amount of Rs. 1,600,795/- on 28.06.2013 without any

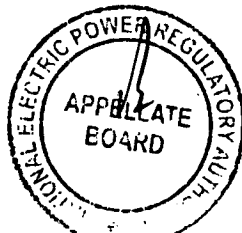




National Electric Power Regulatory Authority

protest; that the jurisdiction of Electric Inspector regarding the subject matter is barred as held by the honorable Supreme Court of Pakistan in its judgment reported as PLD 2006 SC 2008; and that the complaint filed before POI was barred by time

5. Notice of the appeal was issued to the respondent for filing reply/parawise comments, which were filed on 07.12.2016. In his reply, the respondent raised the preliminary objection for limitation and contended that coy of the impugned decision was obtained by LESCO on 15.09.2016, whereas the appeal was filed before NEPRA on 18.10.2016 after a lapse of 33 days, hence the appeal is liable to be dismissed being time barred. The respondent further objected the maintainability of the appeal and submitted that the same has not been filed before NEPRA through an authorized official of LESCO. As per respondent, no prior notice was served upon him nor the aforesaid discrepancy was ever noted by LESCO during the disputed period, therefore charging the detection bill of Rs. 2,259,167/- for 203,600 units/383 kW for the period January 2012 to August 2012 @ 33.3% slowness has no justification. The respondent averred that the lesser consumption was recorded since March 2012 as the hotel remained closed for renovation works and there was no business for five to six months.
6. Hearing of the appeal was scheduled for 22.05.2017 for which prior notices were issued to the parties. The hearing into the matter was conducted which was attended

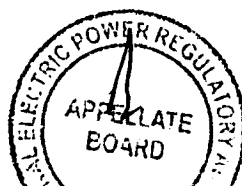




National Electric Power Regulatory Authority

by both the parties. Malik Zahid Hussain learned counsel for the appellant LESCO reiterated the same arguments as given in memo of the appeal and pleaded for setting aside the impugned decision. On the other hand Mr. Rai Shaban Ali learned counsel for the respondent contended that the business of the hotel was down, therefore an agreement was executed with Avari hotel in April 2012 to take over the possession of the respondent's hotel. As per learned counsel for the respondent, the less electricity was consumed during the disputed period as the hotel remained abandoned for five to six months for renovation works. In support of his contention, learned counsel referred to a letter dated 22.06.2012 which was written by the respondent to the Excise and Taxation department for intimating the closure of the hotel. Learned Counsel for the respondent prayed that the impugned decision is in accordance with facts and law, therefore liable to be upheld.

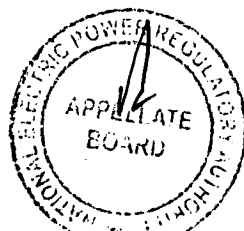
7. Arguments heard and record perused. The respondent raised the preliminary objection regarding limitation. The impugned decision was announced by POI on 07.09.2016, copy of the same was obtained by LESCO on 30.09.2016, therefore the appeal filed before NEPRA on 18.10.2016 is within 30 days of the receipt of the impugned decision as envisaged under Section 38 (3) of NEPRA Act 1997. Objection of the respondent in this regard carries no weight, therefore rejected. As regards objection of the respondent that the appeal is not filed before NEPRA through an authorized person, it is observed that SDO LESCO was representing LESCO before POI and no





National Electric Power Regulatory Authority

such objection was raised before that forum. Hence raising this objection at this stage is not valid and dismissed accordingly. As far as the merits of the case are concerned, the electricity meter of the respondent was found 33.3% slow during M&T checking on 02.10.2012, therefore a bill of Rs. 3,177,238/- was issued to the respondent for September 2012, which included current bill of Rs. 878,071/- for September 2012 and the detection bill of Rs. 2,259,167/- for 203,600 units/383 kW for the period January 2012 to August 2012 @ 33.3% slowness, which was challenged by the respondent before POI on 18.06.2015. Since 33.3% slowness was observed by LESCO on 02.10.2012, pursuant to clause 4.4 (e) of Consumer Service Manual (CSM), the respondent is liable to be charged for two billing cycles. Charging the detection bill of Rs. 2,259,167/- for 203,600 units/383 kW for the period January 2012 to August 2012 (8 months) on the basis of 33.3% slowness is violative of CSM, therefore cancelled as already determined in the impugned decision. However the respondent may be charged the detection bill for two prior months if slowness is proved during that period. Since the consumption of August 2012 i.e. 53,280 kWh/68 kW MDI is much less than the consumption of 91,280 kWh/175 kW MDI for corresponding month of previous year i.e. August 2011 establishing thereby that the meter became 33.3% slow in August 2012. Therefore it would be just to charge the respondent @ 33.3% slowness w.e.f August 2012 and onwards till the installation of the check meter dated 05.11.2012 as determined by POI. Since the current bill of Rs.

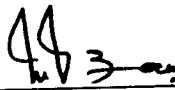





National Electric Power Regulatory Authority

878,071/- for September 2012 was charged on the basis of wrong reading therefore we agree with the determination of POI that the same is incorrect and should be charged as per actual meter reading with 33.3 % slowness.

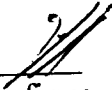
8. From what has been discussed above, we do not find any reason to interfere with the impugned decision, the same is upheld and accordingly the appeal is dismissed.



Muhammad Qamar-uz-Zaman
Member



Nadir Ali Khoso
Convener



Muhammad Shafique
Member

Dated: 31.05.2017

