



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

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No. NEPRA/AB/Appeal/001/2018/ 2278-2283

December 14, 2018

1. M/s. Sunrise Industries,
For shams-ul-Huda,
Kattar Bund Road, 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. A. D. Bhatti
Advocate High Court,
Rehmat Tower, 13-Fane Road,
Lahore
5. Assistant Manager (Operation)
LESCO Ltd,
Niaz Baig 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. M/s. Sunrise Industries Against the Decision Dated 10.10.2017 of the Provincial Office of Inspection to Government of the Punjab Lahore Region, Lahore

Please find enclosed herewith the decision of the Appellate Board dated 13.12.2018, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

No. NEPRA/AB/Appeal/001/2018/ 2284

Forwarded for information please.

(Ikram Shakeel)

December 14, 2018

Assistant Director
Appellate Board

1. Registrar



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No.001/2018

Lahore Electric Supply Company Limited

.....Appellant

Versus

M/s. Sun Rise Industries, For Shams-ul-Huda, Kattar Bund Road, Lahore.....Respondent

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,
TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997
AGAINST THE DECISION DATED 10.01.2017 PASSED BY PROVINCIAL
OFFICE OF INSPECTION LAHORE REGION LAHORE**

For the appellant:

Mr. Saeed Ahmed Bhatti Advocate

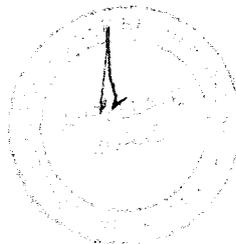
Mr. Ishtiaq Hussain SDO

For the respondent:

Mr. A.D Bhatti Advocate

DECISION

1. Brief facts of the case are that the respondent is a domestic consumer of LESCO bearing Ref No.24-11234-14615002 with a sanctioned load of 220 kW under the B-2 tariff. A standing committee of LESCO visited the premises of the respondent on 29.07.2015 for installation of new TOU MDI billing meter (second billing meter) and the old TOU billing meter (first billing meter) was converted as the backup meter. Subsequently, the metering equipment of the respondent was checked by LESCO on 06.12.2006 and reportedly, the second billing meter was found 33% slow and the first billing/backup





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meter was found accurate. Resultantly, a detection bill of Rs.429,218/- for 102493.6 units for the period 29.07.2005 to 06.12.2006 was charged to the respondent on account of the difference of readings between the second billing and backup meters and it was added in the bill for December 2006. Billing was again shifted by LESCO on the backup meter w.e.f 06.12.2006 and onwards.

2. The respondent initially filed an application before the Provincial Office of Inspection (POI) on 18.01.2007 and challenged the excessive billing and requested for the meter checking. POI vide its decision dated 17.01.2012 dismissed the application of the respondent due to non-prosecution against which the respondent filed a review application before POI. During the proceedings of the case, LESCO installed a new TOU billing meter (third billing meter) in series with the backup meter of the respondent on 22.01.2013. The review application was also dismissed by POI vide its decision dated 27.05.2014. In response to the respondent's request dated 16.10.2014, the metering equipment was checked by POI in presence of both the parties on 05.08.2014, wherein third billing meter was found working within BSS limits. During another POI checking dated 27.10.2014, the backup meter was found 4.42% fast, the report of which however was not signed by LESCO. The respondent filed an appeal against the POI decision dated 27.05.2014 before NEPRA u/s 38 of NEPRA Act, 1997, which was accepted vide NEPRA decision dated 25.02.2015 and the case was remanded back to POI for adjudication on merits. The matter was disposed of by POI vide its decision dated 10.01.2017 and concluded as under:

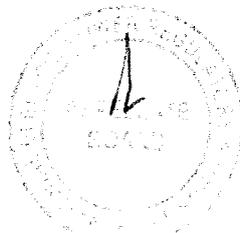
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“Summing up the foregoing discussion, it is held;

- I. That the present TOU billing meter having meter No.87644, make MTI is working accurately within BSS limits of accuracy, the old TOU billing meter having No.3501719 make Shanghai is out of order (dead stop) and the old disputed /backup meter having meter No.0000233 make SB is 4.42% fast.*
 - II. That the impugned detection bill amounting to Rs.429,218/- as the cost of 102493.6 units as the difference between TOU MDI billing meter and backup meter reading from 29.07.2005 to 06.12.2006 added in the bill for the month of 12/2006 is void, unjustified and of no legal effect; therefore the petitioner is not liable to pay the same. However the respondents are allowed to charge revised monthly bills for the months of 10/2006 to 11/2006 and onward till the replacement of the impugned meter/shifting of billing to an accurate meter, on the basis of the consumption recorded during the corresponding months of the previous year being undisputed between the parties, after excluding the already charged units during the said period.*
 - III. That the charging of monthly bills from 06.12.2006 to onward till shifting of billing to an accurate meter, on the basis of meter readings recorded at the backup meter (meter No.000023, make SB) are void, unjustified and of no legal effect; therefore the petitioner is not liable to pay the same. However, the respondents are allowed to charge revised monthly bills for the said period after deducting the 4.42% fastness from the recorded readings for the period during which the monthly bills were issued on the basis of readings recorded at the above said backup meter No.0000233, make SB.*
 - IV. That the respondents are directed to overhaul the account of the petitioner accordingly and any excess amount recovered be adjusted in future bills.”*
3. The subject appeal against the above referred decision (the impugned decision) has been filed by LESCO. In its appeal, LESCO explained the facts that the second billing meter was installed by LESCO on 29.07.2005 and the first billing meter was converted as the backup meter on the same date; that the metering equipment was checked by LESCO on 06.12.2006, wherein the second billing meter was found 33% slow and the backup meter was found accurate; that the detection bill of Rs.429,218/- for 102,493.6 units for

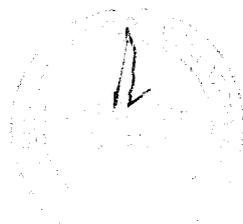




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the period 29.07.2005 to 06.12.2006 was charged to the respondent on account of difference of consumption between the second billing and backup meters; that the billing was again shifted by LESCO on the backup meter w.e.f 06.12.2006 and onwards till MCO dated 22.01.2013. LESCO opposed the impugned decision on the grounds that the same was pronounced by the Electric Inspector after the mandatory period of 90 days; that POI erred in holding; that the backup meter was 4.42% fast and declared the detection bill of Rs.429,218/- as void; that POI wrongly relied upon Consumer Service Manual (CSM) for determination of detection bill of the year 2006; and that the impugned decision is liable to be set aside being contrary to the facts and law.

4. Notice for filing reply/para-wise comments to the appeal was served to the respondent, which however were not replied.
5. Hearing of the appeal was held in the NEPRA regional office Lahore on 29.10.2018, wherein both the parties appeared. Mr. Saeed Ahmed Bhatti learned counsel for LESCO reiterated the contentions raised in the memo of the appeal and averred that the second billing meter installed on 29.07.2005 was found 33% slow during checking dated 06.12.2016, hence the detection bill of Rs.429,218/- for 102,493.6 units for the period 29.07.2005 to 06.12.2006 was charged to the respondent on account of difference of consumption between the second billing and backup meters. Learned counsel for LESCO objected the observation of POI regarding 4.42% fastness of the backup meter during checking dated 27.10.2014 and contended that the backup meter was found accurate in checking on 06.12.2006 and 05.08.2014. Learned counsel for LESCO





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contended that the bills under dispute charged are quite legal, valid and the respondent is responsible for payment of the same. On the contrary, learned counsel for the respondent opposed the charging of detection bill of Rs.429,218/- for 102,493.6 units for the period 29.07.2005 to 06.12.2006 (16 months) and contended that the above detection bill was charged in violation of CSM, which allows charging the detection bill only for two months only. As per learned counsel for the respondent, 4.42% fastness observed in the backup meter during POI checking dated 27.10.2014 is correct but LESCO did not sign the report. According to learned counsel for the respondent, fastness found in backup meter should be considered from the beginning being a manufacturing defect. Arguments heard and the record perused. LESCO has raised preliminary objection regarding announcement of the impugned decision after statutory period of 90 days of filing of the complaint as laid down in section 26(6) of Electricity Act, 1910. It is observed that the impugned decision was rendered by POI under Section 38 of NEPRA Act 1997, wherein no restriction of time period is imposed for announcement of the decision after filing of the complaint by a consumer. The period of 90 days provided in the Electricity Act 1910 is actually relevant for an Electric Inspector functioning under the Electricity Act 1910 and may not applicable to a POI appointed under NEPRA Act 1997. Further it is to elaborate that appeal made against the impugned decision of an Electric Inspector is competent before the provincial government whereas the forum for filing an appeal against the impugned decision of POI is NEPRA. In the instant case LESCO preferred the appeal before NEPRA which transpires that LESCO admitted that the impugned decision was announced by POI. In



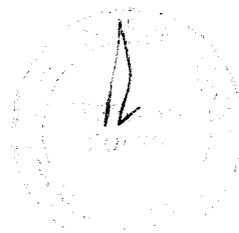


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view of such explanation the preliminary objection of LESCO regarding jurisdiction of the POI is invalid and therefore dismissed.

The respondent approached POI and challenged the (i) detection bill of Rs.429,218/- for 102,493.6 units for the period 29.07.2005 to 06.12.2006 charged on account of difference of consumption between the second billing and backup meters and (ii) the billing on the backup meter w.e.f 06.12.2006 and onwards till the installation of the third billing meter on 22.01.2013.

The second billing meter installed on 29.07.2005 was found 33% slow during LESCO checking dated 06.12.2016, hence the detection bill of Rs.429,218/- for 102,493.6 units for the period 29.07.2005 to 06.12.2006 was charged to the respondent on account of the difference of consumption between the second billing and backup meters. It is clarified that the above said detection bill pertains to the period 29.07.2005 to 06.12.2006 prior to the approval of CSM in April 2010 and at that time. Procedure for detection bills circulated vide WAPDA letter No.146899/M(P)/GMSC/DD (R&CP)/56217 dated 26.10.1999 was in vogue. Hence the determination of POI for revision of the detection bill for two billing cycles as per CSM is incorrect and liable to be withdrawn to this extent. According to the said procedure for detection bills, the approval of detection bill is mandatory from the competent authority being one step above the load sanctioning authority. Moreover as per procedure for a detection bill beyond three billing cycles, the approval from the competent authority for charging the detection bill and fixing responsibility against the negligent staff is essential. In the

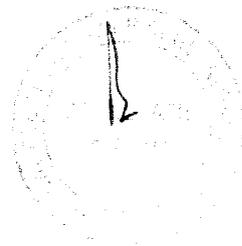




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instant case, no document was provided by LESCO to prove that the approval from the competent authority in this regard was obtained. Hence, the detection bill of Rs.429,218/- for 102,493.6 units for the period 29.07.2005 to 06.12.2006 charged to the respondent on account of the difference of consumption between the second billing and backup meters is unjustified and liable to be declared null and void as already determined in the impugned decision. Since 33% slowness was observed in the second billing meter by LESCO on 06.12.2006, hence the respondent is liable to be charged 33% slowness for three months only i.e. 07.09.2006 to 06.12.2006.

The respondent requested POI on 16.10.2014 for checking the accuracy of metering equipment, consequently, POI visited the premises of the respondent on 27.10.2014 in presence of both the parties, wherein the backup meter was found 4.42% fast, the second billing meter was found the dead stop (not relevant), whereas there is no report for the third billing meter. As the fastness in the backup meter is confirmed, only the period of fastness needs to be confirmed. Pursuant to clause 4.4 (d) of the CSM, if upon checking the meter is found to be recording beyond the permissible limits, the meter shall be changed immediately and due credit be given for excessive units charged by LESCO w.e.f date of the request filed by the consumer. In the instant case, the respondent approached POI on 16.10.2014 for checking accuracy of the metering equipment after shifting of billing on the third billing meter on 22.01.2013, hence the respondent is not entitled for relief before his complaint dated 16.10.2014 due to 4.42% fastness of the backup meter. POI in the impugned decision has revised the bills @



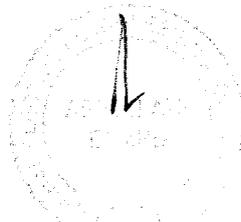


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4.42% fastness of backup meter w.e.f 06.12.2006 and onwards till MCO dated 22.01.2013, which is the period prior to the complaint dated 16.10.2014, hence it is violative of clause 4.4(d) of CSM. Impugned decision in this regard is unjustified and liable to be declared null & void to that extent. The respondent is obligated to pay the bills charged by LESCO on the backup meter declared as billing meter w.e.f 06.12.2006 and onwards till the installation of third billing meter i.e. 22.01.2013. Nevertheless the respondent is rightly charged as per third billing meter from 22.01.2013 to 16.10.2014 and onwards, which is undisputed.

6. The upshot of the above discussion is as under:

- i. The impugned decision for cancellation of the detection bill of Rs.429,218/- for 102,493.6 units for the period 29.07.2005 to 06.12.2006 charged on account of the difference of consumption between the second billing and backup meters is correct and maintained to this extent.
- ii. The impugned decision for revision of the detection bill for two billing cycles i.e. October 2006 and November 2006 on the basis of corresponding consumption of previous year is incorrect and withdrawn to this extent. The respondent should pay the detection bill for three months only i.e. 07.09.2006 to 06.12.2006 @ 33% slowness of the second billing meter.
- iii. The impugned decision for affording credit of 4.42% fastness of backup meter w.e.f 06.12.2006 and onwards till the installation of third billing meter i.e. 22.01.2013 is





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unjustified and declared null and void to this extent.

- iv. The bills already charged w.e.f 06.12.2006 and onwards till the installation of third billing meter i.e. 22.01.2013 are justified and payable by the respondents. Billing of the respondent shall be revised and debit & credit afforded accordingly.
7. The appeal is disposed of in above terms.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Dated: 13.12.2018

