



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

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No. NEPRA/AB/Appeal/106/2017/ 1050-1054

June 21, 2018

1. Shafqat Rasool  
S/o Ghulam Rasool,  
R/o. 07-Ali Town,  
Raiwind Road, Lahore
2. The Chief Executive Officer  
LESCO Ltd,  
22-A, Queens Road,  
Lahore
3. Saced Ahmed Bhatti  
Advocate High Court,  
Second Floor, Akram Mansion,  
Neela Gumbad, Lahore
4. Assistant Manager (Opr),  
LESCO Ltd,  
Niaz Baig 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. Shafqat Rasool Against the Decision Dated 16.05.2017  
the Provincial Office of Inspection to Government of the Punjab Lahore Region,  
Lahore**

Please find enclosed herewith the decision of the Appellate Board dated 19.06.2018,  
regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(Ikram Shakeel)

No. NEPRA/AB/Appeal/106/2017/ 1055

Forwarded for information please.

June 21, 2018

Assistant Director  
Appellate Board

4. Registrar



# National Electric Power Regulatory Authority

## Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-106/POI-2017

Lahore Electric Supply Company Limited

.....Appellant

Versus

Shafqat Rasool S/o Ghulam Rasool,  
R/o 07-Ali Town, Raiwind Road, Lahore

.....Respondent

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,  
TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997  
AGAINST THE DECISION DATED 16.05.2017 PASSED BY PROVINCIAL  
OFFICE OF INSPECTION LAHORE REGION LAHORE**

For the appellant:

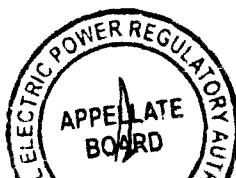
Mr. Saeed Ahmed Bhatti Advocate  
Mr. Ishtiaq Hussain SDO

For the respondent:

Nemo

### DECISION

1. As per fact of the case, the respondent is a commercial consumer of the appellant LESCO bearing Ref No.43-11234-0904100 with a sanctioned load of 5kW under A-2c tariff. Premises of the respondent was inspected by LESCO on 14.04.2015 & 17.04.2015 and on both the occasions, allegedly the respondent was found stealing electricity through the tampered meter. Electric supply of the respondent was disconnected and the removed meter was sent to SHO Nawab Town vide letter dated 20.04.2015. Thereafter FIR No.554 dated 22.04.2015 was registered against the respondent with the Police for commission of the theft of electricity and a detection bill of



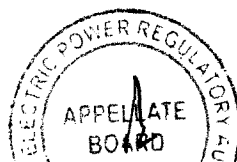


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Rs.768,308/- for 41,776 units for the period October 2014 to March 2015 (6 months) was issued to the respondent by LESCO in May 2015. The respondent challenged the above detection bill before Provincial Office of Inspection (POI). POI visited the police station on 27.03.2017 for checking the meter in dispute but the same could not be checked as not available in the police station. The complaint of the respondent was decided vide POI decision dated 16.05.2017 with the following conclusion:

*“Summing up the forgoing discussion, it is held that the impugned detection bill amounting to Rs.768,308/- for 41776 units for the period from 10/2014 to 03/2015 added in the bill for the month of 05/2015 as arrears 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 period from 10/2014 to 03/2015 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. The respondents are also directed to overhaul the account of the petitioner accordingly and any excess amount recovered be adjusted in future bills. They are also directed to restore the electric supply of the petitioner by installing an accurate meter at site for future billing to avoid any further litigation.”*

2. Instant appeal has been filed against the above mentioned decision in which LESCO submitted that the meter of the respondent was checked on 17.04.2015, wherein it was found tampered for theft of electricity, hence the detection bill of Rs.768,308/- for 41,776 units for the period October 2014 to March 2015 was charged to the respondent on the basis of connected load and FIR No.544 dated 20.04.2015 was registered against the respondent. As per LESCO, POI has no jurisdiction to adjudicate the instant matter being a theft case as laid down in PLD 2006 SC 378. LESCO further objected the

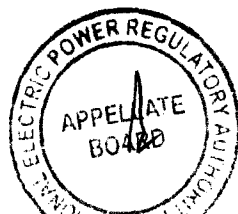




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sustainability of the impugned decision and averred that the same was decided by POI after the expiry of statutory period of 90 days under Section 26(6) of Electricity Act 1910. The respondent was served notice for filing reply/parawise comments to the appeal, which however were not filed.

3. Hearing of the appeal was conducted in Lahore on 25.05.2018, wherein Mr. Saeed Ahmed Bhatti advocate along with LESCO official appeared for the appellant LESCO and no one represented the respondent. Learned counsel for LESCO reiterated the same arguments as narrated in memo of the appeal and contended that the detection bill of Rs.768,308/- for 41,776 units for the period October 2014 to March 2015 was charged to the respondent on account of dishonest abstraction of electricity, whereas POI misinterpreted the provision of Consumer Service Manual (CSM) and allowed to charge the respondent as per clause 4.4 of CSM. Learned counsel for LESCO prayed for revision of the detection bill on the basis of connected load as per chapter 9 of CSM.
4. Arguments heard, perused the record placed before us. As regards the preliminary objection of LESCO regarding failure of POI in deciding the matter within 90 days as envisaged in section 26(6) of Electricity Act, 1910, it may be noted that the said period is mandatory for an Electric Inspector functioning under the Electricity Act, 1910 and not relevant for the Provincial Offices of Inspection (POI) established under section 38 of NEPRA Act, 1997. Reliance in this regard is placed on the Lahore High Court judgments cited as PLJ 2017-Lahore-627 and PLJ-2017-Lahore-309. Hence objection of LESCO is invalid and rejected. There is no force in the objection raised by LESCO



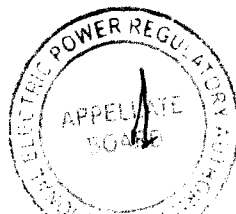


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regarding the jurisdiction of POI as the allegation of theft of electricity was levelled by LESCO through tampering the meter. Honorable Supreme Court vide its judgment reported as 2012 PLD SC 371 held that POI has the jurisdiction in the dispute, where theft of electricity is committed through tampering the meter. It is relevant to mention that the judgments cited in 2004 SCMR 1679 and PLD 2006 SC 328 have been discussed in PLD 2012 SC 371 and following conclusion was drawn:

*“---Ss. 26(6) & 26-A---Detection bill, issuance of---Theft of energy by consumer, charge of--- Jurisdiction of Electric Inspector and Advisory Board---Scope---Electric Inspector for possessing special expertise in examining the working of metering equipment and other related apparatus had jurisdiction to entertain reference under S.26(6) of Electricity Act, 1910 only in case of dishonest consumption of energy by consumer through deliberate manipulation of or tampering with metering equipment or other similar apparatus---Electric Inspector would have no jurisdiction in matter of theft by means other than tampering or manipulation of metering equipment etc.”*

The respondent assailed the detection bill of Rs.768,308/- for 41,776 units for the period October 2014 to March 2015 before POI. According to clause 9.1c(3) of CSM, the respondent being general supply consumer i.e. A-II is liable to be billed maximum for three billing cycles, whereas in the instant case, the respondent was charged for six months i.e. October 2014 to March 2015 by LESCO without soliciting the approval from Chief Executive Officer LESCO as required in CSM. Therefore the detection bill of Rs.768,308/- for 41,776 units for the period October 2014 to March 2015 is liable to be cancelled. The respondent is liable to be charged the detection bill for three months only i.e. January 2015 to March 2015 in pursuance of clause 9.1c(3) of CSM, if justified. Since consumption of the respondent mostly remained nil during the disputed and undisputed periods, hence analysis of the consumption data could not be done. There is no force in the argument of LESCO for charging the detection bill on the basis





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of connected load observed during alleged checking as the said load was neither verified by POI nor LESCO justified the same. Hence we have to rely on the sanctioned load of the respondent for determination of quantum of consumption.


### Period: January 2015 to March 2015 (3 months)


		<u>Units</u>
• Total units to be charged	= kW x No. of Hrs. x Load Factor x No. of Months = 5 x 730 x 0.3 x 3	= 3,285
• Total units already charged	= consumption of disputed months = 0 + 0 + 61	= <u>(-61)</u>
• Net units to be charged		= 3,224


The respondent is liable to be charged net 3,224 units for the period January 2015 to March 2015.

5. In view of what has been stated in preceding paragraphs, we have reached to the conclusion that the detection bill of Rs.768,308/- for 41,776 units for the period October 2014 to March 2015 and the impugned decision for charging detection bill on the basis of consumption of previous year are not valid, hence withdrawn. LESCO is allowed to recover net 3,224 units against the aforesaid disputed period.

6. Impugned decision is modified in above terms.

  
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Muhammad Qamar-uz-Zaman  
Member

  
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Nadir Ali Khoso  
Convener

  
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Muhammad Shafique  
Member

Dated: 19.06.2018

