



Before the Appellate Board
National Electric Power Regulatory Authority
(NEPRA)

Islamic Republic of Pakistan

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No. NEPRA/AB/Appeal-132/POI-2016/027-032

January 11, 2018

1. Muhammad Abuzar,
S/o Allah Ditta,
Karim Nagar, Near Khurram Mable Factory,
Salamat Pura, Lahore
2. Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore
3. Ch. Khalil-ur-Rehman,
Advocate High Court,
Haji Chambers, 04 Mozang Road,
Lahore
4. Kamil Hussain Naqvi,
Advocate Supreme Court,
Peoples Building, 05 Link Farid Kot Road,
Lahore
5. Sub Divisional Officer,
LESCO Ltd,
Aamir Town 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. Abuzar Against the Decision Dated 28.06.2016 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 10.01.2018, regarding the subject matter, for information and necessary action accordingly.

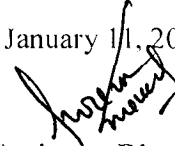
Encl: As Above

(Ikram Shakeel)

No. NEPRA/AB/Appeal-132/POI-2016/033

January 11, 2018

Forwarded for information please.


Assistant Director
Appellate Board

✓ 1. Registrar

CC:

1. Member (CA)



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-132/POI-2016

Lahore Electric Supply Company LimitedAppellant

Versus

Muhammad Abuzar S/o Allah Ditta, Karim Nagar,
Near Khurram Marble Factory, SalamatPura, LahoreRespondent

For the appellant:

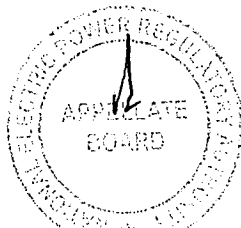
Ch. Khalil-ur-Rehman Advocate

For the respondent:

Nemo

DECISION

1. As per facts of the case, the respondent is an industrial consumer of Lahore Electric Supply Company Limited (hereinafter referred to as LESCO) bearing Ref No.24-11345-9003401 with a sanctioned load of 170kW under B-2b tariff. As per LESCO, the TOU billing meter of the respondent was checked by metering and testing (M&T) LESCO on 15.12.2014 and it was found 33% slow due to one phase being dead. After issuing notice dated 15.12.2014 to the respondent, the detection bill amounting to Rs.1,128,758/- for 93,194 units for the period September 2014 to November 2014(3 months) @ 33% slowness of the meter along with the current bill of Rs.1,473,783/- with enhanced multiplication factor (MF) =120 was charged to the respondent in December 2014.



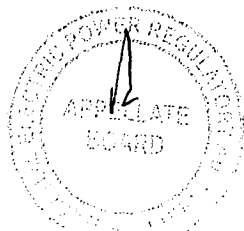


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2. Being aggrieved, the respondent approached the Provincial Office of Inspection, Lahore Region, Lahore (hereinafter referred to as POI) on 20.01.2015 and challenged the total bill of Rs.2,602,541/- (detection bill of Rs.1,128,758/- + current bill of Rs.1,473,783/-). The disputed meter of the respondent was checked by POI in presence of both the parties on 28.07.2015 and it was found 33% slow. The matter was decided by POI vide its decision dated 28.06.2016 with the following conclusion.

“Summing up the aforesaid discussion, it is held that: (i) The detection bill amounting to Rs.1,128,758/- added as arrear and current bill amounting to Rs.1,473,783/- with enhanced multiplication factor (M.F) of 120, is null, void and of no legal consequence and the petitioner is not liable to pay the same. (ii) The disputed energy TOU billing meter became 33% slow/defective in terms of date and time disturbed w.e.f. the billing month of December 2014 to replacement of meter/MCO. (iii) Respondents/LESCO are directed to charge off peak KWH/KVARH and MDI @ 85.35% of the total KWH/KVARH/MDI and charge peak KWH/KVARH/MDI @ 14.65% of the total KWH/KVARH/MDI for the period of December 2014 to MCO/replacement of meter and overhaul the account of the petitioner accordingly. The respondents/LESCO are directed to replace the slow/defective meter in terms of date and time disturbed immediately for accurate billing in future.”

3. LESCO has filed the instant appeal against the afore-referred decision (hereinafter referred to as the impugned decision) before NEPRA under Section 38(3) of NEPRA

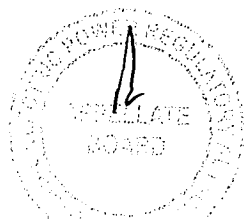




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Act, 1997. In its appeal LESCO contended that the TOU billing meter of the respondent was checked by M&T LESCO on 15.12.2014 and it was found 33% slow due to one phase being dead. As per LESCO, the detection bill amounting to Rs.1,128,758/- for 93,194 units for the period September 2014 to November 2014 (3 months) @ 33% slowness of the meter along with the current bill of Rs.1,473,783/- with enhanced multiplication factor (MF) =120 was debited to the respondent in December 2014. LESCO further explained that 33% slowness of the disputed TOU billing was also confirmed by POI during joint checking dated 28.07.2015, therefore there is no justification for POI to declare the aforesaid detection bill along with the current bill as null and void.

4. Notice of the appeal was issued to the respondent for filing reply/parawise comments, which were filed on 19.09.2016. In his reply, the respondent raised the objection on the maintainability of the appeal and contended that the same is not filed through an authorized person. The respondent further contended that the impugned decision rendered by POI is in accordance with clause 4.4(e) of Consumer Service Manual (CSM) and the same is liable to be upheld. The respondent pointed out that LESCO issued demand notice of Rs.37,910/- for the replacement of the defective meter, which was deposited by him accordingly on 11.05.2016 but the defective meter is not replaced as yet.
5. After issuing notices to the parties, the hearing of the appeal was held at Lahore on 22.12.2017, wherein Ch. Khalil-ur-Rehman advocate represented the appellant





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LESCO but no one appeared for the respondent. Learned counsel for LESCO reiterated the same contentions as given in memo of the appeal and stated that the impugned TIU billing meter was found 33% slow by LESCO on 15.12.2014, therefore the detection bill of Rs.1,128,758/- for 93,194 units for the period September 2014 to November 2014 (3 months) @ 33% slowness of the meter along with the current bill of Rs.1,473,783/- with enhanced multiplication factor (MF) =120 charged to the respondent in December 2014 is justified and the impugned decision for declaring the aforesaid detection and the current bills as null and void is not sustainable in the eye of law and liable to be set aside.

6. Arguments of LESCO heard and record perused. . It is observed as under:
- i. The respondent raised the preliminary objection regarding the maintainability of the appeal on the plea that the same is not filed through an authorized person. It is observed that the appellants representing the LESCO before NEPRA were also contesting the same matter as respondents before POI but no such objection was raised by the respondent, therefore raising such objection at the belated stage is not valid.
 - ii. Admittedly 33% slowness of the meter was observed by M&T LESCO on 15.12.2014, therefore the MF of the respondent was enhanced from 80 to 120 due to 33% slowness of the meter w.e.f December 2014 and onwards. Besides a detection bill of Rs.1,128,758/- for 93,194 units for the period September 2014 to November 2014 (3 months) was debited to the respondent by LESCO on account



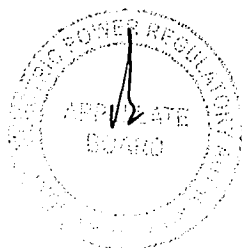


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of 33% slowness of the meter. The respondent was aggrieved with the irregular billing charged by LESCO, therefore approached POI for checking the accuracy of the impugned meter and assailed the aforesaid detection + current bills.

iii. The disputed TOU billing meter of the respondent was checked by POI in presence of both the parties on 28.07.2015 and 33% slowness of the meter was confirmed. Only the period of slowness needs to be ascertained for which clause 4.4(e) of Consumer Service Manual (CSM) is relevant whereby, the respondent is liable to be charged maximum for two billing cycles due to slowness of the meter. But in the instant case the detection bill for the period September 2014 to November 2014 (3 months) was charged to the respondent on account of 33% slowness, which is violative of said provision of CSM. Therefore the detection bill of Rs.1,128,758/- for 93,194 units for the period September 2014 to November 2014 (3 months) charged to the respondent @ 33% slowness of the meter is declared null and void and the respondent is not responsible for the payment of the same as already decided by POI.

iv. 33% slowness of the meter was observed by LESCO in December 2014, therefore the respondent is liable to be charged for two billing cycles i.e. October 2014 and November 2014 in pursuance of clause 4.4(e) of CSM, if justified. In this regard, comparison between the disputed and corresponding undisputed consumption is done below:



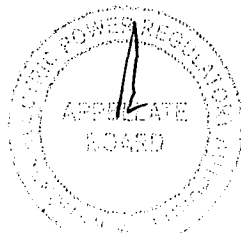


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Disputed consumption		Corresponding undisputed consumption	
Month	Units	Month	Units
October 2014	50,880	October 2013	7,760
November 2014	29,840	November 2013	38,400

From the above table, it is revealed that the consumption recorded in October 2014 is much higher than the corresponding undisputed consumption of October 2013, however the consumption of November 2014 declined as compared to consumption of November 2013. This establishes that the disputed TOU billing of the respondent was functioning correctly till October 2014 and became defective w.e.f November 2014 and onwards. It would be fair and appropriate to charge the electricity bill for November 2014 as recorded during the corresponding undisputed month of the previous year i.e. November 2013. Furthermore the electricity bills already charged with enhanced MF=120 by LESCO w.e.f. December 2014 and onwards till the replacement of the defective meter are justified and the respondent is liable to pay the same.

7. From the discussion in forgoing paragraphs, we have reached to the conclusion that:
- the impugned decision to the extent of cancellation of the detection bill of Rs.1,128,758/- for 93,194 units for the period September 2014 to November 2014 (3 months) is correct and the same is maintained.
 - The respondent should be charged the electricity bill for November 2014 for the cost of 38,400 units and further bills with enhanced MF=120 w.e.f December 2014 and onwards till the replacement of the defective meter. The





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impugned decision for declaring the current bill with enhanced MF=120 for December 2014 as null and void bears no validity and is set aside accordingly to this extent.

iii. LESCO is further directed to replace the defective meter for correct billing in the future.

iv. The billing account of the respondent should be overhauled accordingly by making adjustment of payments already made against the disputed billing.

8. The appeal stands disposed of in above terms.

Muhammad Qamar-uz-Zaman
Member

Muhammad Sharique
Member

Nadir Ali Khoso
Convener

Dated: 10.01.2018

