



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/142/2018/2009-2013

November 02, 2018

1. Faisal Mukhtar
S/o. Mukhtar Ahmad,
M/s. Kakasian Autos,
R/o. 14, Queens Road,
Lahore
2. Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore
3. Tasawer Hussain Virk
Advocate High Court,
Chamber No. 3, Third Floor,
Ghazi Plaza, 2-B, Mozang Road,
Lahore
4. Assistant Manager (Opr),
LESCO Ltd,
Mozang 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 Faisal Mukhtar Vs. LESCO Against the Decision Dated 10.07.2018 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 01.11.2018, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(Ikram Shakeel)

No. NEPRA/AB/Appeal/142/2018/ 2014

November 02, 2018

Forwarded for information please.

Assistant Director
Appellate Board

✓ Registrar

REGISTRAR
Dy. No.: 10960
Dated: 02-10-18



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. 142/2018

Faisal Mukhtar S/o Mukhtar Ahmed, M/s. Kakasian Autos,
R/o.14, Queens Road, Lahore

.....Appellant

Versus

Lahore Electric Supply Company Limited

.....Respondent

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,
TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997
AGAINST THE DECISION DATED 10.07.2018 PASSED BY PROVINCIAL
OFFICE OF INSPECTION, LAHORE REGION LAHORE**

For the appellant:

Mr. Faisal Mukhtar

For the respondent:

Mr. Tasawer Hussain Advocate

Mr. Shahzaib Add. XEN

DECISION

1. Brief facts giving rise to the filing of instant appeal are that the appellant is a commercial consumer (CNG pump) of LESCO bearing Ref No.24-11253-0015814 with a sanctioned load of 125 kW under the A-2 b tariff. The metering equipment of the appellant was checked by Metering and Testing (M&T) LESCO on 27.07.2009 and reportedly the TOU billing meter (hereinafter referred as "first" billing meter) was found 66% slow due to two (red & blue) phases being dead and the backup meter was functioning correctly. Resultantly, a detection bill of Rs.1,034,912/- for the period



National Electric Power Regulatory Authority

February 2009 to July 2009 (6 months) was charged to the appellant @ 66% slowness of the first billing meter after serving notice dated 30.07.2009. First billing meter was not replaced and the appellant was also charged average bills for the period August 2009 to December 2009 on the basis of consumption recorded in the year 2008. The billing was shifted on the backup meter (hereinafter referred as “second” billing meter) in January 2010, which reportedly also became 33% slow as per M&T checking, hence after issuing notice dated 13.04.2011, another detection bill of Rs.519,103/- for 17,477 units for the period November 2010 to February 2011 (4 months) was charged to the appellant @ 33% slowness of the second billing meter and added in the bill for June 2011.

2. The appellant had challenged the alleged excessive billing before Honorable Lahore High Court through Writ Petition No.16956/2011. In the meanwhile, another meter was installed at the site of the appellant and the billing was shifted on the said meter (hereinafter referred as “third” billing meter), however no record is available to ascertain the actual date of installation and shifting of billing on the third billing meter. It is also a fact that notwithstanding of installation of the “third” billing meter, the “first” and “second” meters were not removed and those meters remained installed at site. During the pendency of the petition before the honorable High Court, the appellant challenged the bills i.e. for October 2014 and August 2015 charged on the third billing meter with disturbed date and time before the Provincial Office of Inspection (POI) through two separate complaints. In the meanwhile, honorable High court vide its order



National Electric Power Regulatory Authority

dated 16.11.2017 referred the case of WP No.16956/2011 to POI with direction to decide the same within two months. In compliance with order of honorable High Court, the appellant filed another complaint before POI and challenged the following:

- i. First detection bill of Rs.1,034,912/- for the period February 2009 to July 2009 charged @ 66% slowness of the first billing meter.
- ii. Late Payment Surcharges (LPS) of Rs.488,328/-.
- iii. Average bills for 81,030 units for the period August 2009 to December 2009 charged on the first billing meter
- iv. Second detection bill of 17,477 units for the period November 2010 to February 2011 charged @ 33% slowness of the second billing meter.

The metering equipment of the appellant was checked by POI on 09.05.2018 in presence of both the parties, wherein 66% and 33% slowness of the first and second billing meters respectively was confirmed, whereas the third billing meter was found functioning correctly. During the pendency of complaint before POI, supply of the appellant was disconnected by LESCO, which was agitated by the appellant before Lahore High Court Lahore vide the WP No.225369/18. On the direction of honorable High Court, electric supply of the appellant was restored by LESCO on 16.07.2018. All the three complaints of the appellant were clubbed together and the matter was disposed of by POI vide its consolidated decision dated 10.07.2018 with the following conclusion:

- I. The first detection bill of Rs.1,034,912/- for the period 02/2009 to 07/2009 charged



National Electric Power Regulatory Authority

on the basis of 66% slowness of the first billing meter is justified and payable.

II. The monthly bills from 08/2009 to 12/2009 charged on some exaggerated average bills are void, the respondents are allowed to charge revised monthly bills for the above said period @ 66% slowness of the first billing meter.

III. That the second detection bill for the period from 11/2010 to 02/2011 (04 months) charged in the month of 06/2011 on the basis of 33% slowness of the second billing meter is justified and payable.

IV. That the charging of the monthly bills for the months of 10/2014 and 08/2015 on some exaggerated average basis on the alleged of date & time of the meter is disturbed, are void, unjustified and the respondents are allowed to charge revised monthly bills for the above said months of 10/2014 and 08/2015 on the basis of consumption of 10/2003 & 08/2014, being undisputed between the parties.

V. That the amount of Rs.148,802/- paid by the petitioner under the head of unidentified cash posting and Rs.397,353/- paid by the petitioner be adjusted against the amount payable by the petitioner.

3. Being dissatisfied with the above referred decision (hereinafter referred to as the impugned decision), instant appeal has been filed by the appellant inter alia, on the grounds that the fire destroyed 15 buildings in terror attack on 27.05.2009 and the first billing meter became defective; that CNG sale reduced due to closure of Queens Road for six months; that notice for 66% slowness of the first billing meter was served by

11



National Electric Power Regulatory Authority

LESCO in July 2009 and the first detection bill for the period February 2009 to July 2009 was served in August 2009; that it was mutually agreed by LESCO and the appellant that the first detection bill for retrospective period is unjustified and the bills for same period be paid on the basis of consumption of new healthy meter; and that the second detection bill of Rs.519,103/- for 17,477 units for the period November 2010 to February 2011 was issued on 30.06.2011. The appellant prayed for setting aside the following bills:-

- First detection bill of Rs.1,034,912/- for the period February 2009 to July 2009.
 - Second detection bill of Rs.519,103/- for the period November 2010 to February 2011
 - The average bills for October 2014 and August 2015.
4. Notice of the appeal was served upon the respondent for filing reply/para-wise comments to the appeal, which however were not filed.
 5. Hearing of the appeal was held in the NEPRA regional office Lahore on 29.10.2018, which was attended by Mr. Faisal Mukhtar the appellant in person and Mr. Tasawer Hussain advocate along with Add. XEN LESCO appeared for the respondent. The appellant opposed the stance of LESCO for charging the first detection bill of Rs.1,034,912/- for the period February 2009 to July 2009 (4 months) @ 66% slowness of the first billing meter and contended that LESCO did not install check meter in series with the first billing meter to confirm its accuracy and the consumption remained low during the aforesaid disputed period as the CNG sale reduced due to closure of Queen's road. The appellant however agreed to pay the first detection bill for two



National Electric Power Regulatory Authority

months only. The appellant argued that the second detection bill of Rs.519,103/- for 17,477 units for the period November 2010 to February 2011 charged @ 33% slowness of the second billing meter is unjustified as the consumption during the said period was correctly recorded by the second billing meter. As regards the bills for October 2014 and August 2015, the appellant contended that those are excessive and liable to be set aside. On the contrary, learned counsel for LESCO pointed out that it was mandatory for the appellant to serve prior notice to LESCO before making complaint before POI under Section 26(6) of Electricity Act, 1910. For the first detection bill of Rs.1,034,912/- for the period February 2009 to July 2009 charged @ 66% slowness of the meter, counsel for LESCO averred that the meter was 66% slow, therefore the first detection bill was charged accordingly. As far as the second detection bill of Rs.519,103/- for 17,477 units for the period November 2010 to February 2011 is concerned, learned counsel for LESCO contended that the second billing meter was found 33% slow, hence the above detection bill was charged to the appellant to account for the units lost. Learned counsel for LESCO pleaded that 66% and 33% slowness of the first and second billing meters respectively was confirmed during checking of POI dated 09.05.2018 in presence of both the parties, as such the first and second detection bills raised are justified and payable by the appellant. However, learned counsel for LESCO agreed with the impugned decision to the extent of revision of bills for October 2014 and August 2015 on the basis of consumption of October 2013 and August 2014.

6. Arguments heard and the record scrutinized. Regarding the preliminary objection of



National Electric Power Regulatory Authority

LESCO for non-service of mandatory notice u/s 26(6) of Electricity Act, 1910 by the appellant before approaching POI, it may be clarified that the complaints were filed before POI u/s 38 of NEPRA Act, 1997. There is no provision of mandatory notice before filing the complaint to POI u/s 38 of NEPRA Act, 1997 and in Punjab Establishment and Powers of Inspection Order 2005. Hence the objection of LESCO in this regard is devoid of force and rejected.

7. As regards the merits of the case, the appellant agitated the electricity bills in the appeal before NEPRA, which are discussed below:

First detection bill of Rs.1,034,912/- for the period February 2009 to July 2009 charged @ 66% slowness of the first billing meter.

Admittedly, 66% slowness of the first billing meter was observed by LESCO on 27.07.2009 and it was confirmed by POI during its checking dated 09.05.2018. Hence only the period of slowness needs to be determined. At the time of charging the first detection bill of Rs.1,034,912/- for the period February 2009 to July 2009 @ 66% slowness of the first billing meter, the Consumer Service Manual (CSM), 2010 was not approved and LESCO was observing WAPDA procedure for detection bills circulated vide letter No.1468-99/M(P)/GMSC/DD(R&CP)/56217 dated 26.10.1999. According to said procedure, the approval of detection bill is required from the competent authority, which is one step above the load sanctioning authority. Moreover, for a detection bill beyond three billing cycles, the approval will be obtained from competent authority for fixing responsibility against the negligent staff. In the instant case, no document was



National Electric Power Regulatory Authority

provided by LESCO to prove that the approval from the competent authority was obtained for detection bill of six months and for fixation of responsibility. In view of above, charging the first detection bill of Rs.1,034,912/- for the period February 2009 to July 2009 @ 66% slowness of the first billing meter as well as the impugned decision for declaring the same as justified is incorrect, however, the appellant should be charged 66% slowness for two months only i.e. June 2009 and July 2009 as agreed by him.

Second detection bill of Rs.519,103/- for 17,477 units for the period November 2010 to February 2011 charged @ 33% slowness of the second billing meter

LESCO charged the second detection bill of Rs.519,103/- for 17,477 units for the period November 2010 to February 2011 (4 months) on the plea that the second billing meter remained 33% slowness during the above said period. 33% slowness of the second billing meter of the appellant was established during POI checking dated 09.05.2018. Pursuant to clause 4.4(e) of CSM, the appellant is liable to be charged the detection bill for two months due to a slow meter, whereas in the instant case. the appellant was charged the second detection for the period November 2010 to February 2011 (4 months), which is inconsistent with the forgoing provision of CSM. Hence the second detection bill of Rs.519,103/- for 17,477 units for the period November 2010 to February 2011 (4 months) charged @ 33% slowness of the second billing meter is void and the impugned decision for declaring the same as justified is not correct. However the appellant is obligated to pay the second detection bill for two months only i.e. January

1



National Electric Power Regulatory Authority

2011 and February 2011 @ 33% slowness of the second billing meter in pursuance of ibid clause of CSM.

Average bills for October 2014 and August 2015

POI has declared the third billing meter as correct during its checking dated 09.05.2018, therefore no assessed bill is justified for October 2014 and August 2015 and the appellant is liable to be charged for the said months as per actual meter reading. We do not agree with the contention of LESCO as well as findings of POI that the third billing meter was malfunctioning and the assessed bills are liable to be charged for October 2014 and August 2015 on the basis of consumption of October 2013 and August 2014.

8. In consideration of what has stated above, it is concluded as under:
 - i. First detection bill of Rs.1,034,912/- for the period February 2009 to July 2009 (6 months) charged @ 66% slowness of the first billing meter, second detection bill of Rs.519,103/- for 17,477 units for the period November 2010 to February 2011 (4 months) charged @ 33% slowness of the second billing meter and the average bills for October 2014 and August 2015 are unjustified and are hereby declared null and void.
 - ii. The appellant should be charged the first detection bill @ 66% slowness of the first billing meter for two months i.e. June 2009 to July 2009, the second detection bill @ 33% slowness of the second billing meter for two months i.e. January 2011 to

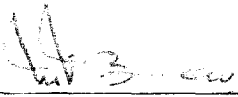


National Electric Power Regulatory Authority

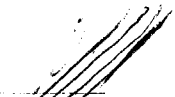
February 2011 and the bills for October 2014 and August 2015 on the basis of actual consumption of the third billing meter.

iii. Billing account of the appellant should be overhauled after making the adjustment of units charged and payments already made (if any) during the above said disputed periods.

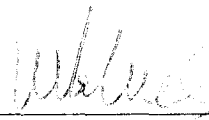
9. The appeal is disposed of in above terms.



Muhammad Qamar-uz-Zaman
Member



Muhammad Shafique
Member



Nadir Ali Khoso
Convener

Dated: 01.11.2018