



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

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No. NEPRA/AB/Appeal-171/POI-2017/ 104 - 109

January 19, 2018

1. Muhammad Amjad,
S/o Haji Ghulam Muhammad,
MA Textile Mills,
R/o Shah Khalid Town,
Mouza Ferozwala, Tehsil Ferozwala,
District Sheikhpura
2. Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore
3. Muhammad Arif Malhi,
Advocate High Court,
01-District Courts, Sheikhpura
4. Muhammad Younas Chaudhary,
Advocate Supreme Court,
Chaudhary Law Associates,
4-Begum Road, Lahore
5. Assistant Manager (Operation),
LESCO Ltd,
Rachna 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. Muhammad Amjad Against the Decision Dated 11.07.2017 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 17.01.2018, regarding the subject matter, for information and necessary action accordingly.

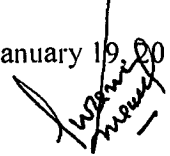
Encl: As Above

No. NEPRA/AB/Appeal-171/POI-2017/ //D

Forwarded for information please.

(Ikram Shakeel)

January 19, 2018


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-171/POI-2017

Lahore Electric Supply Company Limited

.....Appellant

Versus

Muhammad Amjad, S/o Haji Ghulam Muhammad,
MA Textile Mills, R/o Shah Khalid Town, Mouza Ferozwala,
Tehsil Ferozwala, District Sheikhpura

.....Respondent

For the appellant:

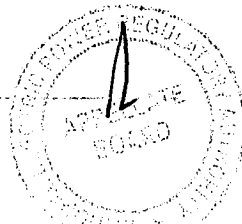
Mr. Muhammad Arif Malhi advocate

For the respondent:

Mr. M. Younas Ch. advocate

DECISION

1. As per fact of the case, the respondent applied for a new industrial connection for the connected load of 495 kW under B-2 tariff from Lahore Electric Supply Company Limited (hereinafter referred to as LESCO). As per respondent, two demand notices amounting to Rs.946,179/- and Rs.994,950/- were deposited on 29.05.2013 in terms of capital cost and the security charges respectively but the industrial connection is not provided by LESCO till date.
2. The respondent approached the Provincial Office of Inspection, Lahore Region, Lahore (hereinafter referred to as POI) on 28.06.2016 and pleaded for the installation of the new industrial connection. POI disposed of the matter vide its decision dated



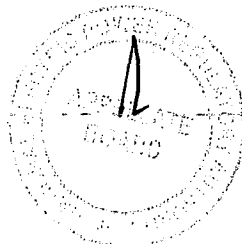


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11.07.2017 and it is concluded as under:

“Summing the forgoing discussion, it is held that; I. The respondents are required to install/energize the industrial connection (in question) of the petitioner after observing/ fulfilling all the requisite/relevant provisions of law, their commercial procedure and provisions of the applicable tariff. II. The petitioner also is under legal obligation to fulfill the relevant provisions of law for new industrial connection, the DISCO’s commercial procedure and provisions of the applicable tariff. As there was a dispute over the installed load as compared to the Sanctioned load/Load mentioned in the Test Report, the petitioner shall submit a fresh test Report issued by the Licensed Electrical Contractor as per provisions of Rule 48 of Electricity Rules, 1937 to the respondents for verification. The petition is disposed of in above terms.”

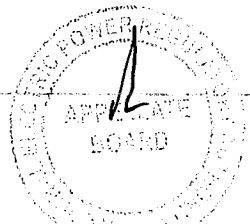
3. LESCO was dissatisfied with the POI decision dated 11.07.2017 (hereinafter referred to as the impugned decision), hence filed the instant appeal under Section 38 (3) of the NEPRA Act 1997. In its appeal, LESCO contended that the respondent applied for a new connection of 495 kW under B-2 tariff for the premises and malafidely got the demand notices issued. LESCO further contended that the process of new connection was stopped as another industrial connection already existed on the said premises and the respondent intended to use the second connection. As per LESCO, the matter in question does not fall within the jurisdiction of POI and the impugned decision is against the facts and law. LESCO prayed for setting aside the impugned decision and decision on merit.





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4. Notice of the appeal was issued to the respondent for filing reply/parawise comments, which were filed on 21.11.2017. In his reply, the respondent raised the preliminary objection regarding the limitation and contended that the appeal filed after the statutory period was time barred and liable to be dismissed on this ground. The respondent denied the allegation of LESCO regarding obtaining a new industrial connection with a view to make an alternate source of supply for the approved industrial connection, which is existed at the same site. The respondent further contended that the appellant failed to point out any jurisdictional defect, illegality, perversity or infirmity in the impugned decision, therefore the same deserves rejection with special cost. The respondent supported the impugned decision and prayed that the same is well reasoned, comprehensive and self-contained.
5. Hearing of the appeal was conducted in the provincial office NEPRA Lahore on 22.12.2017 in which Mr. Muhammad Arif Malhi appeared as counsel for LESCO and the respondent was represented by the counsel Mr. M. Younas Ch. Learned counsel for LESCO reiterated the same arguments as narrated in memo of the appeal and pleaded that POI is not empowered to adjudicate upon the instant matter as the same does not fall within the jurisdiction of POI. On the other hand, learned counsel for the respondent repeated the arguments of his reply/parawise comments and prayed for upholding the impugned decision.
6. Arguments heard, perused the record placed before us. Following are our observations:
 - i. As regards the preliminary objection of the respondent regarding limitation, it is





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observed that copy of the impugned decision dated 11.07.2017 was received by LESCO on 12.09.2017 and the appeal was filed before NEPRA on 26.09.2017, which is within the time limit of 30 days as specified under Section 38(3) of NEPRA Act, 1997. Objection of the respondent is not valid, therefore rejected.

- ii. LESCO raised the objection on the jurisdiction of POI to adjudicate the instant complaint. In this regard, Section 38 of NEPRA Act, 1997 is reproduced below:

"Section 38. Provincial offices of inspection. — (1)Each Provincial Government shall— (a) establish offices of inspection that shall be empowered to— (i) enforce compliance with distribution companies' instructions respecting metering, billing, electricity consumption charges and decision of cases of theft of energy; and (ii) make determination in respect of disputes over metering, billing and collection of tariff and such powers may be conferred on the Electric Inspectors appointed by the Provincial Government under section 36 of the Electricity Act, 1910 (Act IX of 1910), exercisable, in addition to their duties under the said Act.

(b) Establish procedures whereby ***distribution companies and consumers may bring violations of the instructions in respect of metering, billing and collection of tariff and other connected matters before the office of inspection--*** (*emphasis added)

From the above, it is obvious that POI has the jurisdiction to adjudicate upon the dispute of billing, metering and collection of tariff. In the instant case, the respondent is neither a registered consumer of LESCO nor he has raised the dispute regarding the billing, metering and collection of tariff. We are inclined to agree with the stance of LESCO that the matter is beyond the jurisdiction of POI, as such the





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same is liable to be dismissed being given without lawful authority.

iii. The respondent has grievance for non-provision of the electrical connection to his premises despite payment of demand notices. Prima facie, it is violative of NEPRA Performance Standard (Distribution) Rules, 2005 read with enabling provisions of chapter 15 of Consumer Service Manual. However the respondent may seek redressal of his grievance under Section 39 of NEPRA Act, 1997, if he so desires.

"Section 39. Complaints. — (1) Any interested person, including a Provincial Government, may file a written complaint with the Authority against a licensee for contravention of any provision of this Act or any order, rule, regulation, license or instruction made or issued thereunder. (2) The Authority shall, on receipt of a complaint, before taking any action thereon, give notice to the licensee or any other person against whom such complaint has been made to show cause and provide such licensee or such other person an opportunity of being heard."

7. For the foregoing reasons, the appeal of LESCO is accepted and the impugned decision is set aside.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Dated: 17.01.2018

