



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/057/2018/ 679-183

March 29, 2019

1. M/s. Procon Engineering (Pvt.) Ltd
Through Saeed-ul-Hassan,
Manager Maintenance,
03-KM, Daras Road,
Manga Raiwind 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. Assistant Manager (Operation)
LESCO Ltd,
Raiwind Road 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. M/s. Procon Engineering (Pvt.) Ltd Against the Decision Dated 29.12.2017 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 28.03.2019, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

No. NEPRA/AB/Appeal/057/2018/ 684

Forwarded for information please.

(Ikram Shakeel)

March 29, 2019

Assistant Director
Appellate Board

Registrar



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. 057/2018

Lahore Electric Supply Company Limited

.....Appellant

Versus

M/s. Procon Engineering (Pvt) Ltd, Through Saeed-ul-Hassan,
Manager Maintenance, 03-KM, Daras Road, Manga Raiwind, Lahore

.....Respondent

For the appellant:

Mr. Saeed Ahmed Bhati advocate

For the respondent:

Nemo

**APPEAL UNDER SECTION 38 OF REGULATION OF GENERATION,
TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT,
1997 AGAINST THE DECISION DATED 19.12.2017 OF THE PROVINCIAL
OFFICE OF INSPECTION, LAHORE REGION, LAHORE**

DECISION

1. Brief facts leading to the filing of the instant appeal are that Lahore Electric Supply Company Limited (hereinafter referred to as LESCO) is a licensee of National Electric Power Regulatory Authority (hereinafter referred to as NEPRA) for distribution of electricity in the territory specified as per terms and conditions of the license and the respondent is its industrial consumer bearing Ref No.24-11223-9006501 with a sanctioned load of 940 kW under the B-3 tariff. Standing committee LESCO checked the metering equipment of the respondent on 15.04.2016 and 18.04.2016 and



National Electric Power Regulatory Authority

reportedly, on both the occasions, the TOU billing meter was found 48.5% slow and the electromechanical backup meter was found dead stop. Resultantly, the detection bill amounting to Rs.3,287,803/- for 204,000 units/940 kW MDI for March 2016 was charged by LESCO to the respondent @ 30% load factor of the connected load, which was paid by him.

2. Being aggrieved, subsequently the respondent filed an application before the Provincial Office of Inspection (POI) on 21.04.2016 against the above detection bill. Both the TOU billing and electromechanical backup meters were replaced with the new meters by LESCO on 03.06.2016. The matter was decided by POI vide its decision dated 19.12.2017, the operative portion of which is reproduced below:

"Summing up the foregoing discussion, it is held that the impugned monthly bill for the month of March 2016 amounting to Rs.3,284,803/- for 204,000 units/940 kW MDI 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 bill for the said month on the basis of the consumption recorded during the corresponding month of the previous year being undisputed between the parties after excluding the already charged units during the said month. The respondents are also directed to overhaul the account of the petitioner accordingly and any excess amount recovered be adjusted in future bills."

3. The subject appeal has been filed by LESCO against the above decision (impugned decision) before NEPRA. In its appeal, LESCO contended that the TOU billing meter of



National Electric Power Regulatory Authority

the respondent was found 48.5% slow during standing committee checkings dated 15.04.2016 and 18.04.2016 for which the detection bill of Rs.3,287,803/- for 204,000 units/940 kW MDI was charged by LESCO to the respondent in March 2016 @ 30% load factor of the connected load, which is quite legal, valid and payable by the respondent. LESCO opposed the impugned decision inter-alia on the grounds that POI misconstrued the facts of the case and erred in holding that the detection bill of Rs.3,287,803/- for 204,000 units/940 kW MDI for March 2016 charged is null and void; that the matter was agitated by the respondent before POI on 21.04.2016 but it was decided on 29.12.2017 after 90 days beyond the statutory period as laid down in Section 26(6) of Electricity Act 1910.

4. Notice of the appeal was served upon the respondent for filing reply/para-wise comments, which were filed on 07.01.2019. The respondent objected the sustainability of the appeal and contended that the appeal is liable to be dismissed being filed through an unauthorized person. The respondent contradicted the stance of LESCO and averred that neither the metering equipment was checked by LESCO in his presence nor the slowness was proved in the TOU billing meter, hence the checking reports prepared by LESCO are fake. As per respondent, the detection bill of Rs.3,287,803/- for 204,000 units/940 kW MDI for March 2016 charged by LESCO is illegal, unjustified and the payment of the above detection bill was made under protest. According to the respondent, LESCO removed the defective metering equipment from the premises in order to hide the corrupt practice. The respondent stated that the POI has rightly



National Electric Power Regulatory Authority

exercised its power under Section 38 of NEPRA Act, 1997 and prayed for dismissal of the appeal with cost.

5. The hearing of the appeal was conducted in NEPRA regional office Lahore on 08.03.2019 wherein Mr. Saeed Ahmed Bhatti advocate represented the appellant LESCO and no one entered an appearance for the respondent. Learned counsel for LESCO reiterated the same arguments as contained in memo of the appeal and contended that during checking by LESCO on 15.04.2016, the TOU billing meter was found 48.5% slow, hence the disputed bill of Rs.3,287,803/- for 204,000 units/940 kW MDI charged to the respondent in March 2016 is justified and payable by the respondent. Learned counsel for LESCO averred that the consumption of the respondent for April 2016 and May 2016 increased after removal of the defective billing meter, which justifies the charging of the above detection bill. Learned counsel for LESCO pleaded that the impugned decision for revision of the above detection bill on the basis of consumption of March 2015 is illegal, unjustified and liable to be withdrawn.
6. Arguments heard and the record perused. It is observed as under:
 - i. 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 explained that the period of 90 days is provided in the Electricity Act, 1910 which is not relevant for the POI established under Section 38 of the NEPRA Act, 1997. NEPRA is the appellate authority against the decisions of POI and not that of Electric Inspectors. Honorable Lahore High Court in the recent judgment dated



National Electric Power Regulatory Authority

10.12.2018 in the W.P.No.8019/2017 held that impugned order is passed by POI under Section 38 of NEPRA Act, 1997 and not by Electric Inspector under Electricity Act, 1910 therefore, the outer time limit of 90 days is inapplicable. The objection of LESCO in this regard is devoid of force, therefore rejected.

- ii. LESCO has placed BoD resolution dated 16.05.2011, wherein Director (Legal) has been authorized to sign the memorandum of the appeal and vakalatnama. Hence preliminary objection of the respondent regarding the filing of the appeal by an unauthorized person is not justified and overruled.
- iii. LESCO claims that the TOU billing meter of the respondent found 48.5% slow during two checking dated 15.04.2016 and 18.04.2016 but they did not produce the billing meter under dispute before POI to determine its accuracy. Moreover, charging the detection bill of Rs.3,287,803/- for 204,000 units/940 kW MDI for March 2016 @ 30% load factor of the connected load is contrary to the chapter 4 of the Consumer Service Manual (CSM), which allows DISCOs to charge slowness to the consumers in case of a slow meter. Hence, POI has rightly declared the detection bill of Rs.3,287,803/- for 204,000 units/940 kW MDI for March 2016 as null and void. If it is presumed that the TOU billing meter under dispute remained defective in March 2016, the respondent may be charged the consumption for March 2016 on DEF-EST code and the basis of charging the bill will be 100% of the consumption of corresponding month of the previous year or average consumption of last eleven months, whichever is higher. Computation in this regard is done below:

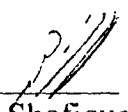


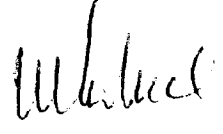
National Electric Power Regulatory Authority

Period	Units/month	MDI (kW)/month
Corresponding month of the previous year March 2015	132,000	715
Last eleven months April 2015 to February 2016	67,395	465

The respondent may be charged the electricity bill for 132,000 units/715 kW MDI for March 2016 as recorded in March 2015 being higher as per clause 4.4 of CSM as already concluded by POI.

7. As per discussion in the preceding paragraphs, no illegality or material irregularity in the impugned decision has been found, consequently the same is maintained and the appeal is dismissed.


Muhammad Shafique
Member


Nadir Ali Khoso
Convener

Dated: 28.03.2019

