



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/106/2018/ 1150-1154

May 27, 2019

1. Muhammad Saleem
S/o. Akbar Ali,
House No. 6, Street No. 1,
Aitcheson Road, Rasoolpura,
Lahore
2. Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore
3. Saeed Ahmed Bhatti
Advocate High Court,
Akram Mansion, Neela Gumbad,
Lahore
4. Sub Divisional Officer (Operation)
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. Muhammad Saleem Against the Decision Dated 27.03.2018 of the Provincial Office of Inspection to Government of the Punjab Lahore Region, Lahore

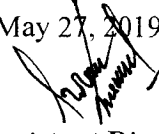
Please find enclosed herewith the decision of the Appellate Board dated 16.05.2019, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

No. NEPRA/AB/Appeal/106/2018/ 1155
Forwarded for information please.

(Ikram Shakeel)

May 27, 2019


Assistant Director
Appellate Board

✓ Registrar



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. 106/2018

Lahore Electric Supply Company Limited

.....Appellant

Versus

Muhammad Saleem S/o Akbar Ali R/o House No.6, Street No.1,
Aitcheson Road, Rasoolpura, Lahore

.....Respondent

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,
TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997
AGAINST THE DECISION DATED 27.03.2018 PASSED BY PROVINCIAL
OFFICE OF INSPECTION LAHORE REGION LAHORE**

For the appellant:

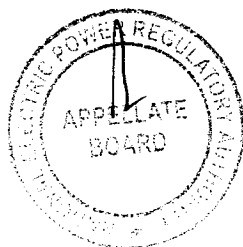
Mr. Saeed Ahmed Bhatti Advocate

For the respondent:

Nemo

DECISION

1. Brief facts giving rise to the instant appeal are that the respondent is a domestic consumer of Lahore Electric Supply Company (LESCO) bearing Ref No. 12-11234-0868702 with a sanctioned load of 5 kW under the A-1b (03) tariff. LESCO provided a new connection with healthy meter on the premises of the respondent on 02.10.2013 and the first bill of Rs.426/- for nil units was issued to the respondent in November 2013, which was paid by him in December 2013. Another bill of



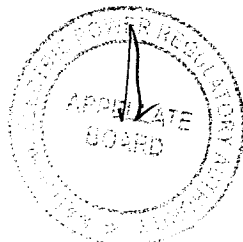


National Electric Power Regulatory Authority

Rs.180,008/- for the cost of 11,212 units was debited to the respondent by LESCO in December 2013 on account of uncharged units, which however was not paid. Electric supply of the respondent was disconnected by LESCO on 24.01.2014 due to nonpayment of outstanding arrears and the metering equipment was removed with reading index 12398 vide equipment removal order (ERO) dated 26.02.2014. The dues of the respondent progressed to the tune of Rs.230,676/- till September 2017 which included aforesaid detection bill.

2. The respondent being dissatisfied with the actions of LESCO approached the Provincial Office of Inspection (POI) on 07.11.2017 and challenged the detection bill of 11,212 units charged in December 2013. POI decided the matter on 27.03.2018 with the following conclusion:

“Summing up the foregoing discussion, it is held that the impugned bill amounting to Rs.195,181/- for 11,212 units charged in the bill for 12/2012 and progressively added in the bill of 09/2017 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 10/2013 to 01/2014 (4 months) for average 730 units per month on the basis of 20% load factor of the sanctioned load of 5.0 KW 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. The respondents are further directed to restore the electric

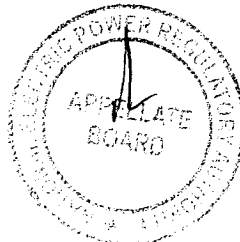




National Electric Power Regulatory Authority

supply of the petitioner immediately by installing an accurate meter at the site upon the deposit of a revised bill by the petitioner as per units calculated above. ”

3. The subject appeal has been filed inter alia on the grounds that the impugned decision was pronounced by the Electric Inspector after the mandatory period of 90 days as envisaged in Electricity Act, 1910; that it is against the facts and law; that the application of the respondent filed on 07.11.2017 against the bill of December 2013 is hopelessly barred by limitation; that the POI erred in holding that the detection bill of Rs. 195,181/- for 11,212 units as null void and that the detection bill was charged as per consumption recorded by the meter.
4. Notice for filing reply/para-wise comments to the appeal was served to the respondent, which were replied on 26.03.2019. In his reply, the respondent contended that the detection bill of Rs. 180,008/- for 11,212 units charged in December 2013 is illegal, unlawful as the consumption of 563 units subsequently recorded in February 2014 confirmed that such high consumption charged in detection mode was excessive. The respondent further contended that the POI after providing the opportunity of hearing and considering all legal facts has rightly directed to LESCO for withdrawal of above detection bill and allowed to charge the bills @ 730 units/month for the period October 2013 to January 2014 at 20% load factor of the connected load. The respondent prayed for maintainability of the impugned decision.
5. Hearing of the appeal was held in the NEPRA regional office Lahore on 03.05.2019,

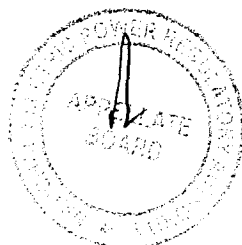




National Electric Power Regulatory Authority

wherein learned counsel appeared for LESCO and no one appeared for the respondent. Learned counsel for LESCO contended that the connection of the respondent was energized much earlier on payment of the demand notice and the meter was installed but the service connection order was issued lately on 02.10.2013, hence the detection bill of Rs.180,008/- for 11,212 units was charged to the respondent in December 2013 for the units consumed during previous months. As per learned counsel for LESCO, the electricity of the respondent was disconnected vide ERO dated 26.02.2014 due to nonpayment of aforesaid detection bill but the respondent never agitated the above bill before any forum. According to the learned counsel for the LESCO, the claim of the respondent before POI on 07.11.2017 is badly time-barred in pursuance of Lahore High Court judgment in the WP No.17314/2015. Learned counsel for LESCO finally prayed for setting aside the impugned decision on the ground of limitation.

6. Arguments heard and record perused. 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 is observed 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. The mere filing of the appeal by LESCO before NEPRA is tantamount to an admission that the matter was adjudicated by POI. Honorable Lahore High Court in the recent judgment dated 10.12.2018 in the



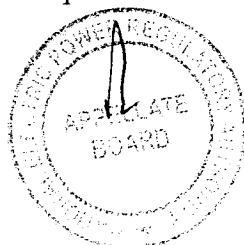


National Electric Power Regulatory Authority

W.P.No.8019/2017 held that the impugned order is deemed to be passed by POI under Section 38 of NEPRA Act, 1997 and not by an Electric Inspector under Electricity Act, 1910 therefore, the outer time limit of 90 days is inapplicable in the instant case. The objection of LESCO being de void of force is therefore rejected. As far as another objection of LESCO regarding limitation is concerned, it is observed that the detection bill of Rs.180,008/- for 11,212 units was charged to the respondent in December 2013 and electricity of the respondent was disconnected by LESCO on 24.01.2014 due to nonpayment of the said bill. The respondent admittedly agitated above detection bill of 11,212 units for December 2013 before POI on 07.11.2017, i.e., after lapse of more than three years. Obviously claim of the respondent is time-barred. In this regard, reliance is placed on the Lahore High Court, judgment dated 30.11.2015 in respect of writ petition No.17314-2015 titled “Muhammad Hanif v/s NEPRA and others”, wherein it is held as under:

“The petitioner at the most can invoke Article 181 of The Limitation Act, 1908 which is residuary provision and caters the issue of limitation where no period of limitation is provided elsewhere in the Schedule of The Limitation Act, 1908 or under Section 48 of The Code of Civil Procedure (V of 1908). Article 181 of The Limitation Act, 1908 prescribes the period of three years for filing an application applies when the right to apply accrues as prescribed in Article 181 of Limitation Act, 1908.”

7. As the respondent did not provide any lawful justification or cogent reason for filing the complaint after a long delay of four years, we are inclined to agree with the arguments of LESCO that the complaint of the respondent regarding detection bill of





National Electric Power Regulatory Authority

December 2013 is time-barred and POI has no jurisdiction to entertain the same.

8. In consideration of above, the appeal is accepted and impugned decision is set aside.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Dated: 16.05.2019

