



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

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No. NEPRA/AB/Appeal/121/2018/ 1187/1191

June 10, 2019

1. Muhammad Hanif Khan  
S/o. Abdul Ghafoor,  
R/o. 175-E, Punjab Small Industries Housing  
Society, Badian Road, 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,  
Badian 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. Muhammad Hanif Khan Against the Decision Dated 10.04.2018 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 30.05.2019, regarding the subject matter, for information and necessary action accordingly.

Encl: **As Above**

No. NEPRA/AB/Appeal/121/2018/ 1192

Forwarded for information please.

(Ikram Shakeel)

June 10, 2019

Assistant Director  
Appellate Board

Registrar



**National Electric Power Regulatory Authority**

**Before Appellate Board**

In the matter of

**Appeal No. 121/2018**

Lahore Electric Supply Company Limited

.....Appellant

Versus

Muhammad Hanif Khan S/o Abdul Ghafoor R/o. 175-E,  
Punjab Small Industries Housing Society, Badian Road, Lahore

.....Respondent

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,  
TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997  
AGAINST THE DECISION DATED 10.04.2018 PASSED BY PROVINCIAL  
OFFICE OF INSPECTION LAHORE REGION LAHORE**

For the appellant:

Mr. Saeed Ahmed Bhatti Advocate  
Mr. Muhammad Haroon

For the respondent:

Nemo

**DECISION**

1. Through this appeal, challenge has been thrown to a decision dated 10.04.2018 passed by the Provincial Office of Inspection (POI), Lahore Region, Lahore. Facts, in brief, are that the respondent is a domestic consumer of LESCO bearing Ref No.06-11525-2099807 with a sanctioned load of 8 kW under the A-1(b) tariff. The premises of the respondent was checked by metering and testing (M&T) LESCO on 17.09.2011 and allegedly the respondent was found stealing electricity directly through the main cable and the connected load was noticed as 22.8 Ampere being much higher



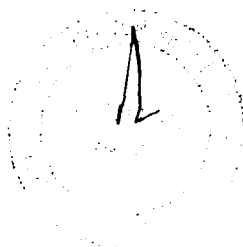


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than the sanctioned load. Thereafter, a detection bill of Rs.404,228/- for total 22,322 units was charged to the respondent by LESCO in October 2011, which contained two parts i.e. 11,124 units for the period March 2011 to August 2011 debited on the basis of 12.7 kW connected load & 15,000 units for the period March 2011 to July 2011 for 5 ACs @ 600units per AC per month.

2. Being aggrieved, the respondent initially challenged the above detection bill before the Lahore High Court Lahore, Lahore through W.P.No.29233/2011, which was dismissed by the honorable High Court on 12.03.2014. The electricity connection of the respondent was disconnected by LESCO and the disputed meter along with 25 kVA transformer was removed by LESCO in September 2016 due to non-payment of the aforesaid detection bill. Subsequently, the respondent filed an application before POI on 11.10.2017 and challenged the arrears of Rs.483,654/- till September 2016. The matter was decided by POI vide its decision dated 10.04.2018 with the following conclusion:

*“Summing up the foregoing discussion, it is held that the impugned detection bill amounting to Rs.404,228/- as cost of 22,322 units for the period from 03/2011 to 08/2011 added in 10/2011 and removal of the consumer-owned 1x25 kVA transformer due to nonpayment of the above detection bill is void, unjustified and of no legal effect; therefore the petitioner is not liable to pay the same. The respondents are directed to overhaul the account of the petitioner accordingly and any excess amount recovered be adjusted in future bills and restore the electric supply of the petitioner by installing the consumer-owned 1x25 kVA Transformer immediately. The petition is*





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*disposed of in the above terms."*

3. Appeal in hand has been filed against the above-mentioned decision in which LESCO contended that the site of the respondent was checked on 17.09.2011 and theft of electricity was noticed directly from the main cable, hence the detection bill of Rs.404,228/- for total 22,322 units was charged to the respondent, which is quite, legal, valid and justified. As per LESCO, POI has no jurisdiction to adjudicate the instant matter being a theft case, reliance in this regard was placed on the judgments reported in PLD 2012 SC 371 and PLD 2006. LESCO further objected the sustainability of the impugned decision on the plea that the same was pronounced by POI after the expiry of the mandatory period of 90 days as laid down in Section 26(6) of Electricity Act 1910. According to LESCO, POI failed to consider the real facts of the case and erred in holding that the aforesaid detection bill as null and void. Notice was issued to the respondent for filing reply/para-wise comments to the appeal, which were filed on 15.05.2019. In his reply, the respondent denied the allegation of theft of electricity levelled by LESCO and contended that neither any prior notice was served nor any checking was carried out in his presence, hence there is no justification to charge the detection bill of Rs.404,228/- for total 22,322 units for the period March 2011 to August 2011. The respondent further contended that if there was theft of electricity, why legal proceedings were not initiated by LESCO. According to the respondent, the above detection bill was charged for a period of six months by LESCO without soliciting approval of Chief Executive Officer. The respondent stated that his 25 kVA



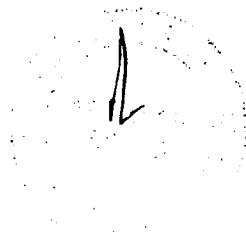
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transformer was confiscated by LESCO with malafide intention and prayed for return of the transformer along with the withdrawal of the above-mentioned detection bill.

4. Hearing of the appeal was conducted in Lahore on 03.05.2019, wherein learned counsel along with LESCO official appeared for the appellant and no one represented the respondent. Learned counsel for LESCO pressed the preliminary objection regarding the maintainability of the impugned decision after the expiry of 90 days of the filing of the respondent's complaint u/s 26(6) of Electricity Act 1910. Learned counsel for LESCO defended the detection bill of Rs.404,228/- for total 22,322 units on the plea that the respondent was found involved in the theft of electricity through the main cable during checking dated 17.09.2011. Learned counsel for LESCO pleaded that the impugned decision is liable to be set aside.

5. Arguments heard and the record perused. Following are our observations:

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 Electricity Act, 1910 which is not relevant for the offices of Provincial Offices of Inspection (POI) established under Section 38 of NEPRA Act, 1997. NEPRA is the appellate authority against the decisions of POI and not that of Electric Inspectors. It has already been held by Honorable Lahore High Court in judgments cited as PLJ 2017-Lahore-627 and PLJ-2017-Lahore-309 that impugned order was passed by POI under section 38 of NEPRA Act, 1997 and not by Electric Inspector under





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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 raised another objection regarding the jurisdiction of POI to deal with the cases pertaining to theft of electricity. It is clarified that though the allegation of theft of electricity through bypassing the cable was leveled by LESCO but neither the procedure laid down in clause 9.1(b) of Consumer Service Manual (CSM) was followed nor legal action was taken against the respondent. As the dispute pertains to the metering and billing, hence POI has the exclusive jurisdiction to entertain the instant matter u/s 38 of NEPRA Act, 1997. The objection of LESCO is devoid of force and rejected.

iii. The respondent agitated the detection bill of Rs.404,228/- for total 22,322 units for the period March 2011 to August 2011 charged by LESCO before POI. LESCO charged the above detection bill consistently for six months to the respondent being a domestic consumer in absence of approval of Chief Executive Officer, which is violation of clause 9.1c(3) of CSM. In addition, the above detection bill was based on the connected load noticed by LESCO during checking dated 17.09.2011 but the said load was not got checked by POI. Besides, LESCO did not produce the copy of M&T checking report dated 17.09.2011 before POI to substantiate its stance regarding charging the above detection bill. Moreover, there is no significant variation in the consumption of the respondent during the undisputed and disputed periods. Under these circumstances, the detection bill of Rs.404,228/- for total





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22,322 units (11,124 units for the period March 2011 to August 2011 debited on the basis of 12.7 kW connected load and 15,000 units for the period March 2011 to July 2011 @ 600 units per AC per month) has no justification and liable to be declared null and void as decided by POI.

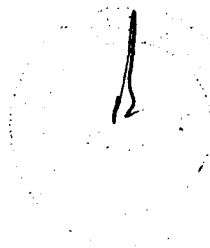
iv. It is observed that the normal consumption recorded during the disputed period neither corresponds to the sanctioned load of the respondent nor the installed capacity of transformer i.e. 25 kVA, which indicates that actual consumption was not recorded by the meter. Hence it would be judicious to charge the detection bill for three months i.e. June 2011 to August 2011 in pursuance of clause 9.1c(3) of CSM and the basis of determination of quantum of electricity to be made as per the installed capacity of the transformer as per formula given in Annex-VIII of CSM.

### Period: June 2011 to August 2011 (3 months)

(A) Units to be charged	Transformer kVA Rating x Power factor x Load Factor x No. of Hours x No. of Months = 25 kVA x 0.8 x 0.2 x 730 x 3 = <b>8,760 units</b>
(B) Units already charged	= 1,018 + 913 + 730 = <b>2,661 units</b>
(C) Net units chargeable	(A) - (B) 8,760 - 2,661 = <b>6,099 units</b>

6. Forgoing in consideration, we have reached to the conclusion that:

- i. the detection bill of Rs.404,228/- for total 22,322 units (11,124 units for the period March 2011 to August 2011 debited on the basis of 12.76 kW connected load and 15,000 units for the period March 2011 to July 2011 charged @ 600 units per AC





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per month) is null and void.

- ii. LESCO is allowed to charge net 6,099 units for the period from June 2011 to August 2011.
- iii. LESCO is further directed to overhaul the billing account of the respondent in accordance with paras i & ii above. The appeal is disposed of in the above terms.

Muhammad Qamar-uz-Zaman  
Member

Muhammad Shafique  
Member

Nadir Ali Khoso  
Convener

Dated: 30.05.2019