



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/130/2014/ 4/11-4/15

February 21, 2019

1. Ch. Jahangir Hussain
Through Muhammad Hanif,
S/o. Farzand Ali, 138-B,
Garden Block, New Garden Town,
Lahore
2. Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore
3. Malik Zahid Hussain
Advocate High Court,
Corporate Law Advisors,
10-A, Turner Road, Lahore
4. Assistant Manager (Operation)
LESCO Ltd,
Faisal Town Sub Division,
Expo Road, H-Block, Johar Town,
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. Ch. Jahangir Hussain Against the Decision Dated 06.05.2014 of the Provincial Office of Inspection to Government of the Punjab Lahore Region, Lahore**

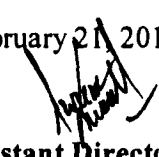
Please find enclosed herewith the decision of the Appellate Board dated 20.02.2019, regarding the subject matter, for information and necessary action accordingly.

Encl: **As Above**

No. NEPRA/AB/Appeal/130/2014/ 4/16
Forwarded for information please.

(Ikram Shakeel)

February 21, 2019


Assistant Director
Appellate Board

✓ Registrar



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No.130/POI-2014

Lahore Electric Supply Company Limited

.....Appellant

Versus

Ch. Jahangir Hussain, Through Muhammad Hanif

S/o Farzand Ali, 138-B, Garden Block, New Garden Town, Lahore.....Respondent

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,
TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997
AGAINST THE DECISION DATED 06.05.2014 PASSED BY PROVINCIAL
OFFICE OF INSPECTION LAHORE REGION, LAHORE**

For the appellant:

Mr. Zahid Hussain Advocate

Mr. Pervaiz Ahmed

For the respondent:

Mr. M. Shoaib

DECISION

1. As per facts of the case, the respondent is a domestic consumer of Lahore Electric Supply Company Limited (hereinafter referred to as LESCO) bearing Ref No. 02-11511-0124500-U with a sanctioned load of 1kW under A-1(a) tariff. LESCO replaced the defective meter (first billing meter) of the respondent with another meter (the second billing meter) in April 2011 and later on charged the electricity bill of Rs.49,328/- for 3,222 units in June 2011. The respondent being aggrieved with the above bill initially filed the civil suit No.19986/2011 (first civil suit) before the Senior

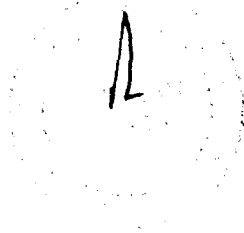




National Electric Power Regulatory Authority

Civil Judge, Lahore on 23.06.2011 and deposited Rs.12,332/- being 1/4th of the disputed bill of Rs.49,328/- for June 2011 on the direction of honorable Court. As per respondent, excessive billing was continued by LESCO from July 2011 and onwards against which he made payments of Rs.30,281/- and Rs.9,457/- in December 2011 and January 2012 respectively. As per LESCO, the respondent was stealing the electricity through tampering of the meter, hence further two defective (tampered) meters of the respondent were replaced in August 2011 and June 2012. Subsequently, the respondent filed another civil suit No.542/2012 (second civil suit) before the Senior Civil Judge, Lahore on 20.09.2012 and assailed the excessive billing. The honorable Senior Civil Judge, Lahore vide Order dated 25.09.2012 directed the respondent to deposit Rs.40,000/- against the disputed arrears and LESCO was restrained from the disconnection of his electric supply. During the pendency of the first and second civil suits before the Senior Civil Judge, Lahore, the respondent approached the Provincial Office of Inspection (POI) on 18.06.2013 and agitated the arrears of Rs.241,809/- pertaining to the period i.e. May 2011 to April 2013. POI disposed of the matter vide its decision dated 06.05.2014 and concluded as under:

“Summing up the foregoing discussion, it is held that the impugned monthly bills from 05/2011 and onwards till the removal of meter charged on average/load factor basis are 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 the said period i.e. 05/2011 and onward till the removal of the meter on the basis of the average consumption of 408 units per month recorded during the corresponding period of the previous year i.e.05/2010 to 12/2010, after excluding the already

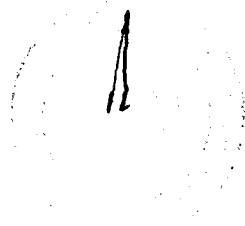




National Electric Power Regulatory Authority

charged units during the said period. The respondents are directed to overhaul the account of the petitioner accordingly and any excess amount recovered be adjusted in future bills. They are also directed to restore the electricity connection of the premises by installing an accurate meter at the site to avoid any further litigation in the future. The petition is disposed of in the above terms."

2. The respondent filed civil suit No.35401/2014 (third civil suit) before the Senior Civil Judge, Lahore on 15.10.2014 for implementation of POI decision dated 06.05.2014 and prayed that LESCO be restrained from the recovery of the illegal bill of Rs.236,971/- and disconnection of electric supply. On the other hand, LESCO has challenged the POI decision dated 06.05.2014 (impugned decision) before NEPRA through the instant appeal on 31.10.2014. In its appeal, LESCO contended that the meter of the respondent was found defective in March 2012, hence the respondent was charged the electricity bills @ 660 units/month during the period March 2012 to May 2012 on the basis of corresponding consumption of previous year and the bills from June 2012 to January 2013 on the basis of connected load. LESCO further submitted that the respondent malafidely approached POI despite the fact remains that two civil suits for the same matter were under adjudication before the Civil Court. As per LESCO, POI had no jurisdiction to adjudicate the instant matter after the lapse of 90 days as envisaged in Section 26(6) of Electricity Act, 1910. LESCO finally prayed for the decision of the appeal on merits. During the pending of appeal before NEPRA, the first civil suit of the respondent was dismissed vide the Honorable Senior Civil Judge, Lahore Order dated 10.11.2014 due to non-prosecution but the disposal of the





National Electric Power Regulatory Authority

second civil suit is not known. In the meanwhile, the appeal No.130/2014 filed by LESCO against the POI decision dated 06.05.2014 was dismissed by the NEPRA Appellate Board vide its decision dated 25.02.2015 on the grounds of limitation. The decision dated 25.02.2015 of the NEPRA Appellate Board was challenged before the Honorable Lahore High Court Lahore through Writ Petition No.27428/2015, which was set aside by the honorable High Court vide decision dated 13.12.2018 with the directions to NEPRA to decide the matter afresh after affording the opportunity of hearing to both the parties.

3. Pursuant to the directions of Honorable High Court, the appeal was reheard in NEPRA provincial office Lahore on 25.01.2019, wherein Mr. Zahid Hussain learned counsel along with Mr. Pervaiz Ahmed appeared for the appellant LESCO and Mr. M. Shoaib represented the respondent. Learned counsel for LESCO reiterated the same contentions as contained in the memo of the appeal and averred that the respondent was stealing electricity through the tampered meters, hence three meters were replaced by LESCO in April 2011, August 2011 and June 2012 successively. As per learned counsel for LESCO, the bills during the period May 2011 to June 2012 were charged as per meter reading but POI wrongly declared the said billing charged on average basis. According to the learned counsel for LESCO, three civil suits were filed by the respondent against the bills under dispute, which subsequently were dismissed by the honorable Civil Court, Lahore. Learned counsel for LESCO argued that the application was filed by the respondent before POI during the pendency of

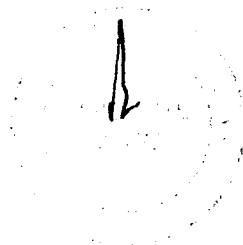




National Electric Power Regulatory Authority

civil suits which is not legal, such objection was raised by LESCO but not considered by POI. Learned counsel for LESCO finally prayed for setting aside the impugned decision being contrary to the facts and law. On the other hand, the representative appearing for the respondent submitted that the impugned decision is justified and prayed for upholding the same.

4. Arguments heard and the record examined. 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 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 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. Admittedly three civil suits were filed by the respondent before the Senior Civil Judge, Lahore against the irregular billing done by LESCO. As per record, the first civil suit was dismissed by the honorable Civil Judge, Lahore vide Order dated 10.11.2014 due to non-prosecution, whereas no record has been placed before us





National Electric Power Regulatory Authority

regarding the disposal of the second and third civil suits. Since the matter pertains to the dispute of metering and billing, POI has exclusive jurisdiction to adjudicate the instant matter u/s 38 of NEPRA Act, 1997. The objection of LESCO in this regard is invalid, therefore rejected.

iii. The respondent filed a complaint before POI on 18.06.2013 and disputed the arrears of Rs.241,809/- pertaining to the period May 2011 to April 2013. LESCO's stance is that the said bills are correct and as per meter reading. In order to analyze the justification of the bills charged by LESCO during the disputed period of May 2011 to April 2013, consumption data is constructed below:

Year	2010		2011		2012	
Month	Units	Remarks	Units	Remarks	Units	Remarks
January	146	-	295	-	591	-
February	193	-	245	-	795	-
March	172	-	222	-	660	-
April	201	-	717	MCO	660	-
May	297	-	1,687	-	1,690	-
June	341	-	3,222	-	1,852	MCO
July	382	-	425	-	4,162	-
August	432	-	1,967	MCO	1,849	-
September	532	-	3,275	-	1,477	-
October	572	-	1,945	-	1,714	-
November	500	-	1,018	-	429	-
December	204	-	745	-	415	-

As evident above, the meters of the respondent were replaced by LESCO three times i.e. April 2011, August 2011 and June 2012, however, LESCO did not produce any document to substantiate its allegation that the said meters were changed due to tampering by the respondent for dishonest abstraction of electricity. Moreover, no criminal proceeding or legal action was taken by LESCO

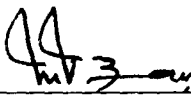





National Electric Power Regulatory Authority

against the respondent as laid down in chapter 9 of the Consumer Service Manual (CSM). Besides this, the billing done during the disputed period May 2011 to June 2012 (14 months) is higher as compared to the undisputed consumption recorded during the period January 2010 to April 2011, which proves that the bills charged during the disputed period are excessive. We are inclined to agree with the decision of POI that the electricity bills from May 2011 to June 2012 are unjustified, hence declared null and void and the respondent may be charged the electricity bills @ 408 units/month for the said period as recorded during the undisputed period May 2010 to December 2010.


5. Forgoing in view, the appeal is dismissed.



Muhammad Qamar-uz-Zaman
Member



Muhammad Shafique
Member



Nadir Ali Khoso
Convener

Dated: 20.02.2019

