



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/135/2018/ 1193-1198

June 10, 2019

1. M/s. Salar & Brothers Textiles (SMC-Pvt) Ltd
Through its Director Shahzad Khan,
S/o. Shahzad Azam Khan,
R/o. 3-F, Atchison College Staff Co-operative
Housing Society, Raiwind 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. Shahzad Azam Khan
Advocate High Court,
7-Model Town, Lahore
5. Sub Divisional Officer (Operation)
LESCO Ltd,
Badian Road 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. M/s. Salar & Brothers Textiles (Pvt.) Ltd Against the Decision Dated 24.04.2018 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/135/2018/ 1199

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. 135/2018

Lahore Electric Supply Company Limited

.....Appellant

Versus

M/s. Salar & Brothers Textiles (SMC-Pvt) Ltd, Through its Director
Shahzad Khan S/o Shahzad Azam Khan, R/o 3-F, Atchison College Staff
Cooperative Housing Society, Raiwind Road, Lahore

.....Respondent

APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION, TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 24.04.2018 PASSED BY PROVINCIAL OFFICE OF INSPECTION LAHORE REGION LAHORE

For the appellant:

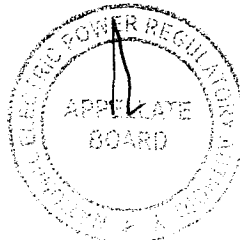
Mr. Saeed Ahmed Bhatti Advocate

For the respondent:

Mr. Shahzad Azam Khan

DECISION

1. Brief facts giving rise to the instant appeal are that the respondent is an industrial consumer of LESCO bearing Ref No.24-11234-9000481 with a sanctioned load of 68 kW under the B-2b tariff. Billing meter of the respondent was checked by metering and testing (M&T) LESCO on 11.07.2016 and 30.07.2016 and reportedly its readings were noticed as 11,749 and 11,893 respectively, hence the detection bill of Rs.663,181/- for 5,154 units was charged to the respondent by LESCO in July 2016.
2. The respondent approached the Provincial Office of Inspection (POI) on 16.08.2016 and prayed as under:



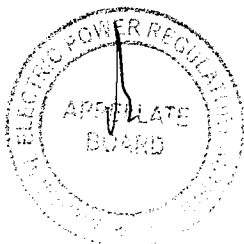


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- i. *LESCO be restrained from the recovery of the detection bill of Rs.663,181/-.*
 - ii. *Credit be afforded in accordance with POI decision dated 09.09.2014.*
 - iii. *To issue directives to LESCO to feed defective code till the final disposal of the case in pursuance of POI decision dated 09.09.2014 and NEPRA decision dated 02.04.2015.*
 - iv. *LESCO be refrain from disconnection of electric supply till the final decision.*
3. The complaint of the respondent was decided by POI vide its decision dated 24.04.2018 with the following conclusion:

“Summing up the foregoing discussion, it is held that the impugned bill of July 2016 amounting to Rs.663,181/- and charging of monthly bills to the petitioner during the year 2015 and 2016 on some exaggerated units arrears amount of Rs.545,466/- added in the bill for the month of 05.2017 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 to the petitioner up-to 21.12.2016 on the basis of the actual meter reading recorded at the billing meter (after adding the declared 33% slowness) i.e. up-to total KWH reading as 12462 indexes and the MDI sum (Total) as 32.94. (ii) That the respondents are directed to refund the cost of excess charged 42420 KWH units and 327.6 KW MDI (as calculated in para 6 above) to the petitioner up-to-the billing month of November 2016. (iii). The respondents are also directed to overhaul the account of the petitioner accordingly and any excess amount recovered be adjusted in future bills. The petition is disposed of in the above terms.”

4. The subject appeal has been filed against the afore-referred decision; 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 POI erred in holding that the detection bill of Rs.663,181/- and

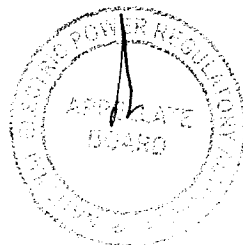




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charging of monthly bills during the year 2015-16 as null void; that the above detection bill and the monthly bills for the year 2015-16 added in the bill of May 2017 are quite legal, valid, justified; and that the impugned decision is liable to be set aside.

5. Notice for filing reply/para-wise comments to the appeal was served to the respondent, which were replied on 09.04.2019. In his reply, the respondent raised the preliminary objection and contended that the appeal is time-barred being filed after prescribed limit. The respondent explained that POI vide its earlier decision dated 09.09.2014 declared the billing meter of the respondent as 33% slow and directed LESCO to install a new billing meter. Against the said decision LESCO filed the appeal No.122/2014 before NEPRA, which was dismissed by the NEPRA Appellate Board vide decision dated 02.04.2015. As per respondent, LESCO challenged the Appellate Board decision dated 02.04.2015 before the Lahore High Court through writ petition No.39624/2015, which was dismissed in limine by the honorable High Court vide order dated 18.12.2015. According to the respondent, LESCO did not replace the 33% slow billing meter as declared by POI and started exaggerated billing on the fictitious readings during the year 2015-16. The respondent submitted that the detection bill of Rs.663,181/- of July 2017 and the arrears of Rs.545,466/- added in the bill of May 2017 are the examples of such excessive billing.
6. Hearing of the appeal was held in the NEPRA regional office Lahore on 03.05.2019, wherein both the parties made their attendance. Learned counsel for LESCO reiterated the same arguments as given in the memo of the appeal and opposed the impugned

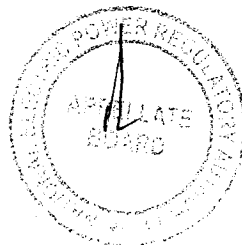




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decision on the plea that POI neither considered the contention of LESCO nor perused the record provided by them and rendered the impugned decision in a hasty manner. Learned counsel for LESCO averred that all the bills were charged as per actual meter reading and the respondent is responsible for payment of the same.

7. 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 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 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 devoid of force is therefore rejected.
 - ii. As far as the objection of the respondent regarding limitation is concerned, it is observed that copy of the impugned decision dated 24.04.2018 was obtained by LESCO on 15.05.2018 and the appeal was preferred before NEPRA on 19.06.2018

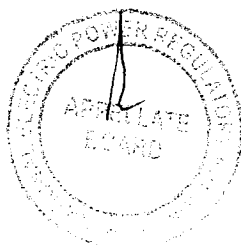




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after a lapse of 35 days of receipt of the impugned decision. Pursuant to Section 38(3) of NEPRA Act, 1997, an aggrieved person may file an appeal before NEPRA within 30 days of receipt of the POI decision. In the instant case, LESCO neither submitted an application for the condonation of the delay nor provided cogent reasons for the delay in filing the appeal. Obviously, the appeal filed by LESCO before NEPRA is barred by 5 days, hence liable to be dismissed on this ground.

iii. As far as merits of the case are concerned, allegedly LESCO charged excessive billing on the fictitious readings during the year 2015-16 and respondent prayed for withdrawal of the arrears of Rs.545,466/- till May 2016 and the detection bill of Rs.663,181/- debited in July 2016. On the other hand, LESCO repudiated the version of the respondent regarding irregular billing and termed the above billing as justified being charged as per actual meter reading. However both the parties failed to provide documents supportive to their contentions, the only document to reach result oriented conclusion is the copy of MCO proforma dated 21.12.2016, which was admitted by both LESCO and the respondent. We are inclined to agree with the findings of POI that the billing of the respondent be revised as per final readings i.e. 12,462 kWh/32.94 kW MDI noted in MCO dated 21.12.2016 after application of 33% slowness of the billing meter. The billing account of the respondent may be overhauled after making adjustment of credit and debit of units/MDI and the





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payments made if any during the said period.

8. Foregoing in view, the appeal is dismissed.

Muhammad Qamar-uz-Zaman
Member

Nadir Ali Khoso
Convener

Dated: 30.05.2019

