



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/176/2018/ *1001-1006*

May 10, 2019

1. Hafiz Shahbaz Ahmed
S/o. Haji Taj Din,
R/o. House No. 4, Khalid Street No. 4,
Pakki Thatti, Near Samanabad,
Lahore
2. Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore
3. Ms. Shazia Malik
Advocate High Court,
Immam Law Firm, 6-Lawyer Park,
Opp: Best Western Hotel,
13-Fane Road, Lahore
4. Assistant Manager (Operation)
LESCO Ltd,
Ittehad Colony Sub Division,
Lahore
5. Syed Faraz Haider Sherazi
Advocate, 8-Sadi Road,
Near Session Courts Judges Gate,
Islampura, 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. Hafiz Shahbaz Ahmed Against the Decision Dated 13.08.2018 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 08.05.2019, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

No. NEPRA/AB/Appeal/176/2018/ *1007*

Forwarded for information please.

(Ikram Shakeel)

May 10, 2019

[Signature]
Assistant Director
Appellate Board

✓
Registrar



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No.176/2018

Lahore Electric Supply Company Limited

.....Appellant

Versus

Hafiz Shahbaz Ahmed S/o Haji Taj Din, R/o House No.04,
Khalid Street No.4, Pakki Thatti, Near Smanabad, Lahore

.....Respondent

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,
TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997
AGAINST THE DECISION DATED 13.08.2018 PASSED BY PROVINCIAL
OFFICE OF INSPECTION LAHORE REGION, LAHORE**

For the appellant:

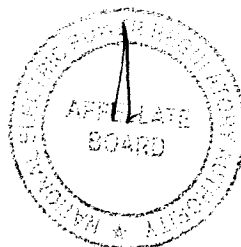
Ms. Shazia Malik Advocate

For the respondent:

Syed Faraz Haider Advocate

DECISION

1. Brief facts leading to the filing of instant appeal are that the respondent is a domestic consumer of Lahore Electric Supply Company Limited (hereinafter referred to as LESCO) bearing Ref No.06-11244-0534000 having a sanctioned load of 2 kW under the A-1(a) tariff. The electricity meter of the respondent was declared defective by LESCO in May 2015, hence the demand notice dated 24.06.2016 of Rs.2,180/- as meter cost was deposited by the respondent but it was not replaced by LESCO. Nil consumption was charged by LESCO during the period of June 2015 to February 2016. As per LESCO, the defective meter was again checked by SDO LESCO in



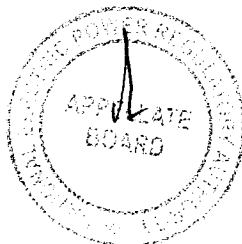


National Electric Power Regulatory Authority

February 2016 and the final reading was noted as 17,533. Hence the detection bill amounting to Rs.229,875/- for 9,933 units was charged by LESCO to the respondent in March 2016 on account of pending units of the defective meter. The respondent approached the Provincial Office of Inspection (POI) vide an application on 28.03.2016 and challenged the above detection bill. The defective meter of the respondent was replaced with a new meter by LESCO vide meter change order (MCO) dated 22.07.2016. The application of the respondent was disposed of by POI vide its decision dated 13.08.2018 with the following conclusion:

“Summing up the foregoing discussion, it is held the impugned bill amounting to Rs.229,875/- for 9933 units for the month of March 2016 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. They are also directed to restore the electric supply of the petitioner by installing a new meter at the site.”

2. LESCO has filed the instant appeal against the above-mentioned decision (hereinafter referred to as the impugned decision) before NEPRA. In its appeal, LESCO contended that the respondent was involved in dishonest abstraction of electricity; that the adjustment bill of Rs.5,484/- was debited to the respondent and added in the bill for May 2015; that the nil consumption was charged during the period June 2015 to February 2016; that SDO LESCO checked the meter and found 9,932 pending units;

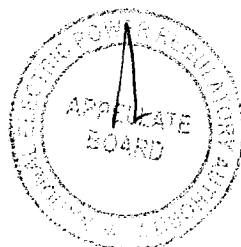




National Electric Power Regulatory Authority

that the detection bill of Rs.229,875/- for 9,933 units charged to the respondent in March 2016 is justified, legal and the respondent is responsible to pay the same; that the respondent did not issue any notice to LESCO before approaching the Electric Inspector u/s 26(6) of Electricity Act,1910; that Electric Inspector has no jurisdiction to entertain the matter of determination of electricity charges for dishonest abstraction of electricity in pursuance of the judgment of Lahore High Court reported in PLD 1995 Lahore 56; that the impugned decision is liable to be set aside in the interest of justice.

3. Notice of the appeal was issued to the respondent for filing reply/para-wise comments, which were filed on 17.01.2019. In his reply, the respondent supported the impugned decision and opposed the maintainability of the appeal on the grounds that LESCO did not produce any evidence in support of charging the detection bill of Rs.229,875/- for 9,933 units charged to the respondent in March 2016; that the above detection bill is unjustified and not payable by the respondent; that the appeal is based on concealment of the actual facts and liable to be dismissed.
4. Notice was issued and hearing of the appeal was conducted at Lahore on 08.04.2019, which was attended by both the parties. Learned counsel for LESCO reiterated the same arguments as prescribed in the memo of the appeal and contended that the meter was declared defective in May 2015 and the demand notice dated 24.06.2015 for replacement of the defective meter was paid by the respondent but no information was provided by him. Learned counsel for LESCO explained that the nil consumption was



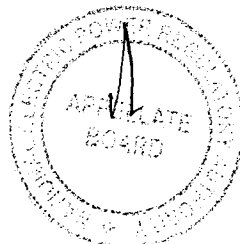


National Electric Power Regulatory Authority

charged during the period June 2015 to February 2016 and 9,933 units were found pending, hence the detection bill of Rs.229,875/- for 9,933 units was charged to the respondent in March 2016 due to pending units, which is justified and payable by the respondent. Learned counsel for LESCO argued that the POI did not consider the stance of LESCO while deciding the matter, hence the impugned decision is defective and liable to be struck down. On the contrary, learned counsel for the respondent averred that the premises remained vacant since long due to which nil consumption was recorded by the meter. To substantiate his version learned counsel for the respondent committed to provide the consumption record of past undisputed months. Learned counsel for the respondent finally supported the impugned decision and prayed for its maintainability.

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

- i. LESCO raised the preliminary objection that the matter pertains to electricity charges imposed due to theft of electricity and POI has no jurisdiction to entertain the same in pursuance of Lahore High Court judgment reported in PLD 1995 Lahore 56. It is observed that the meter was declared defective by LESCO in May 2015 and neither theft of electricity was proved through tampering the meter nor legal proceedings were initiated by LESCO against the respondent. Even otherwise, Lahore High Court vide judgment reported in PLD 2012 SC 371 empowered POI to adjudicate the disputes related to metering equipment except





National Electric Power Regulatory Authority

commitment of theft of electricity through bypassing the meter. Hence objection of LESCO in this regard is invalid, therefore rejected.

- ii. Regarding another objection of LESCO that no prior notice was served by the respondent before approaching POI as envisaged in Electricity Act, 1910, it is clarified that the POI is functioning as per procedure laid down in the Punjab (Establishment and Powers of Office of Inspection) Order, 2005 wherein prior notice by a consumer to DISCO is not mandatory before impeding the POI. This objection of LESCO bears no force, therefore overruled.
- iii. On merits, the meter of the respondent was found defective by LESCO in May 2015 and the respondent deposited demand notice dated 24.06.2015 of Rs.2,180/- as meter replacement cost but the meter was replaced by LESCO vide MCO dated 22.07.2016. LESCO has taken the stance that the meter could not be replaced timely as the respondent neither informed for submission of demand notice nor provided the evidence of demand notice. If it is presumed that the paid copy of the demand notice was not served by the respondent to LESCO timely nevertheless it can be confirmed from the bank statement provided to LESCO on weekly basis. Hence LESCO is responsible for the delay in MCO. LESCO claims that nil consumption was charged during the period June 2015 to February 2016 and 9,933 units were found uncharged during subsequent checking in February 2016. To verify the version of LESCO, the record was checked but no documentary evidence found, which shows the final reading of 17,534 of the meter as claimed





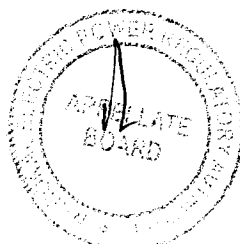
National Electric Power Regulatory Authority

by LESCO. Hence the detection bill of Rs.229,875/- for 9,933 units charged by LESCO on account of pending units is baseless and unjustified.

iv. As regards the nil consumption charged during the period of June 2015 to February 2016, the learned counsel for the respondent stated that the electricity was not consumed due to vacant premises but the respondent failed to provide any documentary evidence in support of its version. In order to ascertain the billing for the disputed period June 2015 to February 2016, consumption data is tabulated below:

Month	Units	Normal Bill (Rs.)	Adjustment Bill (Rs.)
Mar-2015	258	2,255	0
Apr-2015	267	2,609	0
May-2015	275	2,255	5,484
Jun-2015	0	5,608	0
Jul-2015	0	2,239	0
Aug-2015	0	229	100
Sep-2015	0	224	49
Oct-2015	0	230	106
Nov-2015	0	467	106
Dec-2015	0	229	106
Jan-2016	0	229	106
Feb-2016	0	229	106

Examination of the above table reveals that the healthy consumption was recorded by the meter of the respondent till May 2015, thereafter nil consumption was charged during the period June 2015 to February 2016, which establishes that the actual consumption was not recorded during the disputed period June 2015 to February 2016 by the meter due to defectiveness. In such case, clause 4.4 of the Consumer Service Manual (CSM) allows DISCOs to charge the consumer on





National Electric Power Regulatory Authority

DEF-EST code and the basis of charging the bills for the disputed months will be 100% of the consumption of the corresponding month of the previous year or average consumption of the last eleven months, whichever is higher. Hence the respondent is liable to be charged the electricity bills for the period June 2015 to February 2016 on DEF-EST code in pursuance of foregoing clause of CSM.

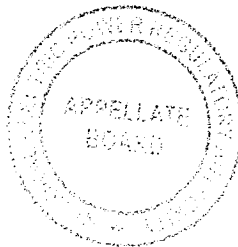
6. In view of the above, we have reached to the conclusion that the detection bill of Rs.229,875/- for 9,933 units charged by LESCO on account of pending units is illegal, unjustified and canceled. LESCO is directed to charge the bills for the period June 2015 to February 2016 on DEF-EST code. Billing account of the respondent should be overhauled after making the adjustment of units already charged/ payments made (if any) against the above bills.
7. The appeal is disposed of in the above terms.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Dated: 08.05.2019





National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No.176/2018

Lahore Electric Supply Company LimitedAppellant

Versus

Hafiz Shahbaz Ahmed S/o Haji Taj Din, R/o House No.04,
Khalid Street No.4, Pakki Thatti, Near Smanabad, LahoreRespondent

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,
TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997
AGAINST THE DECISION DATED 13.08.2018 PASSED BY PROVINCIAL
OFFICE OF INSPECTION LAHORE REGION, LAHORE**

For the appellant:

Ms. Shazia Malik Advocate

For the respondent:

Syed Faraz Haider Advocate

DECISION

1. Brief facts leading to the filing of instant appeal are that the respondent is a domestic consumer of Lahore Electric Supply Company Limited (hereinafter referred to as LESCO) bearing Ref No.06-11244-0534000 having a sanctioned load of 2 kW under the A-1(a) tariff. The electricity meter of the respondent was declared defective by LESCO in May 2015, hence the demand notice dated 24.06.2016 of Rs.2,180/- as meter cost was deposited by the respondent but it was not replaced by LESCO. Nil consumption was charged by LESCO during the period of June 2015 to February 2016. As per LESCO, the defective meter was again checked by SDO LESCO in

