



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

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No. NEPRA/AB/Appeal/057/2019/ 969-973

October 28, 2020

1. Allah Ditta
S/o. Rehmat Ali,
R/o. Abdul Razzaq Street,
Malik Park, Farrukh Abad,
Baradari Road, Shahdara, Lahore
2. Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore
3. Mehar Shahid Mehmood
Advocate High Court,
Office No. 34, Third Floor,
Ali Plaza, 3-Mozang Road,
Lahore
4. Assistant Manager (Opr),
LESCO Ltd,
Jia Musa Sub Division,
Lahore
5. Electric Inspector/POI
Lahore Region, Energy Department,
Govt. of Punjab, Block No. 1,
Irrigation Complex, Canal Bank,
Dharampura, Lahore

Subject: **Appeal Titled LESCO Vs. Allah Ditta Against the Decision Dated 30.08.2018 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 27.10.2020, regarding the subject matter, for information and necessary action accordingly.

Encl: **As Above**

(Ikram Shakeel)
Assistant Director
Appellate Board

Forwarded for information please.

1. Director (IT) --for uploading the decision on NEPRA website



National Electric Power Regulatory Authority

Before Appellate Board National Electric Power Regulatory Authority Islamabad

In the matter of

Appeal No.057/2019

Lahore Electric Supply Company Limited

.....Appellant

Versus

Allah Dita R/o Razzaq Street, Malik Park,
Baradari Road, Shahdara, Lahore

.....Respondent

APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 30.10.2018 PASSED BY PROVINCIAL OFFICE OF INSPECTION LAHORE REGION, LAHORE

For the appellant:

Mehar Shahid Mehmood advocate

For the respondent:

Nemo

DECISION

1. Brief facts of the case are that the respondent is an industrial consumer of Lahore Electric Supply Company Limited (LESCO) bearing Ref No.46-11132-1508700 having tariff B-1b. The billing meter of the respondent was checked by metering and testing (M&T) LESCO and reportedly it was found 33% slow due to one dead phase. Resultantly, a detection bill of Rs.260,131/- for 20,020 units was debited to the respondent by LESCO @ 33% slowness of the meter and added in the bill for February 2017. The respondent made a payment of Rs.25,000/- against the above detection bill.
2. Being aggrieved, the respondent initially approached the Wafaqi Mohtasib on 24.08.2017 against the charging of the above detection bill. The honorable Wafaqi Mohtasib vide order dated 22.09.2017 directed LESCO to revise the period of detection bill for six months on the basis of 33% slowness and to replace the defective meter with cost. Subsequently, the respondent assailed the above detection bill before the Provincial Office of Inspection



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(POI). The disputed billing meter of the respondent was checked by POI in presence of both the parties on 04.10.2018 and it was found 33% slow, both the parties signed the checking report. The complaint of the respondent was disposed of by POI vide decision dated 30.10.2018 wherein it was held that the detection bill of Rs.260,131/- for 20,020 units for February 2017 is void, unjustified and of no legal effect and LESCO is allowed to charge revised monthly bills for the month of August 2018 and onwards till the replacement of the defective meter after adding 33% slowness of the meter.

3. Being dissatisfied with the POI decision dated 30.10.2018 (hereinafter referred to as the impugned decision), LESCO has filed the instant appeal before NEPRA wherein the impugned decision was opposed on the grounds that the billing meter was found defective due to one dead phase during M&T checking, as such the detection bill of Rs.260,131/- for 20,020 units was charged on the basis of said checking; that the respondent has already been afforded a credit of 19,931 units against the said detection bill in May 2018 but POI ignored this fact and set aside the above detection bill; that the impugned decision 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 and that the impugned decision became functus officio, void ab initio and coram non-judice and liable to be set aside. Notice of the appeal was issued to the respondent for filing reply/para-wise comment, which however was not submitted.

4. Hearing of the appeal was conducted in NEPRA regional office Lahore on 02.10.2020 wherein learned counsel appeared for the appellant LESCO and no one appeared for the respondent. Learned counsel for LESCO reiterated the arguments the same as given in memo of the appeal and contended that the detection bill of Rs.260,131/- for 20,020 units was debited to the respondent on account of 33% slowness of the meter as observed by LESCO. Learned counsel for LESCO averred that the dispute of the above detection bill



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has already been decided by the Wafaqi Mohtasib and the respondent was issued a revised detection bill for the cost of 3,504 units for six months in May 2018 accordingly. As per learned counsel for LESCO, POI has no jurisdiction to adjudicate the instant matter already settled by Wafaqi Mohtasib and the impugned decision is liable to be struck down.

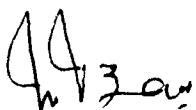
5. Having heard the arguments and the record perused. Following are our observations:

- i. As regards the preliminary objection of LESCO regarding the failure of POI in deciding the matter within 90 days as envisaged in Section 26(6) of the 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 the impugned order was 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. The respondent was charged the detection bill of Rs.260,131/- for 20,020 units by LESCO on account of 33% slowness of the meter, which was initially disputed by him before the Wafaqi Mohtasib, who vide order dated 22.09.2017 directed LESCO to withdraw the above detection bill and charge the revised detection bill for six months. Subsequently, the respondent assailed the above detection bill before POI. LESCO is of the view that the order dated 22.09.2017 of Wafaqi Mohtasib has already been implemented and the respondent's account has been credited 19,931 units against the said detection bill in May 2018 as such the POI has no jurisdiction to entertain the disputed bill already decided by Wafaqi Mohtasib.

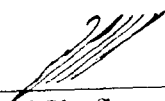


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- iii. To verify the stance of LESCO, the record of the respondent's case was examined, wherein it was revealed that Executive Engineer LESCO wrote a letter No.7724-09 dated 26.09.2017 to Assistant Manager LESCO for implementation of the Wafaqi Mohtasib order dated 22.09.2017 to charge 33% slowness of the meter for six months to the respondent. Consequently, the billing meter of the respondent was checked by M&T LESCO on 02.10.2017 and one phase of the billing meter was found dead, hence the detection bill of 3,504 units for six months was debited to the respondent by LESCO on the basis of 40% load factor of the connected load i.e. 2 kW.
- iv. The above facts establish that the detection bill of Rs.260,131/- for 20,020 units was withdrawn by LESCO as per decision dated 22.09.2017 of Wafaqi Mohtasib. We are inclined to agree with LESCO that the matter has already been settled by Wafaqi Mohtasib and same is not liable to be agitated again before POI. Under these circumstances, we have concluded that the POI has no lawful authority to decide the matter, hence the impugned decision is liable to be set aside.
6. Upshot of the above discussion is that the appeal is accepted and the impugned decision is set aside.



Muhammad Qamar-uz-Zaman
Member



Muhammad Shafique
Member



Nadir Ali Khoso
Convener

Dated: 27.10.2020