



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

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No. NEPRA/AB/Appeal/122/2019/ *10/11/20*

November 10, 2020

1. Zaheer Abbas
S/o. Muhammad Tariq,
R/o. Mohallah Aziz Baig,
Bhatti Road, Shadi Pura,
Lahore
2. Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore
3. Saeed Ahmed Bhatti
Advocate High Court,
66-Khyber Block, Allama Iqbal Town,
Lahore
4. Sub Divisional Officer (Opr),
LESCO Ltd,
N-Bilal Colony 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. Zaheer Abbas Against the Decision Dated 15.01.2019 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 05.11.2020, 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



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Before Appellate Board, National Electric Power Regulatory Authority Islamabad

In the matter of

Appeal No. 122/2019

Lahore Electric Supply Company LimitedAppellant

Versus

Zaheer Abbas s/o Muhammad Tariq,
R/o Mohallah Aziz Baig, Bhatti Road, Shadi Pura, LahoreRespondent

APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 15.01.2019 PASSED BY PROVINCIAL OFFICE OF INSPECTION LAHORE REGION, LAHORE

For the appellant:

Mr. Saeed Ahmed Bhatti Advocate

For the respondent:

Nemo

DECISION

1. Brief facts leading to the filing of instant appeal are that the respondent is an industrial consumer of Lahore Electric Supply Company Limited (hereinafter referred to as LESCO) bearing Ref No.46-11313-2014900 with a sanctioned load of 14.92 kW under the B-1(b) tariff. Display of the billing meter of the respondent was washed, hence it was replaced with a new meter by LESCO in July 2017 and sent to the metering and testing (M&T) LESCO laboratory for checking. As per data retrieval report of LESCO, the meter was found 66% slow and 24,487 units were found uncharged. Therefore a bill of Rs.472,096/- was debited to the respondent by LESCO in July 2017, which contained the detection bill of Rs.459,181 /- for 74,203 units for the period January 2016 to June 2017 (18 months).



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2. Being aggrieved, the respondent challenged the above detection bill before the Provincial Office of Inspection (POI), who vide decision dated 15.01.2019 declared the detection bill of Rs.459,181/- for 74,203 units for the period January 2016 to June 2017 as void and allowed LESCO to charge the bills for the period May 2017 to July 2017 on the basis of consumption of May 2016 to July 2016.

3. LESCO has filed the instant appeal before NEPRA against the POI decision dated 15.01.2019 (hereinafter referred to as the impugned decision), wherein it is contended that the display of the meter of the respondent became vanished, it was removed and sent to M&T LESCO laboratory, wherein 24,487 units were found pending and 66% slowness observed in the meter as per data retrieval report, hence the detection bill of Rs.459,181/- for 74,203 units for the period January 2016 to June 2017 was charged to the respondent in July 2017. LESCO termed the above detection bill as legal, valid and justified and payable by the respondent. As per LESCO, the POI has wrongly applied clause 4.4(e) of Consumer Service Manual (CSM), declared the above detection bill as void and directed for revision of the bills for the period May 2017 to June 2017 based on the consumption of the year 2016. According to LESCO, POI has no jurisdiction to carry out the proceedings after the expiry of the mandatory period of 90 days as per Section 26(6) of the Electricity Act 1910 and the impugned decision is ex-facie coram non-judice, ab-initio void and without jurisdiction. LESCO prayed that the impugned decision is liable to be set aside. Notice of the appeal was sent to the respondent for filing reply/para-wise comments, which were not filed.



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4. Hearing of the appeal was held at NEPRA Regional Office Lahore on 03.10.2020 wherein learned counsel represented the appellant but no one made an appearance for the respondent. Learned counsel for LESCO reiterated the same arguments as given in memo of the appeal and defended the charging of detection bill of Rs.459,181/- for 74,203 units for the period January 2016 to June 2017 on the plea that the said detection bill was charged on account of pending units as well as 66% slowness of the meter as observed during M&T LESCO checking.

5. Arguments heard and the record examined. It is observed as under:
 - 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 disputed before POI the detection bill of Rs.459,181/- for 74,203 units for the period January 2016 to June 2017 charged by LESCO due to 24,487 pending units and 66% slowness of the meter. However, no discrepancy



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whatsoever was pointed out by the LESCO meter reader during monthly readings before the replacement of the defective meter in July 2017. Moreover, LESCO neither associated the respondent during M&T checking nor produced the defective billing meter before POI for checking. LESCO could not provide any documents to substantiate its claim that the meter of the respondent remained 66% slow during the disputed period from January 2016 to June 2017. Besides the above detection bill was charged for a period of eighteen months i.e. January 2016 to June 2017 to the respondent by LESCO due to a defective/slow meter in violation of clause 4.4(e) of the CSM, which allows LESCO to charge the detection bill maximum for two months in case of a defective/slow meter. In consideration of the above discussion, we are inclined to agree with the determination of POI that the detection bill of Rs.459,181/- for 74,203 units for the period January 2016 to June 2017 charged by LESCO to the respondent is unjustified and liable to be withdrawn.

- iii. Since the defective meter was replaced by LESCO in July 2017, hence the detection bill for the previous two months i.e. May 2017 and June 2017 may be charged to the respondent as per clause 4.4(c) of CSM. The basis of charging the bills be made on the corresponding consumption of the previous year or average consumption of the last eleven months, whichever is higher. The impugned decision is liable to be modified to this extent.

6. In view of above, the impugned decision for cancellation of the detection bill of



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Rs.459,181/- for 74,203 units for the period January 2016 to June 2017 is correct and maintained to this extent. The respondent should be charged the bills for the disputed months i.e. May 2017 and June 2017 on the basis of consumption of corresponding months of the previous year or average consumption of the last eleven months, whichever is higher, in pursuance of clause 4.4 of CSM. The billing account of the respondent may be revised after making adjustments of payment made (if any) against the above detection bill.

7. The impugned decision is modified in the above terms.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Dated: 05.11.2020