



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

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No. NEPRA/AB/Appeal/150/2019/ 985 - 990


October 28, 2020

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| 1. Muhammad Mehmood Alam<br>S/o. Muhammad Ibrahim Abid,<br>R/o. Main Chandri, Hamza Town,<br>Lahore                   | 2. Chief Executive Officer<br>LESCO Ltd,<br>22-A, Queens Road,<br>Lahore   |
| 3. Mehar Shahid Mehmood<br>Advocate High Court,<br>Office No. 34, Third Floor,<br>Ali Plaza, 3-Mozang Road,<br>Lahore | 4. Ch. Shabbir Amanat<br>Advocate High Court,<br>Second Floor, Azeem Building,<br>3-Fane Road, Near Punjab Bar Council,<br>Lahore                        |
| 5. Assistant Manager (Opr),<br>LESCO Ltd,<br>Hamza Town Sub Division,<br>Lahore                                       | 6. Electric Inspector/POI<br>Lahore Region, Energy Department,<br>Govt. of Punjab, Block No. 1,<br>Irrigation Complex, Canal Bank,<br>Dharampura, Lahore |

Subject: **Appeal Titled LESCO Vs. Muhammad Mehmood Alam Against the Decision Dated 15.11.2018 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. 150/2019

Lahore Electric Supply Company Limited .....Appellant

Versus

Muhammad Mehmood Alam S/o Muhammad Ibrahim  
Abid R/o Main Chandri, Hamza Town, Lahore .....Respondent

**APPEAL FILED UNDER SECTION 38(3) OF REGULATION OF  
GENERATION, TRANSMISSION AND DISTRIBUTION ACT 1997 AGAINST  
THE DECISION DATED 15.11.2018 OF PROVINCIAL OFFICE OF  
INSPECTION, LAHORE REGION, LAHORE**

For the appellant:

Mehar Shahid Mehmood Advocate

For the respondent:

Mr. Shabir Amanat Advocate

Mr. Muhammad Mehmood Alam

### DECISION

1. Through this decision, an appeal filed by Lahore Electric Supply Company Limited (hereinafter referred to as LESCO) against the decision dated 15.11.2018 of the Provincial Office of Inspection, Lahore Region, Lahore (hereinafter referred to as POI) is being disposed of.
2. LESCO is a licensee of National Electric Power Regulatory Authority (hereinafter referred to as NEPRA) for distribution of electricity in the territory specified as per terms and conditions of the license and the respondent is its industrial consumer bearing Ref No.46-11531-0286213 with a sanctioned load of 19 kW under the



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B-1(b) tariff. TOU billing meter installed at the premises of the respondent was declared defective due to the red dead phase during metering and testing (M&T) LESCO checking dated 11.04.2018. Notice dated 16.04.2018 was served to the respondent regarding the above discrepancy and a detection bill of Rs.765,135/- for 70,134 units/91 kW MDI for the period, August 2017 to March 2018 (08 months) was charged to the respondent and added in the bill for April 2018.

3. Being aggrieved, the respondent filed a complaint before POI against the above detection bill, which was disposed of by POI vide its decision dated 15.11.2018 with the following conclusion:

*"Summing-up the foregoing discussion, it is held that the impugned detection bill amounting to Rs.765,135/- for the cost of 70134 units/91 kW MDI for the period from 08/2017 to 03/2018 (8 months) added in the bill for the month of 04/2018 is void, unjustified and of no legal effect; therefore the petitioner is not liable to pay the same. However, the respondents are allowed to charge the revised monthly bills for the months of 02/2018 to 03/2018 and onwards on the basis of the consumption recorded during the corresponding months of the previous year i.e. 02/2017 to 03/2017 and onward till the replacement of the impugned billing meter/shifting of billing to an accurate meter, being undisputed between the parties, after excluding the already charged units during the said period. 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. LESCO has the filed the instant appeal before NEPRA, wherein it is inter alia, contended that the impugned decision was pronounced after the expiry of 90 days as envisaged u/s 26(6) of the Electricity Act, 1910; that the POI did not apply his



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judicious mind and passed the impugned decision without consideration of the record, hence the same is liable to be set aside. As per LESCO, one phase of the billing meter of the respondent was found dead by M&T LESCO on 11.04.2018, hence the detection bill of Rs.765,135/- for 70,134 units/91 kW MDI for the period August 2017 to March 2018 was charged to the respondent. LESCO prayed for setting aside the impugned decision.

5. Notice of the appeal was issued to the respondent for filing reply/para-wise comment, which were filed on 11.09.2019. In his reply, the respondent objected to the maintainability of the appeal on the ground of limitation and contended that the appeal is time-barred by five months, Reliance was placed on the various judgments reported in 2009 SCMR 1435, 2202 SCMR416, 2019 CLC 955, 2018 PLCN 25, 2018CLC 771. As per respondent, the quantum of the slowness of the disputed meter could not be checked by LESCO due to its replacement and clause 4.4 of the Consumer Service Manual (CSM) allows LESCO to charge the detection bill for two months on the basis of consumption of corresponding month of the previous year. The respondent supported the impugned decision and prayed for dismissal of the appeal.
6. Notice was issued and hearing of the appeal was held in NEPRA Regional Office on 02.10.2020 in which both the parties were in attendance. At the outset of the hearing, the learned counsel for the respondent repeated the preliminary objection and averred that the appeal against the impugned decision is barred by time and liable to be dismissed on this ground alone. As per learned counsel for the respondent, the POI has rightly cancelled the detection bill and allowed the same for two months as per



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provisions of CSM. On the contrary, learned counsel for LESCO rebutted the arguments of learned counsel for the respondent and contended that the discrepancy of dead phase was observed in the billing meter by LESCO on 11.04.2018, hence the detection bill of Rs.765,135/- for 70,134 units/91 kW MDI for the period August 2017 to March 2018 was charged to the respondent, which is justified and payable by the respondent.

7. We have heard the arguments of both the parties and examined the record placed before us. 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. As the point of limitation has been raised, therefore it would be judicious to decide the matter on limitation in the first instance. It is observed that the impugned



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decision was announced on 15.11.2018, admittedly a copy of the same was received by LESCO on 16.11.2018 and the appeal was filed before the NEPRA on 11.01.2019 after a lapse of more than 56 days of receipt of the impugned decision. According to Section 38(3) of the NEPRA Act, 1997, any aggrieved person may file an appeal before NEPRA within 30 days of the receipt of the decision of POI. Hence the impugned decision is liable to be dismissed on this ground alone.

iii. On the merits, the respondent was charged the detection bill for eight months by LESCO due to slow meter, which is violative of clause 4.4 of CSM. The said clause of CSM allows LESCO to charge the detection bill maximum for two months due to a defective meter. Hence POI has rightly cancelled the detection bill amounting to Rs.765,135/- for 70,134 units/ 91 kW MDI for the period August 2017 to March 2018 and allowed LESCO to charge the detection bill for two months i.e. February 2018 and March 2018 on the basis of the consumption of February 2017 and March 2017.

8. In consideration of the above, the appeal is dismissed.

Muhammad Qamar-uz-Zaman  
Member

Muhammad Shafique  
Member

Nadir Ali Khoso  
Convener

Dated: 27.10.2020