



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

NEPRA Office, Ata Turk Avenue (East), G5/1, Islamabad  
Tel. No. +92 051 2013200 Fax No. +92 051 2600030  
Website: [www.nepra.org.pk](http://www.nepra.org.pk) E-mail: [office@nepra.org.pk](mailto:office@nepra.org.pk)

No. NEPRA/AB/Appeal/262/2019/ 1/3t

November 19, 2020

- |  |  |
|--|--|
| 1. Irfan Mehmood<br>S/o. Muhammad Akmal,<br>R/o. Mughal Park, Saggian Road,<br>Sattar Masjid Wali Gali,<br>Bund Road, Lahore | 2. Chief Executive Officer<br>LESCO Ltd,<br>22-A, Queens Road,<br>Lahore   |
| 3. Saeed Ahmed Bhatti<br>Advocate High Court,<br>66-Khyber Block, Allama Iqbal Town,<br>Lahore                               | 4. A. D. Bhatti,<br>Advocate High Court,<br>Office No. 4, Rehmat towers,<br>13-Fane Road, Lahore   |
| 5. Assistant Manager (Opr),<br>LESCO Ltd,<br>Chah Miran Sub Division,<br>Lahore  | 6. POI/Electric Inspector<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. Irfan Mehmood Against the Decision Dated 21.05.2019 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 12.11.2020, 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



# National Electric Power Regulatory Authority

## Before Appellate Board

In the matter of

Appeal No.262/2019

Lahore Electric Supply Company Limited

.....Appellant

Versus

Irfan Mehmood S/o Muhammad Akmal R/o Mughal Park,  
Saggian Road, Sattar Masjid Wali Gali, Bund Road, Lahore

.....Respondent

### **APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 21.05.2019 PASSED BY PROVINCIAL OFFICE OF INSPECTION LAHORE REGION, LAHORE**

For the appellant:

Mr. Saeed Ahmed Bhatti advocate

Mr. Irfan Ali SDO

For the respondent:

Mr. A.D. Bhatti advocate

### **DECISION**

1. Briefly speaking, the respondent is an industrial consumer of Lahore Electric Supply Company Limited (LESCO) bearing Ref No.24-11111-9001200 having a sanctioned load of 67 kW and the applicable tariff is B-2(b). Metering equipment of the respondent was checked by metering and testing (M&T) LESCO on 17.09.2018 and reportedly the billing meter was found 33% slow due to the red dead phase, the backup meter was found working within BSS limits and there was a difference of reading between the billing and backup meters for 50,659 units. Subsequently, the billing was done on the basis of backup meter consumption by LESCO in October 2018 and Meter Change Order (MCO) was also issued vide paper meter change order (MCO). LESCO initially prepared a detection bill of Rs.979,067/- for 53,200 units (50,659 units being the difference of reading between the billing and backup meters and 2,541 units on the





## National Electric Power Regulatory Authority

basis of onward consumption of backup meter till paper MCO) for the period 29.04.2015 to 17.09.2018 (41 months) and after adjustment of Rs.159,800/- as Prime Minister relief, the revised detection bill of Rs.819,467/- for 53,200 units (off peak=44,320, peak=8,880) was debited to the respondent and added in the bill for October 2018.

2. Being aggrieved, the respondent agitated the above detection bill before the Provincial Office of Inspection (POI) on 17.01.2019. POI inspected the metering equipment of the respondent in presence of both the parties on 02.05.2019, wherein the billing meter was found 33% slow with a reading index of 53,953 and the backup meter was functioning within BSS limits with a reading index of 135,283. The complaint of the respondent was disposed of by POI vide decision dated 21.05.2019 in which the detection bill of Rs.819,467/- for 53,200 units (off peak=44,320, peak=8,880) for the period 29.04.2015 to 17.09.2018 was cancelled and LESCO was allowed to charge the bills @ 33% slowness of the meter (due to red dead phase) to the respondent w.e.f July 2018 and onwards till the replacement of the slow billing meter.
3. Appeal in hand has been filed by LESCO against the POI decision dated 21.05.2019 (hereinafter referred to as the impugned decision) before NEPRA wherein the impugned decision has been opposed on the grounds that the billing meter of the respondent was found 33% slow and 50,659 units were found uncharged during M&T checking dated 17.09.2018, as such the detection bill of Rs.819,467/- for total 53,200 units (off peak=44,320, peak=8,880) was charged to the respondent on the basis of said checking; that the POI ignored the real facts of the case and revised the period of above detection bill for two months i.e. July 2018 and August 2018 @ 33% slowness of the meter as per clause 4.4 of Consumer Service Manual (CSM); without applying his

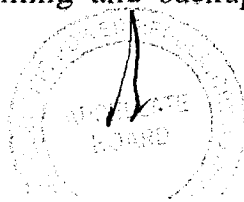




## National Electric Power Regulatory Authority

judicious mind that the impugned decision was pronounced by POI after the expiry of the statutory period of 90 days as laid down in Section 26(6) of Electricity Act 1910 and that the impugned decision is ex-facie coram non-judice, ab-initio void and without jurisdiction and liable to be set aside.

4. Notice was sent to the respondent to submit reply/para-wise comments to the appeal, which were filed on 24.10.2019. In his reply, the respondent opposed the maintainability of the appeal inter alia, on the grounds that the appeal is time-barred being filed with a delay of 9 days; that LESCO neither issued prior notice nor associated the respondent during the alleged checking; that the detection bill of Rs.819,467/- charged on the basis of alleged difference of consumption between the billing and backup meters is illegal and rightly set aside by POI; that the healthy consumption was recorded by the billing meter till September 2018; that the determination of POI for revision of the above detection bill for two months is in line with clause 4.4(e) of CSM and that the impugned decision was rendered by the officer incapacity of POI under the NEPRA Act, 1997, as such the limitation of 90 days is not applicable in the present case in pursuance of judgment reported on PLJ 2017 Lahore 627.
5. After issuing notice, hearing of the appeal was conducted at NEPRA Regional Office Lahore on 03.10.2020 wherein both the parties were present. Learned counsel for LESCO reiterated the same arguments as given in memo of the appeal and contended that the detection bill of Rs.819,467/- for 53,200 units (off peak=44,320, peak=8,880) was debited to the respondent as observed by LESCO on 17.09.2018. As per learned counsel for LESCO, 33% slowness in the billing meter along with the difference of readings between the billing and backup meters was verified by POI, hence the

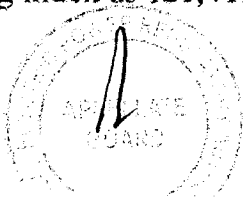




## National Electric Power Regulatory Authority

complete period of the above detection bill be allowed instead of two months only. On the other hand, learned counsel for the respondent repeated the same contentions as given in reply/para-wise comments to the appeal, defended the impugned decision and prayed for dismissal of the appeal being time-barred.

6. Having heard 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 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 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. There is no force in the objection of the respondent regarding limitation as the copy of the impugned decision was received by LESCO on 05.08.2019 and the appeal was initially submitted before NEPRA on 03.09.2019 within 30 days of receipt of the impugned decision as allowed under section 38 (3) of NEPRA Act, 1997.
  - iii. Metering equipment of the respondent was checked by M&T LESCO on 17.09.2018 and reportedly the billing meter was found 33% slow due to red dead phases with reading index as 53,538, the backup meter was found working within BSS limits with reading index as 121,419. The respondent was charged a detection



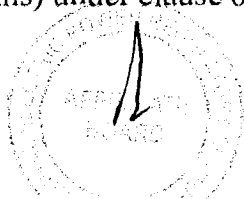


## National Electric Power Regulatory Authority

bill of Rs.819,467/- for 53,200 units (off peak=44,320, peak=8,880) for the period 29.04.2015 to 17.09.2018 (41 months) by LESCO being the difference of billing and backup meters, which was disputed by him before POI.

iv. POI during joint checking dated 02.05.2019 of the metering equipment of the respondent observed that the billing meter was 33% slow with reading index as 53,953 and the backup meter was okay with the reading index of 135,283, both parties signed the meter checking report without raising any objection. This manifests that the billing meter of the respondent recorded less consumption as compared to the backup meter but the same discrepancy of the difference of reading between the billing and backup meters was not noticed by LESCO staff during monthly readings. Obviously, the billing process by LESCO is a violation of the Consumer Service Manual (CSM), which binds LESCO to take the monthly reading and charge the respondent accordingly. As a matter of fact, the concerned staff is liable to face disciplinary action due to their failure in observing monthly readings and the bills issued accordingly. Hence LESCO cannot penalize the respondent by imposing a detection bill of Rs.819,467/- for 53,200 units (off peak=44,320, peak=8,880) on the basis of accumulated units for the period, 29.04.2015 to 17.09.2018 (41 months) and the same is liable to be cancelled as already determined in the impugned decision.

v. Since the difference of readings/consumption between the billing and backup meters was noticed during LESCO checking dated 17.09.2018 and it was confirmed by POI during checking dated 02.05.2019, hence the respondent is liable to pay the difference of 53,200 units (off peak=44,320, peak=8,880) for the period 29.04.2015 to 17.09.2018 (41 months) under clause 6.2(b) of CSM, which is reproduced below:





## National Electric Power Regulatory Authority

*"In cases where accumulated readings are recorded, segregate bills shall be prepared keeping in view the number of months for which the readings have been accumulated to give relief to the consumer."*

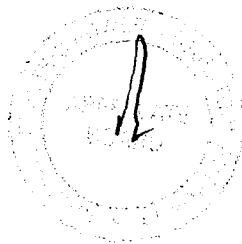
Therefore, the total difference of 53,200 units (off peak=44,320, peak=8,880) needs to be segregated amongst forty months and the respondent is liable to be charged as per NEPRA approved and applicable tariff during the disputed period i.e. 29.04.2015 to 17.09.2018. Chargeable units/month are calculated below:

**Period: 29.04.2015 to 17.09.2018 (41 months)**

Units/month to be charged	= Total accumulated units ÷ No. of months
Off peak	= 44,320 ÷ 41 = <b>1,081</b> units/month
Peak	= 8,880 ÷ 41 = <b>217</b> units/month

LESCO is liable to recover the difference bill @ 1,298 units/month (off peak=1,081, peak=217) from the respondent along with the monthly bill in forty one months. The impugned decision is liable to be modified to this extent.

7. Forgoing in preceding paragraphs, it is concluded that
- The detection bill of Rs.819,467/- for 53,200 units (off peak=44,320, peak= 8,880) for the period 29.04.2015 to 17.09.2018 (41 months) charged by LESCO to the respondent in October 2018 is unjustified and declared null and void.
  - The respondent should be charged the difference bill @ 1,298 units/month (off peak=1,081, peak=217) for forty-one months by LESCO along with the current bill and each difference bill be calculated as per applicable tariff in the relevant





## National Electric Power Regulatory Authority

disputed month.

8. The appeal is disposed of in the above terms.

Muhammad Qamar-uz-Zaman  
Member

Muhammad Shafique  
Member

Nadir Ali Khoso  
Convener

Dated: 12.11.2020