



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

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No. NEPRA/AB/Appeal/050/POI/2021/ 1060


December 28, 2021

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| 1. Warasat Ali
S/o. Haji Farmaish Ali,
R/o. House No. 35, Main Road,
Gulshan Colony, Band Road,
Lahore | 2. Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore |
| 3. Mehar Shahid Mahmood,
Advocate High Court,
Office No. 34, Third Floor,
Ali Plaza, 3-Mozang Road,
Lahore | 4. Assistant Manager (Opr),
LESCO Ltd,
Band Road Sub Division,
Lahore |
| 5. POI/Electric Inspector
Lahore Region, Energy Department,
Govt. of Punjab, Block No. 1,
Irrigation Complex, Canal Bank,
Dharampura, Lahore | |

Subject: **Appeal Titled LESCO Vs. Warasat Ali Against the Decision Dated 16.12.2020 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 01.12.2021, regarding the subject matter, for information and necessary action accordingly.

Encl: **As Above**


(Ikram Shakeel)
Deputy Director (M&E)
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. 050/POI-2021

Lahore Electric Supply Company Limited

.....Appellant

Versus

Warasat Ali S/o Haji Farmaish Ali, R/o House No.35,
Main Road, Gulshan Colony, 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 16.12.2020 PASSED BY PROVINCIAL OFFICE OF INSPECTION LAHORE REGION, LAHORE

For the Appellant:

Mehar Shahid Mehmood Advocate

For the Respondent:

Mr. Warasat Ali

DECISION

1. Through this decision, an appeal filed by Lahore Electric Supply Company Limited (hereinafter referred to as the LESCO) against the decision dated 16.12.2020 of the Provincial Office of Inspection, Lahore Region, Lahore (hereinafter referred to as the POI) is being disposed of.
2. LESCO is a licensee of the National Electric Power Regulatory Authority (hereinafter referred to as NEPRA) for the distribution of electricity in the territory specified as per terms and conditions of the license and the Respondent is its consumer having two connections (i) the industrial connection bearing Ref





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No.24-11114-1553301 with a sanctioned load of 62 kW under the B-1(b) Tariff (hereinafter referred to as the disputed connection) and (2) the agricultural connection with Ref No.24-1114-02738003. As per the fact of the case, the Time of Use (TOU) billing meter of the disputed connection of the Respondent was found burnt on 07.04.2008 for which the notice dated 09.04.2008 was issued to the Respondent. Thereafter, LESCO lodged the FIR No.273/2008 dated 10.04.2008 with the Police against the Respondent for deliberately burning the meter and issued a demand notice dated 16.04.2008 amounting to Rs.25,720/- to the Respondent for replacement of the burnt meter. Subsequently, a detection bill of 15,578 units for the period April 2007 to March 2008 twelve (12) months was charged to the Respondent by the LESCO against the disputed connection on account of the difference of readings between the Bulk metering panel and two connections of the Respondent.

3. Being aggrieved with the above detection bill, the Respondent initially approached the LESCO vide the applications dated 09.07.2008, 13.08.2008, and 19.12.2008. Since then, the Respondent approached the LESCO time and again for rectification of the above detection bill and lastly filed an application before the Chief Executive Officer LESCO on 06.02.2020 but his grievance remained unresolved. Later on, the Respondent filed a complaint before the NEPRA from where the dispute of billing was referred to the POI vide letter No.TCD.05/395-2020 dated 05.05.2020. The POI adjudicated the matter and passed the decision dated 16.12.2020, wherein the detection bill of 15,578 units for the period April 2007 to March 2008 twelve





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(12) months charged by the LESCO was declared as null and void. The LESCO was directed to overhaul the billing account of the Respondent.

4. Being dissatisfied with the decision of the POI dated 16.12.2020 (hereinafter referred to as the impugned decision), the LESCO filed the instant appeal before the NEPRA. In its appeal, the LESCO opposed the maintainability of the impugned decision inter alia, on the following grounds; (1) the POI failed to decide the application of the Respondent within ninety (90) days, which is a clear violation of Section 26(6) of the Electricity Act 1910; (2) the application of the Respondent before the POI is barred by time as per the Article 181 of the Limitation Act 1908; (3) the detection bill of 15,578 units for the period April 2007 to March 2008 twelve (12) months was charged by the LESCO due to the difference of readings between the bulk panel and billing meters; (3) the POI did not apply judicious mind and passed the impugned decision on illegal assumptions and presumptions; (4) the POI failed to consider the consumption record; and (5) the impugned decision is bad in law and against the facts of the case and the same is liable to be set aside.
5. Notice for filing reply/para-wise comments to the appeal was served to the Respondent, which were filed on 21.10.2021. In his reply, the Respondent submitted that the billing meter was burnt on 06.04.2008 for which he approached the LESCO. The Respondent further submitted that the demand notice was paid for the replacement of the burnt meter but the LESCO registered the FIR No.273/2008 against him with malafide intension and charged a detection bill of 15,578 units for the period April 2007 to March 2008 twelve (12) months by the application of





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wrong Multiplication Factor (MF)=4000 instead of 2000. As per the Respondent, he raised the above dispute before the LESCO time and again during the years 2008 to 2018 but the grievance was not redressed by the LESCO. According to the Respondent, the complaint was filed before the NEPRA from where the case was sent to the POI, who cancelled the above detection bill. The Respondent finally prayed for dismissal of the appeal.

6. After issuing notice, hearing of the appeal was held at the NEPRA Regional Office Lahore on 21.10.2021, which was attended by both the parties. Learned counsel for the LESCO reiterated the same objection about the limitation and submitted that the dispute of billing pertains to the year 2008 and it was raised before the NEPRA in the year 2020, which was forwarded to the POI for adjudication. Learned counsel for the LESCO further submitted that the complaint of the Respondent is time barred being filed after three (3) years as per Article 181 of the Limitation Act 1908, reliance in this regard was placed on the judgment dated 30.11.2015 of the Honorable Lahore High Court, in respect of writ petition No.17314-2015 in the case of Muhammad Hanif v/s NEPRA and others. Learned counsel for the LESCO finally prayed for setting aside the impugned decision. On the contrary, the Respondent repudiated the stance of the LESCO and argued that the detection bill of 15,578 units for the period April 2007 to March 2008 twelve (12) months was debited by the LESCO against which he approached the LESCO through various applications but the dispute of billing was not resolved, therefore, it was raised before the NEPRA from where the matter was referred to the POI for decision. The





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Respondent asserted that the claim with regard to the above detection bill was filed before the LESCO within time, Hence the objection of the LESCO is not maintainable. As per the Respondent, the LESCO has filed the appeal with malafide intention and to prolong the litigation. The Respondent finally prayed that the appeal is liable to be dismissed.

7. Argument heard and the record examined. Following are our observations:

- i. At addressing the preliminary objection of LESCO regarding the failure of POI in deciding the matter within ninety (90) days under Section 26(6) of the Electricity Act, 1910, it may be noted that the said restriction of the time limit is inapplicable for the POI established under Section 38 of the NEPRA Act, 1997. The same has already been held by the Honorable Lahore High Court in the following cited judgments, PLJ 2017-Lahore-627 and PLJ-2017-Lahore-309. As such the objection of LESCO in this regard carries no weight, hence rejected.
- ii. With regard to another objection of the LESCO regarding the time-barred claim of the Respondent, it is observed that the detection bill of 15,578 units for the period April 2007 to March 2008 twelve (12) months was charged to the Respondent by the LESCO, which was initially challenged by the Respondent before the LESCO vide first application dated 09.07.2008. Later on, he approached MD PEPCO and CEO LESCO vide the applications dated 15.12.2011 and 06.02.2020 respectively. However, the dispute of billing remained unsettled despite continuous pursuance by the Respondent with the



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LESCO. Hence he filed a complaint before the NEPRA on 05.05.2020, which was forwarded to the POI vide letter No.TCD.05/395-2020 dated 05.05.2020. The respondent approached the LESCO on 09.07.2008 within three (3) years of the receipt of the impugned detection bill of 15,578 units for the period April 2007 to March 2008 twelve (12) months as per Article 181 of the Limitation Act, 1908. In this regard, reliance is placed on the Lahore High Court, judgment dated 30.11.2015 in respect of writ petition No.17314-2015 in the case “Muhammad Hanif v/s NEPRA and others”, wherein it was held as under:

“The petitioner at the most can invoke Article 181 of The Limitation Act, 1908 which is the residuary provision and caters the issue of limitation where no period of limitation is provided elsewhere in the Schedule of The Limitation Act, 1908 or under Section 48 of The Code of Civil Procedure (V of 1908). Article 181 of The Limitation Act, 1908 prescribes three years for filing an application that applies when the right to apply accrues as prescribed in Article 181 of Limitation Act, 1908.”

In view of the above, the objection of LESCO regarding limitation is not valid, therefore overruled.

- iii. The billing meter of the Respondent was found burnt on 07.04.2008 for which the notice dated 09.04.2008 was issued by the LESCO to the Respondent. LESCO registered the FIR No.273/2008 dated 10.04.2008 with the Police against the Respondent and issued a demand notice dated 16.04.2008 amounting to Rs.25,720/- for the replacement of burnt meter. Thereafter, a detection bill of 15,578 units for the period April 2007 to March 2008 twelve (12) months was charged to the Respondent by LESCO against the disputed





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connection on account of the difference of readings between the Bulk metering panel and both the connections of the Respondent. To check the justification of the above detection bill charged by the LESCO to the Respondent, detection proforma is replicated below:

Period: April 2007 to March 2008 twelve (12) months	
(A) Units to be charged as per the bulk meter	= (Final reading – Initial Reading) x MF = (9.06 – 0.48) x 4000 = 34,320 units
(B) Total units already charged	= units charged on industrial connection + units charged on agricultural connection = 13,600 + 5,142 = 18,742 units
(C) detection units charged	= (A) – (B) = 34,320 – 18,742 = 15,578 units

Perusal of the above detection proforma reveals that the assessment of units was made by the LESCO on the basis of MF=4000, whereas the actual MF of the bulk meter of the Respondent is 2000 as reported by the M&T LESCO during the checking dated 03.11.2008. As such the contention of the Respondent with regard to the wrong application of the MF=4000 instead of 2000 is correct. It is further observed that the Respondent was charged the bills on the higher side during the period April 2007 to March 2008 as compared to the units assessed based on MF=2000. For the sake of convenience, the comparison is done below:

Period: April 2007 to March 2008 twelve (12) months	
Total units to be charged as per the bulk meter	Total units already charged
= (Final reading – Initial Reading) x actual MF = (9.06 – 0.48) x 2000 = 17,160 units	= units charged on industrial connection + units charged on agricultural connection = 13,600 + 5,142 = 18,742 units





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Hence, there is no justification to charge further detection bills for the same period to the Respondent.

8. Under the circumstances as mentioned above, the detection bill of 15,578 units for the period April 2007 to March 2008 twelve (12) months charged by the LESCO against the disputed connection of the Respondent on account of difference of readings between the bulk metering panel and both the connections of the Respondent is declared as unjustified and should be withdrawn, which concurs with the determination of the POI.
9. In view of foregoing discussion, the appeal is dismissed.

Abid Hussain
Member/Advisor (CAD)

Maria Rafique
Member/Legal Advisor

Nadir Ali Khoso
Convener/Senior Advisor (CAD)

Dated: 01.12.2021

