



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

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No. NEPRA/AB/Appeal/124/POI/2019/ 028

January 19, 2021

1. Muhammad Riaz
S/o. Abdul Ghani,
R/o. House No. 11, St. No. 01,
Fateh Garh, Behind Corporation,
Lahore
2. Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore
3. Mian Muhammad Mudassar Bodla,
Advocate High Court,
Office No. 34, Third Floor,
Ali Plaza, 3-Mozang Road,
Lahore
4. Sub Divisional Officer (Opr),
LESCO Ltd,
Fateh Gard 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. Muhammad Riaz Against the Decision Dated 13.08.2018 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 18.01.2021, 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



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Before Appellate Board National Electric Power Regulatory Authority Islamabad

In the matter of

Appeal No. 124/POI-2019

Lahore Electric Supply Company Limited

.....Appellant

Versus

Muhammad Riaz S/o Abdul Ghani, R/o House No.11,
Steet No.01, Fateh Garh, Behind Corporation, Lahore

.....Respondent

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,
TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997
AGAINST THE DECISION DATED 13.08.2018 PASSED BY PROVINCIAL
OFFICE OF INSPECTION LAHORE REGION, LAHORE**

For the appellant:

Mr. Mian Muhammad Mudassar Bodla advocate
Mr. Abid Hussain SDO

For the respondent:

Nemo

DECISION

1. Through this decision an appeal filed by Lahore Electric Supply Company Limited (hereinafter referred to as LESCO) against the decision dated 13.08.2018 of the Provincial Office of Inspection, Lahore Region, Lahore (hereinafter referred to as POI) is being disposed of.
2. Brief facts of the case are that the respondent is an industrial consumer of LESCO bearing Ref No.46-11345-2122000-U with a sanctioned load of 5.22 kW and the applicable tariff is B-1(b). Premises of the respondent was checked by metering and testing (M&T) LESCO on 20.09.2012 and reportedly the respondent was found stealing electricity through the tampered meter (hereinafter referred to as the disputed meter) and the connected load was observed as 45 kW. LESCO removed the disputed meter and handed



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it over to Police and registered FIR No.911/2012 against the respondent with the Police. Notice dated 26.09.2012 was served to the respondent and a detection bill of Rs.1,454,487/- for a total 120,820 (off peak=103,466 + peak=17,354) units/361.2 kW MDI for the period August 2011 to August 2012 (13 months) was charged to the respondent and added in the bill for September 2012.

3. Being aggrieved, the respondent filed an application before POI on 19.11.2012 and challenged the above detection bill. POI pronounced its decision on 13.08.2018 wherein the detection bill of Rs.1,454,487/- for a total 120,820 (off peak=103,466 + peak=17,354) units/361.2 kW MDI for the period August 2011 to August 2012 was declared as null and void and LESCO was directed to revise the bills for June 2012 to August 2012 on the basis of consumption of the period June 2011 to August 2011.
4. The appeal in hand has been filed against the POI decision dated 13.08.2018 (hereinafter referred to as the impugned decision) by LESCO before NEPRA. In its appeal, LESCO inter alia contended that the disputed meter was found tampered with during LESCO checking dated 20.09.2012, which was handed over to the police and FIR No.911/2012 was lodged against the respondent. LESCO further contended that after issuing notice dated 26.09.2012, a detection bill of Rs.1,454,487/- for a total 120,820 (off peak=103,466 + peak=17,354) units/361.2 kW MDI for the period August 2011 to August 2012 was served to the respondent. As per LESCO, POI has pronounced the impugned decision after a lapse of six years from the receipt of the application. According to LESCO, the POI failed to consider the M&T LESCO report dated 20.09.2012 while passing the impugned decision. LESCO submitted that the POI has wrongly relied upon the Consumer Service Manual (CSM) as the matter pertains to the theft of electricity, the criminal proceedings are under adjudication before the FIA Crime Centre. LESCO further



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submitted that the POI has no jurisdiction in the case of theft of electricity and the matter falls within the jurisdiction of the Civil Court. Finally, LESCO prayed that the impugned decision be set aside. Notice was served to the respondent for filing the reply/para-wise comments to the appeal, which however were not filed.

5. Notice was issued to both the parties and the appeal was heard in NEPRA Regional Office Lahore on 14.12.2020 in which learned counsel along with SDO LESCO appeared for the appellant and no one appeared for the respondent. Learned counsel for LESCO opposed the maintainability of the impugned decision on the plea that the instant case pertains to the theft of electricity through the tampered meter, hence POI has no jurisdiction to adjudicate the same. Learned counsel for LESCO explained that the respondent was found stealing electricity during LESCO checking dated 20.09.2019, hence FIR was registered and the detection bill of Rs.1,454,487/- for the period August 2011 to August 2012 was charged to the respondent to recover the loss sustained by LESCO due to theft of electricity. Learned counsel for LESCO finally agreed to revise the above detection bill for six months as per CSM.
6. Having heard the arguments and the record perused, the 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 noted that the period of 90 days is applicable for an Electric Inspector as envisaged in Electricity Act 1910 and not relevant for the Provincial Offices of Inspection (POI) established under Section 38 of NEPRA Act, 1997. Reliance is placed on the Lahore High Court Lahore judgments cited in PLJ 2017 Lahore 627 and PLJ 2017 Lahore 309. Moreover, according to the judgment dated 12.02.2018 of



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Lahore High Court Lahore in the W.P.No.6224-2017 in the matter GEPCO vs Pakistan Television Corporation Ltd, after the promulgation of Order of 2005, the decision rendered on a complaint by an Electric Inspector shall be treated to have been given by POI. The objection of LESCO in this regard is devoid of force, therefore rejected.

- ii. LESCO raised another objection regarding the jurisdiction of POI to deal with the cases of theft of electricity. It is clarified that the allegation of theft of electricity through the tampered meter was leveled by LESCO and POI has the exclusive jurisdiction to entertain the disputed detection bill according to the judgment of Honorable Supreme Court of Pakistan reported as PLD 2012 SC 371, the operative portion of which is reproduced below:

“---Ss. 26(6) & 26-A---Detection bill, issuance of---Theft of energy by the consumer, charge of---Jurisdiction of Electric Inspector and Advisory Board---Scope---Electric Inspector for possessing special expertise in examining the working of metering equipment and other related apparatus had jurisdiction to entertain reference under S.26(6) of Electricity Act, 1910 only in case of dishonest consumption of energy by consumer through deliberate manipulation of or tampering with metering equipment or other similar apparatus---Electric Inspector would have no jurisdiction in matter of theft by means other than tampering or manipulation of metering equipment, etc.”

In consideration of the above, the objection of LESCO is devoid of force and rejected.

- iii. LESCO raided the premises of the respondent on 20.09.2012 and allegedly the respondent was found stealing electricity through tampering with the disputed meter and the connected load was observed as 45 kW. LESCO handed over the removed meter to the FIA crime circle and registered FIR No.911/2012 against the respondent. Subsequently, a detection bill of Rs.1,454,487/- for a total 120,820 (off peak=103,466 + peak=17,354) units/361.2 kW MDI for the period August 2011 to August 2012 was charged by LESCO to the respondent on the basis of the connected load i.e.34 kW, which was assailed by him before POI.



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- iv. It is observed that allegation of theft of electricity was leveled by LESCO against the respondent and handed over the disputed meter to FIA, which was not produced before POI despite repeated notices. It is the prime responsibility of LESCO to produce the disputed meter to authenticate its allegation of theft of electricity, which was not done in the instant case. Besides, charging the aforesaid detection bill for thirteen months i.e. August 2011 to August 2012 by LESCO to the respondent due to theft of electricity is violative of provisions of clause 9.1 c(3) of CSM as the prescribed procedure therein was not followed. We are inclined to agree with the determination of POI that the detection bill of Rs.1,454,487/- for a total 120,820 (off peak=103,466 + peak=17,354) units/361.2 kW MDI for the period August 2011 to August 2012 charged by LESCO against the respondent is unjustified and liable to be declared as null and void.
- v. According to clause 9.1c(3) of CSM, the respondent being an industrial consumer could be charged the detection bill maximum for six billing cycles i.e. March 2012 to August 2012 as the inspection was conducted by LESCO on 20.09.2012. The sanctioned load of the respondent is 5.22 kW, hence the chargeable units are calculated below as per Annex-VIII of CSM:

Period: March 2012 to August 2012 (6 months)	
Total units to be charged as per CSM	= Load x Load factor x Hrs. x months = 5.22 kW x 0.4 x 730 x 6 = 9,145 units

The respondent is liable to be charged the detection bill of 9,145 units for the period March 2012 to August 2012 (6 months). The impugned decision is liable to be modified to this extent.

7. In view of what has been stated above, we have concluded that the detection bill of Rs.1,454,487/- for a total 120,820 (off peak=103,466 + peak=17,354) units/361.2 kW MDI for the period August 2011 to August 2012 (13 months) charged by LESCO to the



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respondent is unjustified and should be cancelled. The respondent may be charged 9,145 units as a detection bill for the period March 2012 to August 2012, however, the normal units already charged during the said period and payments made (if any) against the above detection bill may be adjusted, accordingly.

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

Muhammad Qamar-uz-Zaman
Member/SA (Finance)

Muhammad Shafique
Member/SA (Legal)

Nadir Ali Khoso
Convener/ DG (M&E)

Dated: 18.01.2021