



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

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No. NEPRA/AB/Appeal/184/POI/2019/ 131

January 19, 2021

1. M/s. Hamza Vegetable Oil Refinery & Ghee Mills (Pvt.) Ltd, Through Masood Ahmad, Admin Manager, 13-KM Sheikhpura Road, Lahore
2. Chief Executive Officer  
LESCO Ltd,  
22-A, Queens Road,  
Lahore
3. Mehar Shahid Mehmood  
Advocate High Court,  
Office No. 34, Third Floor,  
Ali Plaza, 3-Mozang Road,  
Lahore
4. A. D. Bhatti,  
Advocate High Court,  
Office No. 4, Rehmat towers,  
13-Fane Road, Lahore
5. Sub Divisional Officer (Opr),  
LESCO Ltd,  
Faizpur Sub Division,  
Lahore
6. Electric Inspector/POI  
Lahore Region, Energy Department,  
Govt. of Punjab, Block No. 1,  
Irrigation Complex, Canal Bank,  
Dharampura, Lahore

Subject: **Appeal Titled LESCO Vs. M/s. Hamza Vegetable Oil Refinery & Ghee Mills (Pvt.) Ltd Against the Decision Dated 27.11.2018 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 08.01.2021, 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



# National Electric Power Regulatory Authority

**Before Appellate Board, National Electric Power Regulatory Authority Islamabad**

In the matter of

**Appeal No. 184/POI-2019**

Lahore Electric Supply Company Limited

.....Appellant

Versus

M/s. Hamza Vegetable Oil Refinery & Ghee Mills (Pvt) Ltd, Through  
Masood Ahmed (Admin Manager), 13-KM,  
Sheikhupura Road, Lahore

.....Respondent

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,  
TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997  
AGAINST THE DECISION DATED 27.11.2018 PASSED BY PROVINCIAL  
OFFICE OF INSPECTION LAHORE REGION, LAHORE**

For the appellant:

Mr. Mehar Shahid Mehmood Advocate

For the respondent:

Mr. A.D. Bhatti Advocate

Mr. Masood Ahmed Manager (Admin)

## **DECISION**

1. Through this decision, an appeal filed by Lahore Electric Supply Company Limited (hereinafter referred to as LESCO) against the decision dated 27.11.2018 of 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



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terms and conditions of the license and the respondent is its industrial consumer bearing Ref No.24-11124-2400080 with a sanctioned load of 261 kW under the B-2(b) tariff. As per fact of the case, the metering equipment of the respondent was checked by standing committee LESCO on 11.10.2017 and reportedly the billing meter was found 33% slow due to the blue dead phase and the backup meter was found smoky. LESCO issued a detection bill of Rs.3,198,481/- for 170,930 units/661 kW MDI for the period from July 2017 to January 2018 (7 months) to the respondent and added in the bill for February 2018.

3. Being aggrieved, the respondent challenged the abovementioned detection bill before POI on 19.03.2018. During joint checking of the metering equipment of the respondent carried out by POI on 28.08.2018, the billing meter was found 33% slow, both the parties signed the checking report without raising any objection. POI disposed of the matter vide its decision dated 27.11.2018 wherein the detection bill Rs.3,198,481/- for 170,930 units/661 kW MDI for the period from July 2017 to January 2018 was declared as void and LESCO was allowed to recover 33% slowness from the respondent w.e.f December 2017 and onwards till replacement of the slow meter.
4. Being dissatisfied with the decision of POI dated 27.11.2018 (hereinafter referred to as the impugned decision), LESCO filed the instant appeal before NEPRA along with the application for condonation of the delay. In its appeal, LESCO contended that the billing meter of the respondent was found 33% slow during checking dated 11.10.2017, hence the detection bill of Rs.3,198,481/- for 170,930 units/661 kW MDI Appeal No.184-2019



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for the period from July 2017 to January 2018 was debited to the respondent. As per LESCO, POI did not apply his independent and judicious mind while passing the impugned decision. According to LESCO, the impugned decision was pronounced without perusing the record which is against the settled principle of law. LESCO pointed out that the impugned decision was pronounced by POI after the expiry of 90 days, hence became functus, void, ab-initio, and coram non-judice in pursuance of judgment reported as WAPDA, etc V/s M. Amir Malik, etc. In its application for condonation of delay, LESCO submitted that the copy of the impugned decision dated 27.11.2018 was obtained on 29.01.2019, and the appeal was filed on 27.02.2019 which is within the time from the date of receipt of the impugned decision. LESCO pleaded that, if there is any delay in filing the appeal may be condoned in the best interest of justice.

5. Notice for filing reply/para-wise comments to the appeal was served to the respondent, which were filed on 01.10.2019. In his reply, the respondent raised the preliminary objection that the appeal is time-barred being filed with a delay of 4 days and liable to be dismissed. The respondent contended that the POI has rightly set aside the detection bill of Rs.3,198,481/- for 170,930 units/661 kW MDI for the period from July 2017 to January 2018 (7 months) as the healthy consumption recorded by the meter till December 2017. According to the respondent, the impugned decision was rendered by the lower forum in the capacity as POI under the provisions of NEPRA Act 1997, therefore the limitation of 90 days is not applicable in the present case in pursuance of Appeal No.184-2019



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judgment reported as PLJ 2017 Lahore 627.

6. After issuing notice to both parties, hearing of the appeal was held at NEPRA Regional Office Lahore on 30.12.2020 which was attended by both the parties. At the outset of the hearing, learned counsel for LESCO argued regarding the limitation and submitted that copy of the impugned decision was obtained by LESCO on 29.01.2019 and the appeal against the same was sent to NEPRA on 27.02.2019. Learned counsel for LESCO prayed that the delay in filing the appeal may be condoned and the matter may be decided on merit. Learned counsel for LESCO stated that the detection bill of Rs.3,198,481/- for 170,930 units/661 kW MDI for the period from July 2017 to January 2018 was charged to the respondent due to dip in consumption. On the contrary, learned counsel for the respondent defended the impugned decision for revision of the above detection bill for two months as per provisions of CSM and pleaded for its maintainability.
7. Argument heard and the record examined. 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 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 Faisalabad High Court in judgments cited as PLJ 2017-Faisalabad-627 and PLJ-2017-Faisalabad-309 that impugned order was passed by POI under Appeal No.184-2019

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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. Regarding the point of limitation raised by the respondent, it is observed that the impugned decision was announced by POI on 27.11.2018, copy of the same was obtained by LESCO on 29.01.2019 against which LESCO filed an appeal before NEPRA on 04.03.2019 after the prescribed limit of thirty days as envisaged in Section 38(3) of NEPRA Act, 1997. LESCO has not given cogent reasons justifying the delay in filing the appeal before NEPRA. Obviously, the appeal is time-barred and liable to be dismissed. Even otherwise, the impugned decision for cancellation of the detection bill of Rs.3,198,481/- for 170,930 units/661 kW MDI for the period from July 2017 to January 2018 (7 months) and revision of the same @ 33% slowness w.e.f December 2017 and onwards till the replacement of slow meter is based on facts as 33% slowness in the billing meter of the respondent was established during POI joint checking dated 28.08.2018.

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

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

Muhammad Shafique  
Member/SA (Legal)

Nadir Ali Khoso  
Convener/DG (M&E)

Dated: 08.01.2021