



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 E-mail: office@nepra.org.pk

No. NEPRA/AB/Appeal/216/POI/2019/ 133

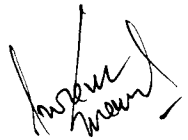
January 19, 2021

1. Muhammad Shahid
S/o. Muhammad Saleem Aktar,
R/o. House o. 12, St. No. 1,
Alamgir Park, Nawan Kot,
Lahore
2. Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore
3. Saeed Ahmed Bhatti
Advocate High Court,
66-Khyber Block, Allama Iqbal Town,
Lahore
4. Sub Divisional Officer (Opr),
LESCO Ltd,
Jia Musa 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 Shahid Against the Decision Dated 26.03.2019 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 12.01.2021, 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.216/POI-2019

Lahore Electric Supply Company Limited

.....Appellant

Versus

Muhammad Shahid S/o Muhammad Saleem Akhtar R/o House No.12,
Street No.1, Alamgir Park, Nawan Kot, Lahore

.....Respondent

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,
TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997
AGAINST THE DECISION DATED 26.03.2019 PASSED BY PROVINCIAL
OFFICE OF INSPECTION LAHORE REGION, LAHORE**

For the appellant:

Mr. Saeed Ahmed Bhatti advocate

For the respondent:

Nemo

Mr. Aziz-ur-Rehman

DECISION

1. Brief facts of the case are that the respondent is a commercial consumer of Lahore Electric Supply Company Limited (LESCO) bearing Ref No.46-11132-0382105-U having a sanctioned load of 5 kW and the applicable tariff is A-2(c). The billing meter of the respondent became defective, hence the DEF-EST code was fed by LESCO, and two bills of Rs.65,260/- for 3,015 units for November 2017 and amounting to Rs.65,260/- for 3,015 units for December 2017 were charged to the respondent. The electric supply of the respondent was disconnected by LESCO in January 2018. Arrears of the respondent accumulated to the tune of Rs.172,942/- till August 2018 due to nonpayment of bills.

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2. Being aggrieved, the respondent challenged the arrears of Rs.172,942/- before the Provincial Office of Inspection (POI) on 01.12.2018, which contained the bills of November 2017 and December 2017 charged by LESCO on DEF-EST code. The complaint of the respondent was disposed of by POI vide decision dated 26.03.2019 wherein the arrears of Rs.172,942/- were declared as null and void and LESCO was allowed to charge the bills of November 2017 and December 2017 on the basis of consumption of November 2016 and December 2016.
3. Being dissatisfied with the POI decision dated 26.03.2019 (hereinafter referred to as the impugned decision), LESCO has filed the instant appeal before NEPRA wherein the impugned decision was opposed on the grounds that the meter of the respondent became defective and the bills each amounting to Rs.65,260/- for 3,015 units were charged in November 2017 and December 2017 on DEF-EST Code; that the connection of the respondent was disconnected due to nonpayment of above bills; that the arrears of Rs.172,942/- increased till August 2018; that the POI declared the arrears of Rs.172,942/- as null and void and revised the bills from November 2017 and December 2017 based on the consumption of November 2016 and December 2016 without applying his judicious mind; that the impugned decision is ex-facie, coram non-judice, ab-initio void and without jurisdiction as the POI has no jurisdiction to carry out the proceedings after the expiry of 90 days as envisaged u/s 26(6) of Electricity Act 1910 in pursuance of judgment reported in 2006 YLR Page 2612; and that the impugned decision is liable to be set aside.
4. Notice was sent to the respondent to submit reply/para-wise comments to the appeal, which however were not filed.



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5. After issuing notice, hearing of the appeal was conducted at NEPRA Regional Office Lahore on 30.12.2020 which was attended by learned counsel for LESCO and no one appeared for the respondent. In response to the question raised by this forum regarding limitation, learned counsel for LESCO explained that the appeal against the impugned decision was initially submitted before NEPRA on 29.04.2019 within thirty days of its receipt. On merits, learned counsel for LESCO argued that the meter of the respondent became defective, hence the bills for November 2017 and onwards were billed on DEF-EST code, which should be allowed. Learned counsel for LESCO submitted that the arrears of Rs.172,942/- increased due to non-payment of bills, which is payable by the respondent.
6. Having heard the arguments and the record perused. Following are our observations:
- i. Regarding the point of limitation, it is noticed that the copy of the impugned decision dated 26.03.2019 was obtained by LESCO on 02.04.2019, and the appeal was initially submitted before NEPRA on 03.05.2019 within 7 days of its dispatch i.e.29.04.2019 in accordance with Regulation 4 (2)(b) of NEPRA (Procedure for Filing Appeal) Regulations, 2012. The relevant portion is reproduced below for the sake of convenience:

“Limitation for filing the appeal.—(1) Every appeal shall be filed within a period of thirty days from the date on which a copy of the order against which the appeal is preferred is received by the appellant: Provided that the Authority may, upon an application filed on this behalf, entertain an appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within the period. (2) Subject to anything contrary on the record the copy of the order



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against which an appeal is filed shall be presumed to have been received by the appellant if: (a) sent by courier, three days following the day it is dispatched by the Receipt and Issue department of the Authority; (b) sent by registered post, seven days following the date it is mailed by the Receipt and Issue department of the Authority; and (c) sent by hand delivery; on the production of the receipt showing the date it is served on the appellant."

We are convinced with the arguments of learned counsel for LESCO that the appeal filed before NEPRA is within the prescribed limit as envisaged in the ibid Regulation of NEPRA (Procedure for Filing Appeal) Regulations, 2012.

- ii. The respondent challenged the arrears of Rs.172,942/- till August 2018 before POI, which contained the bills of November 2017 and December 2017 charged by LESCO due to the defective meter as detailed below:

Billing month	Amount (Rs.)	Units
November 2017	65,260/-	3,015
December 2017	65,260/-	3,015

LESCO did not produce the disputed meter before POI for the determination of its status. LESCO even did not provide consumption data of the respondent to prove its justification for charging the above bills in pursuance of clause 4.4 of the Consumer Service Manual (CSM). The only remedy that remains with this forum is to analyze the above bills with the units assessed as per the formula given in annex-VIII of CSM.

Calculation in this regard is done in **Table-C** below:

Bill	Units already charged	Units/month assessed
November 2017	3,015	= Sanctioned load (kW) x No. of Hours x Load factor
December 2017	3,015	= 5 kW x 730 Hrs. x 0.2 = 730 units



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Above table transpires that the respondent was charged on the higher side by LESCO during the period November 2017 and December 2017, Hence the determination of POI for declaring the arrears of Rs.172,942/- as null and void is correct and liable to be maintained to this extent. The respondent is liable to be charged the bills @ 730 units/month for November 2017 and December 2017 as assessed in the above table.

The impugned decision is liable to be modified to this extent.

7. In view of what has been stated above, it is concluded that the impugned decision for cancellation of the arrears of Rs.172,942/- is correct and should be maintained to this extent. The respondent may be charged the bills @ 730 units/month for November 2017 and December 2017. The billing account of the respondent may be overhauled, accordingly.
8. The impugned decision is modified in the above terms.

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

Nadir Ali Khoso
Convener/DG (M&E)

Muhammad Shafique
Member/SA (Legal)

Dated: 12.01.2021