



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/219/POI/2019/896

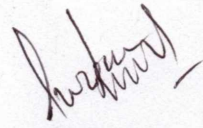
November 22, 2021

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| 1. Nazakt Ali Siddiqi
S/o. Ghazanfar Ali Siddiqi,
R/o. Near Nimra Masjid,
Parch Stop, Nain Sukh Road,
Bypass, 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. A. D. Bhatti,
Advocate High Court,
First Floor, Rehmat Tower,
13-Fane Road, Lahore |
| 5. Sub Divisional Officer (Opr),
LESCO Ltd,
Faizpur Sub Division,
District Sheikhpura | 6. POI/Electric Inspector
Lahore Region, Energy Department,
Govt. of Punjab, Block No. 1,
Irrigation Complex, Canal Bank,
Dharampura, Lahore |

Subject: **Appeal Titled LESCO Vs. Nazakat Ali Siddiqi Against the Decision Dated 15.01.2019 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 15.11.2021, 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. 219/POI-2019

Lahore Electric Supply Company Limited

.....Appellant

Versus

Nazakat Ali Siddiqui S/o Ghazanfar Ali Saddiqui,
R/o Near Nimra Masjid, Parehi Stop, Nain Sukh Road,
Sagian Bypass, Lahore

.....Respondent

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,
TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997
AGAINST THE DECISION DATED 15.01.2019 PASSED BY PROVINCIAL
OFFICE OF INSPECTION LAHORE REGION, LAHORE**

For the Appellant:

Mehar Shahid Mehmood Advocate

For the Respondent:

Mr. A.D. Bhatti Advocate

DECISION

1. Through this decision, an appeal filed by Lahore Electric Supply Company Limited (hereinafter referred to as the LESCO) against the decision dated 15.01.2019 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 industrial consumer





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bearing Ref No.46-11124-0105420 U with a sanctioned load of 17 kW under the B-1(b) Tariff. As per fact of the case, billing meter of the Respondent was checked by the Metering and Testing (M&T) LESCO on 26.09.2016 and reportedly it was found 33% slow due to the red phase being dead. Later on, a detection bill of 19,738 units for the period March 2016 to August 2016 six (6) months was charged to the Respondent by LESCO at the rate of 33% slowness of the meter and added in the bill for November 2017 against which the Respondent paid 40% amount. Subsequently, the Respondent received a bill of Rs.315,681/- in September 2018, which included the arrears of the above said detection bill amounting to Rs.271,240/- and current bill of Rs.12,952/-.

3. Being aggrieved, the Respondent filed an application before the POI on 16.10.2018 and disputed the bill of Rs.315,681/- for September 2018. The matter was disposed of by the POI vide decision dated 15.01.2019, wherein the bill of Rs.315,681/- charged by the LESCO in September 2018 containing the arrears of the above detection bill amounting to Rs.271,240/- was declared as null and void. The LESCO was directed to overhaul/adjust the billing account of the Respondent, accordingly.
4. Being dissatisfied with the decision of POI dated 15.01.2019 (hereinafter referred to as the impugned decision), 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 since the application was filed on 16.10.2018 and





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it was decided on 15.01.2019, which is a clear violation of Section 26(6) of the Electricity Act 1910; (2) the billing meter of the Respondent was declared 33% slow during the M&T LESCO checking 26.09.2016, therefore the detection bill of 19,738 units for the period March 2016 to August 2016 was charged by the LESCO; (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 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 26.09.2019. In his reply, the Respondent raised the preliminary objection that the appeal is time-barred being filed with a delay of five (5) days and liable to be dismissed. The Respondent contended that POI passed the impugned decision after perusal of the consumption data on record. As per the Respondent, the LESCO charged the detection bill on account of bill adjustment, which was rightly set aside by the POI. According to the Respondent, the LESCO neither issued prior notice nor he was associated in the alleged checking, therefore, charging the detection bill is illegal, unlawful, and void. The Respondent submitted that the impugned decision was rendered by the lower forum in the capacity as the POI under the provisions of the NEPRA Act 1997, therefore the limitation of ninety (90) days is not applicable in the instant case, pursuant to the judgment of the Honorable Lahore High Court Lahore reported as PLJ 2017 Lahore 627. The Respondent finally prayed for the dismissal of the appeal with special cost.





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6. After issuing notice, hearing of the appeal was held at the NEPRA Regional Office Lahore on 24.09.2021 which was attended by both the parties. Learned counsel for the LESCO reiterated the same contentions as given in memo of the appeal and stated that the detection bill of 19,738 units for the period March 2016 to August 2016 was charged to the Respondent at the rate of 33% slowness of the meter as observed by the M&T LESCO on 26.09.2016. Learned counsel for LESCO further contended that the above detection bill may be revised for two (2) months as per the Consumer Service Manual (CSM). On the contrary, learned counsel for the Respondent opposed the stance of the LESCO and argued that the LESCO has been debiting excessive bills to the Respondent since long against which total of 38,000 units were refunded by the LESCO in November 2017 and the year 2018. Learned counsel for the Respondent averred that LESCO neither served prior notice nor associated the Respondent in alleged checking, therefore there is no justification to charge any detection bill. Learned counsel for the Respondent supported the impugned decision for setting aside the above detection bill and prayed for the dismissal of the appeal.
7. Argument heard and the record examined. Following are our observations:
- With regard to the preliminary objection of limitation raised by the Respondent, it is observed that the impugned decision was announced by POI on 15.01.2019, copy of the same was received by the LESCO on 17.01.2019 against which the LESCO filed an appeal before the NEPRA on 21.02.2019 within seven (7) days of its dispatch in accordance with the Regulation 4(2)(b) of NEPRA (Procedure for





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Filing Appeal) Regulations, 2012. The relevant excerpt 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 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."

In view of the above, the appeal filed before the NEPRA is within the stated limit as envisaged in the *ibid* Regulation of NEPRA (Procedure for Filing Appeal) Regulations, 2012. The objection of the Respondent regarding the limitation is therefore overruled.

- ii. At the 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 the 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.
- iii. The M&T LESCO observed 33% slowness in the metering equipment of the Respondent on 26.09.2016 and accordingly charged a detection bill of 19,738 units





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for the period March 2016 to August 2016 to the Respondent, which was added in the bill for November 2017. The Respondent paid 40% amount of the above detection bill but later on filed an application before the POI on 16.10.2018 and assailed the bill of Rs.315,681/- charged by the LESCO in September 2018, which contained the remaining arrears of Rs.271,240/- of the above detection bill.

- iv. LESCO charged the above detection bill for a period of six (6) months i.e. March 2016 to August 2016 to the Respondent at the rate of 33% slowness of the billing meter, which is violative of Clause 4.4 of the CSM. Said Clause of the CSM allows the LESCO to recover the detection bill maximum for two (2) months in case of a slow/defective meter. Hence, we hold that the detection bill of 19,738 units for the period from March 2016 to August 2016 charged to the Respondent by the LESCO at the rate of 33% slowness of the billing meter and added in the bill for November 2017 is unjustified and liable to be declared as null and void, which concurs the determination of the POI.
- v. Since defectiveness in the billing meter of the Respondent was observed by the LESCO on 26.09.2016, hence the Respondent is liable to be charged the bills maximum for two (2) months i.e. July 2016 and August 2016 as per Clause 4.4 of the CSM. According to the said clause of the CSM, the bills for the months i.e. July 2016 and August 2016 be revised as per 100% consumption of corresponding months of the previous year i.e. July 2015 and August 2015, or an average





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consumption of last eleven (11) months i.e. August 2015 to June 2016, whichever is higher. The impugned decision is liable to be modified to this extent.

8. Foregoing in view, we have concluded that the impugned decision for cancellation of the detection bill of 19,738 units for the period March 2016 to August 2016 charged by the LESCO at the rate of 33% slowness of the billing meter is correct and should be maintained to this extent. However, the bills for July 2016 and August 2016 should be issued based on consumption of corresponding months of the previous year i.e. July 2015 and August 2015, or average consumption of the last eleven (11) months i.e. August 2015 to June 2016, whichever is higher. The billing account of the Respondent may be overhauled after adjusting payments made, if any against the above detection bill.
9. The impugned decision is modified in the above terms.

Abid Hussain
Member/Advisor (CAD)

Maria Rafique
Member/Legal Advisor

Nadir Ali Khoso
Convener/Senior Advisor (CAD)

Dated: 15.11.2021

