



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/220/POI/2019/ 435

January 19, 2021

- | | |
|--|--|
| 1. Faisal Khan
Instapone Infrastructure Pvt Ltd,
House No. 1, White House,
Lane No. 1, Sundar Das Road,
Zaman Park, 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. Rana Muhammad Ishaq
Advocate High Court,
My Law Associates,
Office M-2, 17-Eden Tower,
Main Boulevard, Gulberg-III, Lahore |
| 5. Sub Divisional Officer (Opr),
LESCO Ltd,
Baghbanpura 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. Faisal Khan Against the Decision Dated 23.04.2019 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 15.01.2021, 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.220/POI-2019

Lahore Electric Supply Company Limited
.....Appellant

Versus

Faisal Khan Instaphone Infrastructure Pvt Ltd, House No.01,
White House No.01, White House Lane No.1
Sundar Das Road Zaman Park, Lahore
.....Respondent

APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 23.04.2019 PASSED BY PROVINCIAL OFFICE OF INSPECTION LAHORE REGION, LAHORE

For the appellant:

Mr. Saeed Ahmed Bhatti advocate
Mr. Sajjad Alam SDO

For the respondent:

Mr. M. Naeem

DECISION

1. Brief facts of the case are that the respondent is an industrial consumer of Lahore Electric Supply Company Limited (LESCO) bearing Ref No.44-11354-9005603 having sanctioned load of 25 kW and the applicable tariff is A-2c. The billing meter (hereinafter referred to as the disputed meter) of the respondent was replaced with a new meter by LESCO vide meter change order (MCO) dated 27.10.2017 and checked by metering and testing (M&T) LESCO on 09.03.2018 and reportedly it was found 66.66% slow due to two dead phases with upset date and time. Notice dated 24.03.2018 was served to the respondent regarding the above discrepancy and a detection bill of



National Electric Power Regulatory Authority

- Rs.1,505,365/- for 76,334 units for the period October 2016 to September 2017 (12 months) was debited to the respondent by LESCO @ 66% slowness of the meter and added in the bill for March 2018.
2. Being aggrieved, the respondent assailed the above detection bill before the Provincial Office of Inspection (POI) on 21.12.2018. The complaint of the respondent was disposed of by POI vide decision dated 23.04.2019 wherein the detection bill of Rs.1,505,365/- for 76,334 units for the period October 2016 to September 2017 was declared as null and void. POI directed LESCO to charge the bills from August 2017 and onwards till the replacement of the slow meter on the basis of consumption of August 2016 and onwards.
 3. Being dissatisfied with the POI decision dated 23.04.2019 (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 was found 66% slow during M&T checking dated 09.03.2018, as such the detection bill of Rs.1,505,365/- for 76,334 units for the period October 2016 to September 2017 was charged to the respondent on the basis of said checking; that the POI failed to analyze the consumption data and revised the bills August 2017 and onwards till the replacement of the slow meter on the basis of consumption of August 2016 and onwards as per Clause 4.4 of the Consumer Service Manual (CSM) without applying his judicious mind; that Clause 4.4(e) of CSM could not be made applicable in the instant case; 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.



National Electric Power Regulatory Authority

4. Notice was sent to the respondent to submit reply/para-wise comments to the appeal, which were filed on 30.12.2020. In his reply, the respondent stated that the excessive bills were being charged due to the fastness of the disputed meter for which he approached LESCO for its replacement. As per respondent, the disputed meter was replaced with a new meter by LESCO on 27.10.2017 but neither any checking was carried out in his presence nor followed the procedure as laid down in CSM. According to the respondent, the detection bill of for 76,334 units for the period October 2016 to September 2017 was charged by LESCO @ 66.66% slowness in violation of clause 4.4(e) of CSM. The respondent finally prayed for dismissal of the appeal and for maintainability of the impugned decision.
5. After issuing notice, hearing of the appeal was conducted at NEPRA Regional Office Lahore on 30.12.2020 which was attended by both the parties. Learned counsel for LESCO reiterated the same arguments as given in the appeal and contended that the detection bill of Rs.1,505,365/- for 76,334 units for the period October 2016 to September 2017 was debited to the respondent on account of 66.66% slowness of the meter as observed by LESCO on 09.03.2018. As per learned counsel for LESCO, 66.66% slowness in the meter of the respondent was admitted by POI and low consumption was also recorded during the disputed period, hence the full period of the above detection bill be allowed instead of two months only. On the contrary, learned counsel for the respondent repeated the same version as given in the reply to the appeal and averred that on his request, LESCO replaced the disputed meter with a new meter on 27.10.2017, thereafter the consumption has decreased. Learned counsel for the respondent defended the impugned and prayed for upholding the same.
6. Having heard the arguments and the record perused. Following are our observations:



National Electric Power Regulatory Authority

- 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 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 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.
- ii. The respondent was charged the detection bill amounting to Rs.1,505,365/- for 76,334 units for the period October 2016 to September 2017 by LESCO on account of 66.66% slowness of the meter, which was disputed before POI. Pursuant to clause 4.4(e) of CSM, the respondent may be charged the detection bill maximum for two months in case of a slow meter, whereas LESCO charged the above detection bill for twelve months to the respondent due to a slow meter, which is the violation of clause 4.4 of CSM. Under these conditions, the detection bill amounting to Rs.1,505,365/- for 76,334 units for the period October 2016 to September 2017 charged to the respondent @ 66.66% slowness of the meter is declared as null and void as already decided by POI.
- iii. LESCO did not produce the disputed meter before POI for verification of the alleged 66.66% slowness. Hence it would be judicious to charge the detection bill for two months i.e. August 2017 and September 2017 on the basis of consumption of August 2016 and September 2016 in pursuance of clause 4.4 of CSM, which is also the



National Electric Power Regulatory Authority

determination of POI. Billing account of the respondent may be overhauled accordingly.

7. Foregoing in view, the impugned decision is maintained and the appeal is dismissed accordingly.

A handwritten signature in black ink, appearing to read 'M. Q. Zaman', is written above a horizontal line.

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

A handwritten signature in black ink, appearing to read 'Nadir Ali Khoso', is written above a horizontal line.

Nadir Ali Khoso
Convener/DG (M&E)

A handwritten signature in black ink, appearing to read 'Muhammad Shafique', is written above a horizontal line.

Muhammad Shafique
Member/SA (Legal)

Dated: 15.01.2021