



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

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No. NEPRA/AB/Appeal/280/POI/2019/ 900

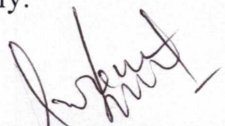
November 22, 2021

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| 1. Zia Ullah
S/o. Sana Ullah,
R/o. Zahid Colony, Qazari Bazar,
Muridke, District Sheikhpura | 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. Assistant Manager (Opr),
LESCO Ltd,
Canal Park Sub Division,
Muridke |
| 5. POI/Electric Inspector,
Gujranwala Region,
Energy Department, Govt. of Punjab,
Munir Chowk, Near Kacheri Road,
Gujranwala | |

Subject: **Appeal Titled LESCO Vs. Zia Ullah Against the Decision Dated 22.05.2019 of the Provincial Office of Inspection to Government of the Punjab Gujranwala Region, Gujranwala**

Please find enclosed herewith the decision of the Appellate Board dated 09.11.2021, 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. 280/POI-2019

Lahore Electric Supply Company Limited

.....Appellant

Versus

Zia-ullah Khan S/o Sanaullah Khan R/o Zahid Colony,
Qazafi Bazar Muridke District Sheikhpura

.....Respondent

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,
TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997
AGAINST THE DECISION DATED 22.05.2019 PASSED BY PROVINCIAL
OFFICE OF INSPECTION GUJRANWALA REGION, GUJRANWALA**

For the Appellant:

Mehar Shahid Mehmood Advocate
Mr. Ijaz Ahmed

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 22.05.2019 of the Provincial Office of Inspection, Gujranwala Region, Gujranwala (hereinafter referred to as POI) is being disposed of.
2. LESCO is a licensee of the National Electric Power Regulatory Authority (hereinafter referred to as NEPRA) for distribution of electricity in the territory specified as per terms and conditions of the license and the Respondent is its domestic consumer

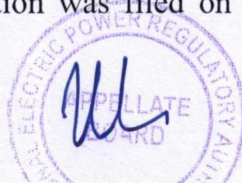




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bearing Ref No.04-11641-0361500 with a sanctioned load of 1 kW under the A-1(a) tariff. As per fact of the case, the billing meter of the Respondent was found defective which was replaced with a new meter by LESCO in February 2018. The removed meter of the Respondent was subsequently checked by LESCO on 22.05.2018 and reportedly it was found tampered (reversed). Later on, a detection bill of Rs.71,629/- for 3,038 units for the period September 2017 to February 2018 [six (6) months] was charged to the Respondent by LESCO on the basis of 20% load factor of the connected load i.e. 4.955 kW and added in the bill for September 2018.

3. Being aggrieved, the Respondent filed an application before POI on 26.09.2018 and assailed the above detection bill. The matter was disposed of by POI vide decision dated 22.05.2019 wherein the detection bill of Rs.71,629/- for 3,038 units for the period September 2017 to February 2018 charged by LESCO was declared as null & void. LESCO was directed to charge revised bills for the period September 2017 to February 2018 on the basis of consumption of September 2018 and October 2018. LESCO was further directed to overhaul the billing account of the Petitioner accordingly.
4. Being dissatisfied with the decision of POI dated 22.05.2019 (hereinafter referred to as the impugned decision), LESCO filed the instant appeal before NEPRA. In its appeal, LESCO opposed the maintainability of the impugned decision inter alia, on the following grounds (i) the POI failed to decide the application of the Respondent within 90 days as the application was filed on 26.09.2018 and it was decided on





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- 22.05.2019, which is a clear violation of Section 26(6) of Electricity Act 1910; (2) the Respondent has reversed the meter for stealing the electricity, therefore, the detection bill of Rs.71,629/- for 3,038 units for the period September 2017 to February 2018 was charged to the Respondent; (3) POI did not apply judicious mind and passed the impugned decision on illegal assumptions and presumptions; (4) 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 however were not filed.
 6. After issuing notice, hearing of the appeal was held at the NEPRA Regional Office Lahore on 21.10.2021, which was attended by learned counsel for LESCO and no one appeared for the Respondent. In response to the question of limitation, learned counsel for LESCO stated that the copy of the impugned decision dated 22.05.2019 was received by LESCO on 05.08.2019, and the appeal was filed on 17.08.2019 within thirty (30) days of receipt of the impugned decision as per Section 38(3) of NEPRA Act 1997. Learned counsel for LESCO reiterated the same contentions as given in memo of the appeal and contended that the detection bill of Rs.71,629/- for 3,038 units for the period September 2017 to February 2018 was charged to the Respondent due to theft of electricity committed through tampered meter as observed by LESCO on 22.05.2018. Learned counsel for LESCO further contended that the above detection bill shall not be based on future consumption as already determined by POI.
 7. Argument heard and the record examined. Following are our observations:





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- i. At first, the point of limitation should be addressed before going into the merits of the case. It is observed that the impugned decision was announced by POI on 22.05.2019, copy of the same was received by LESCO on 05.08.2019 against which LESCO filed an appeal before NEPRA on 17.08.2019 within thirty (30) days as envisaged in Section 38(3) of NEPRA Act 1997.
- ii. As regards the preliminary objection of LESCO regarding the failure of POI in deciding the matter within ninety (90) days as envisaged in Section 26(6) of Electricity Act, 1910, it may be explained that the period of ninety (90) days is provided in the 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. The same has been held by the honorable Lahore High Court in the following cited judgments PLJ 2017-Lahore-627 and PLJ-2017-Lahore-309. The objection of LESCO in this regard is devoid of force, therefore rejected.
- iii. The disputed billing meter of the Respondent was replaced with a new meter by LESCO in February 2018, which was found tampered with during LESCO checking on 22.05.2018. Resultantly, a detection bill of Rs.71,629/- for 3,038 units for the period September 2017 to February 2018 was charged to the Respondent by LESCO on the basis of 20% load factor of the connected load i.e. 4.955 kW, and added in the bill for September 2018, which was agitated by him before the

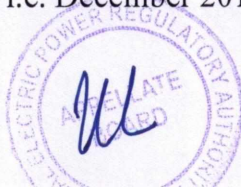




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POI.

- iv. LESCO charged the above detection bill for a period of six (6) months i.e. September 2017 to February 2018 to the Respondent being a general supply consumer due to theft of electricity, which is violative of clause 9.1c(3) of the Consumer Service Manual (CSM). Said clause of CSM allows LESCO to recover the detection bill maximum for three (3) months in case of theft of electricity if approval was not solicited from the Chief Executive Officer. In addition, the meter under dispute was not produced before POI for verification of alleged tampering. Hence, we hold that the detection bill of Rs.71,629/- for 3,038 units for the period September 2017 to February 2018 charged to the Respondent by LESCO @ 20% load factor of the connected load i.e.4.995 kW, and added in the bill for September 2018 is unjustified and liable to be declared as null & void, which concurs with the determination of the POI.
- v. Similarly, the determination of POI for revision of the bills for the period September 2017 to February 2018 @ 433 units/month as per consumption of September 2018 and October 2018 is inconsistent with clause 9.1c(3) of the CSM and liable to be withdrawn to this extent.
- vi. Since the disputed billing meter of the Respondent was replaced by LESCO in February 2018, hence the Respondent is liable to be charged the detection bill maximum for three (3) months i.e. December 2017 to February 2018 as per clause





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9.1c(3) of the CSM. Calculation in this regard is done below as per annex-VIII of CSM.

Units/month to be charged	= Sanctioned load (kW) x No. of Hours x Load factor = 4.955 kW x 730 Hrs. x 0.15 = 723 units/month
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Period: December 2017 to February 2018 (3 months)

(A) Total Units to be charged	=Units/ month x No. of Months = 723 x 3 = 2,169 units
(B) Total units already charged	=166+250+13 = 429 units
(C) Net chargeable units	= (A) - (B) = 2,169 - 429 = 1,740 units

8. The upshot of the above discussion is that the impugned decision for cancellation of the detection bill of Rs.71,629/- for 3,038 units for the period September 2017 to February 2018 along with late payment surcharges is correct and maintained to this extent. LESCO is directed to charge the detection bill for net 1,740 units for the period December 2017 to February 2018 three (3) months to the Respondent. The billing account of the Respondent should be revised by LESCO 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: 09.11.2021

Appeal No.280-2019