



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

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No. NEPRA/AB/Appeal/099/POI/2021/ *091*

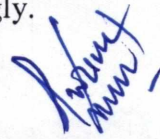
January 27, 2022

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|--|--|
| 1. Syed Azhar Zaidi,<br>S/o. Syed Zaigham Zaidi,<br>R/o. House No. 859, Raza Block,<br>Allama Iqbal Town, Lahore | 2. Chief Executive Officer<br>LESCO Ltd,<br>22-A, Queens Road,<br>Lahore   |
| 3. Saeed Ahmed Bhatti,<br>Advocate High Court,<br>66-Khyber Block, Allama Iqbal Town,<br>Lahore                  | 4. Pir S. R Abibi,<br>Advocate High Court,<br>Near Water Land Park,<br>Saggian, Lahore   |
| 5. Sub Divisional Officer (Operation),<br>LESCO Ltd,<br>Canal Road Sub Division,<br>Lahore                       | 6. POI/Electric Inspector<br>Lahore Region, Energy Department,<br>Govt. of Punjab, Block No. 1,<br>Irrigation Complex, Canal Bank,<br>Dharampura, Lahore |

Subject: **Appeal Titled LESCO Vs. Syed Azhar Zaidi Against the Decision Dated 17.02.2021 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 19.01.2022, 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. 099/POI-2021

Lahore Electric Supply Company Limited

.....Appellant

Versus

Syed Azhar Zaidi S/o Syed Zaigham Zaidi, R/o House No.859,  
Raza Block, Allama Iqbal Town, Lahore

.....Respondent

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,  
TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997  
AGAINST THE DECISION DATED 17.02.2021 PASSED BY PROVINCIAL  
OFFICE OF INSPECTION LAHORE REGION, LAHORE**

For the Appellant:

Mr. Saeed Bhatti Advocate

For the Respondent:

Mr. Pir S.R. Abid

## DECISION

1. Through this decision, an appeal filed by Lahore Electric Supply Company Limited (hereinafter referred to as LESCO) against the decision dated 17.02.2021 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 distribution of electricity in the territory specified as per terms and conditions of the license and the Respondent is its domestic consumer bearing Ref No.05-11233-0377600-U with a sanctioned load







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of 5 kW under A-1(a) tariff category. As per the facts of the case, the premises of the Respondent was checked by the Metering and Testing (M&T) LESCO on 02.02.2019 and allegedly the Respondent was found using electricity through the bogus meter bearing No.04737, and its reading was noticed as 36109. Notice dated 06.02.2019 was served to the Respondent regarding the above discrepancy and the FIR No.089/2019 dated 21.02.2019 was registered with the police station against the Respondent. Afterwards, a detection bill of Rs.974,619/- for 36,109 units was charged to the Respondent by the LESCO on the basis of the reading of the bogus meter No.04737 and added in the bill for February 2019.

3. Being aggrieved, the Respondent initially filed a complaint dated 21.02.2019 before the Wafaqi Mohtasib and assailed the above detection bill. The Honorable Wafaqi Mohtasib vide order dated 05.03.2019 disposed of the complaint with the following conclusion:

*“During the hearing, the complainant was present in person while Malik Waris SDO represented the agency. The complaint was investigated to determine the maladministration of the Agency for threatening to disconnect the meter of the complainant. The Agency’s official pleaded the case in the light of the above referred to Agency’s report. He produced the copy of FIR No.089/2019 dated 21.02.2019 registered against the complainant and undertaking given by him that he would pay an outstanding amount against Ref No.04-11230-0377600 U and would not challenge the action taken by the Agency against him at any forum. The Complainant accepted the version of the Agency’s officials and did not press for further investigation of the complaint.”*

4. Subsequently, the Respondent filed a suit No.136/01/2019 before the Civil Court against the charging of the above detection bill by the LESCO, which was





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dismissed by the honorable Court. The Respondent filed an application before the POI on 18.02.2020 and challenged the above-said detection bill. The matter was disposed of by the POI vide decision dated 17.02.2021, wherein the detection bill of Rs. Rs.974,619/- for 36,109 units charged by LESCO was cancelled. LESCO was directed to overhaul the billing account of the Respondent accordingly.

5. LESCO was dissatisfied with the decision of the POI dated. 17.02.2021 (hereinafter referred to as the impugned decision), hence filed the instant appeal before NEPRA. In its appeal, LESCO assailed the impugned decision, inter alia, on the following grounds; (1) the detection bill of Rs.974,619/- for 36,109 units was debited to the Respondent on account of dishonest abstraction of electricity through the bogus meter as observed on 02.02.2019, (2) the FIR No.089/2019 was filed against the Respondent; (3) the Respondent admitted the theft of electricity and submitted an undertaking for payment of the abovementioned detection bill; (4) however the Respondent challenged the above detection bill before the Wafaqi Mohtasib, which was decided by the honorable Wafaqi Mohtasib vide order dated 05.03.2020 against which the Respondent did not file appeal before the President of Pakistan, hence the findings of Wafaqi Mohtasib had attained finality; (5) the petition of the Respondent before the POI was time barred and the impugned decision is not sustainable in the eye of law; (6) the POI misconceived the real facts of the case as the above detection bill was debited to the Respondent on account of dishonest abstraction of energy; (7) the Respondent admitted the discrepancies as observed by the LESCO on 02.02.2019 by furnishing an undertaking for payment of the





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above said detection bill; (8) the POI failed to analyze the consumption data in true perspective and declared the above detection bill as void; (9) the POI failed to examine the disputed meter which is essential to resolve the controversy between the parties; (10) the impugned decision is ex-facie coram non-judice, ab-initio void and without jurisdiction and the POI has no jurisdiction to carry out the proceedings after the expiry of 90 days as envisaged under Section 26(6) of the Electricity Act, 1910; hence the impugned decision is liable to be set aside.

6. In response to the notice, the Respondent submitted reply/para-wise comments to the appeal on 08.10.2021. In his reply, the Respondent denied the allegation of theft of electricity levelled by the LESCO and submitted that neither prior notice was served nor the alleged checking was carried out by the LESCO in his presence, hence there is no justification to charge the detection bill of Rs.974,619/- for 36,109 units. The Respondent further submitted that the LESCO threatened him for lodging FIR, therefore an undertaking was given for payment of the aforesaid detection bill. The Respondent rebutted the version of LESCO for use of a bogus meter and stated that the billing meter No.S-2621 was checked by the LESCO but they inserted the fake meter No.04737 with reading 36,109, hence the above detection bill charged by the LESCO is illegal, invalid and unjustified. As per Respondent, the complaint was filed before the POI against the impugned detection bill, which was decided by the said forum with judicial mind and according to the facts narrated by him. The Respondent repudiated the stance of LESCO with regard to the time-barred petition before the POI. He stated that the POI has rightly





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adjudicated the matter and the LESCO even did not raise any objection before the POI with regard to the earlier proceedings conducted by the Honorable Wafaqi Mohtasib. According to the Respondent, the appeal was filed by the LESCO before the NEPRA after the expiry of one month and seven days, which is time barred.

7. After issuing notice, hearing of the appeal was held at the NEPRA Regional Office Lahore on 26.11.2021, which was attended by learned counsels for the Appellant and the Respondent respectively. Learned counsel for the LESCO repeated the same contentions as given in the appeal and submitted that the Respondent was found using electricity through the tampered/bogus meter for which FIR was lodged against him and a detection bill of Rs.974,619/- for 36,109 units was debited on the basis of pending units of bogus meter to account for the revenue loss sustained by the LESCO. Learned counsel for the LESCO further averred that the Respondent submitted an undertaking for the payment of the above detection bill and also accepted the contention of LESCO with regard to the recovery of the detection bill, as such the proceedings before the Wafaqi Mohtasib were closed on this sole ground. As per learned counsel for the LESCO, the Respondent did not avail remedy by filing an appeal before the President of Pakistan against the order dated 05.03.2019 of Wafaqi Mohtasib, hence the findings of Wafaqi Mohtasib had attained finality and the petition of the Respondent before the POI was barred by time. Learned counsel for LESCO argued that the findings of the POI for the determination of the fate of bills are incorrect as the instant case pertains to the billing due to theft of electricity. On the contrary, learned counsel for the





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Respondent repeated its objection of limitation and contended that the appeal is barred by time. Learned counsel for the Respondent further argued that the LESCO did not raise any objection before the POI about the findings of Wafaqi Mohtasib and has no justification to raise the same before this forum. As per learned counsel for the Respondent, the Wafaqi Mohtasib was approached against the harassment of LESCO and no detection bill was assailed before the said forum. Learned counsel for the Respondent repudiated the plea of LESCO and stated that the whole story is fabricated since neither prior notice was served by LESCO nor the Respondent used any bogus meter. Learned counsel denied the submission of an undertaking and informed that the LESCO produced the fake stamp paper which did not belong to the Respondent. Learned counsel for the Respondent defended the impugned decision and prayed for its maintainability. In response, learned counsel for the LESCO informed that the jurisdiction of the POI can be raised at the belated stage and relied upon the judgment of the Honorable Supreme Court of Pakistan reported as 2006 SCMR 1519.

8. Argument heard and the record examined. Following are our observations:

- i. At first, the point of limitation raised by the Respondent should be addressed before going into to merits of the case. It is observed that the impugned decision was announced by the POI on 17.02.2021, copy of the same was received by the LESCO on 25.03.2021 against which LESCO filed an appeal which was received before the NEPRA on 29.04.2021 i.e. after 34 days. The





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appeal is therefore considered to have been filed within thirty (30) days after excluding seven (7) days allowed for dispatch in accordance with Regulation 4 (2)(b) of NEPRA (Procedure for Filing Appeal) Regulations, 2012. The relevant excerpt from the Regulation 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 objection of the Respondent is not valid and dismissed.

- ii. LESCO raised the preliminary objection regarding the jurisdiction of the POI on the plea that the matter had attained finality at the Wafaqi Mohtasib stage and as such, it cannot be adjudicated by the POI. To verify the contention of the LESCO, the record was perused which revealed that the LESCO debited a detection bill of Rs.974,619/- for 36,109 units to the Respondent due to dishonest abstraction of electricity through the bogus meter as observed on 02.02.2019 and registered the FIR No.089/2019 against him. The Respondent





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submitted an undertaking to LESCO for payment of the abovementioned detection bill and also agreed for payment of the impugned detection bill before the Wafaqi Mohtasib due to which the proceedings were closed by the honorable Wafaqi Mohtasib vide order dated 05.03.2019. However, the Respondent refused for submission of such an undertaking and termed the said undertaking as fabricated. To ascertain the version of both the parties, documents as provided by the LESCO are placed below:

Image of CNIC of Respondent

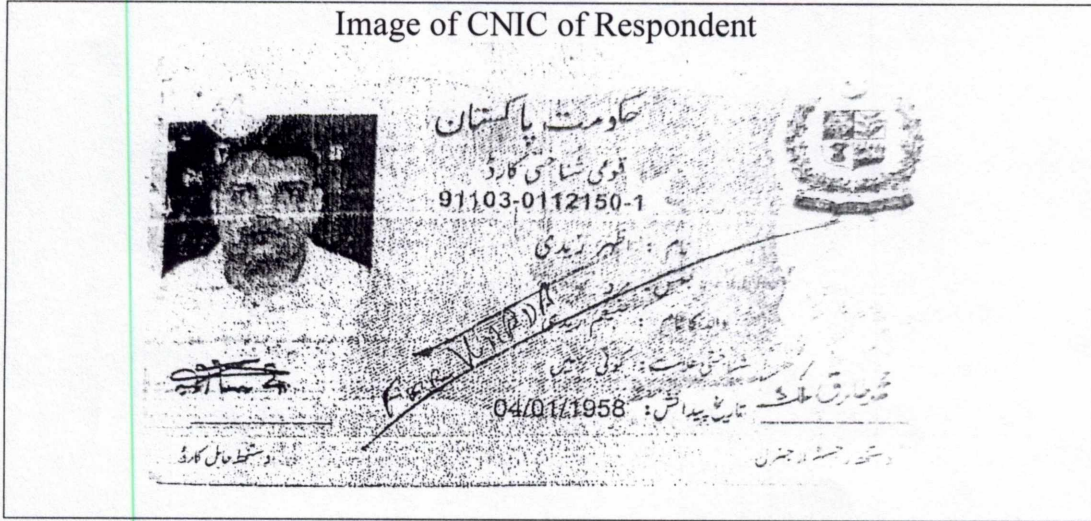
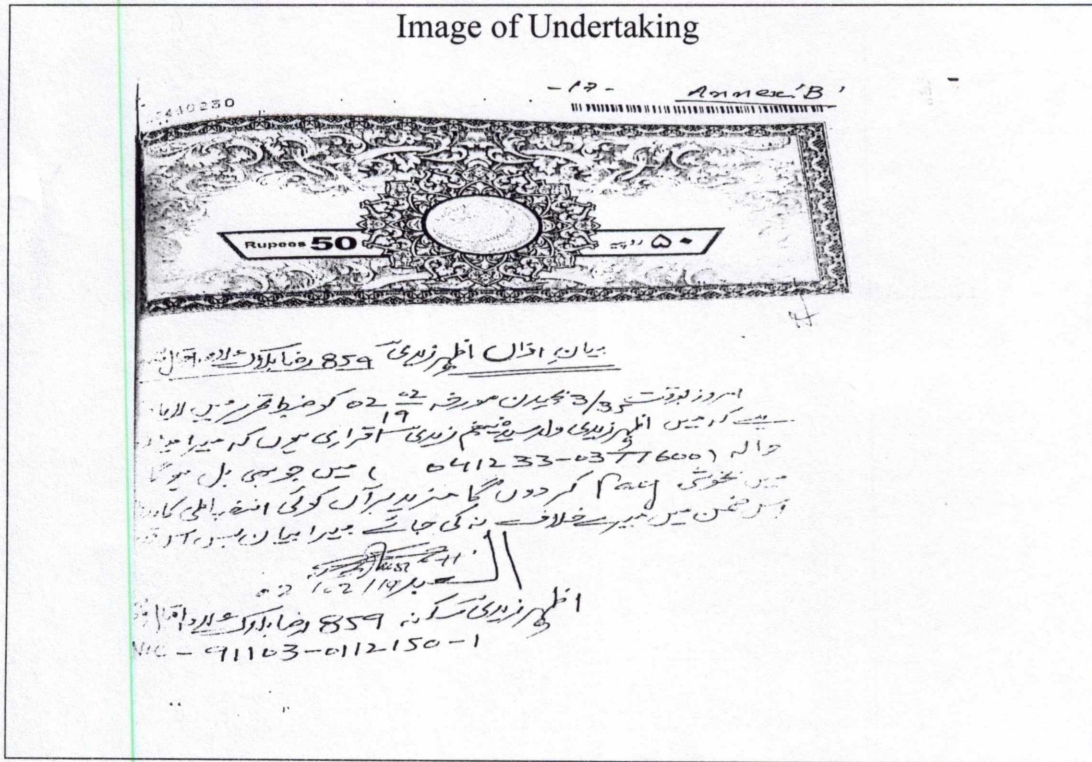




Image of Undertaking



Examination of the above documents indicates that the signature of the Respondent at undertaking is the same as the signature of his CNIC. In addition to the above, the Respondent in his written reply admitted that the undertaking for payment of the detection bill was given by him under coercion to avoid the registration of FIR. For the foregoing reasons, we are convinced with the stance of the LESCO that the undertaking of the Respondent for payment of the impugned detection bill is genuine and therefore binding upon the Respondent. This fact is also confirmed by the Wafaqi Mohtasib vide order dated 05.03.2019. If the Respondent was aggrieved with the order dated 05.03.2019 of the Wafaqi Mohtasib, he could have availed the remedy by filing the appeal before the President of Pakistan against the said order which





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in the instant case was not done by the Respondent. Under these circumstances, the order dated 05.03.2019 of the Honorable Wafaqi Mohtasib had attained finality, therefore the entire proceedings carried out by the POI in the instant case are declared null and void being without lawful authority.

9. Foregoing in view, the appeal is accepted and consequently, the impugned decision is set aside.

Abid Hussain  
Member/Advisor (CAD)

Nadir Ali Khoso  
Convener/Senior Advisor (CAD)

Dated: 19.01.2022

