



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

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No. NEPRA/AB/Appeal/143/POI/2017/ 087

January 27, 2022

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| 1. Ch. Abdul Sattar,
Advocate Supreme Court,
S/o Mian Muhammad Din,
R/o House No. 284, Block-G,
Gulshan-e-Ravi, 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. Executive Engineer/Deputy Manager Operation,
LESCO Ltd,
Gulshan-e-Ravi Division,
Office at 88 A Block, Main Road,
Sabza Zar, Lahore |
| 5. Sub Divisional Officer,
LESCO Ltd,
Gulshan-e-Ravi Sub Division,
Office at 396, Block-G,
Gulshan-e-Ravi, Lahore | 6. Revenue Officer,
LESCO Ltd,
Gulshan-e-Ravi Division,
Office at 88 A Block, Main Road,
Sabza Zar, Lahore |
| 7. POI/Electric Inspector
Lahore Region, Energy Department,
Govt. of Punjab, Block No. 1,
Irrigation Complex, Canal Bank,
Dharampura, Lahore | |

Subject: **Appeal Titled LESCO Vs. Ch. Abdul Sattar Against the Decision Dated 11.07.2017 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 21.01.2022, 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. 143/POI-2017

Lahore Electric Supply Company Limited

.....Appellant

Versus

Ch. Abdul Sattar, S/o Mian Muhammad Din Advocate,
R/o House No.284, Block-G, Gulshan-e-Ravi, Lahore

.....Respondent

APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 11.07.2017 PASSED BY PROVINCIAL OFFICE OF INSPECTION LAHORE REGION LAHORE

For the Appellant:

Mr. Saeed Ahmed Bhatti Advocate
Mr. Shakoor Naseem SDO

For the Respondent:

Ch. Abdul Sattar Advocate Supreme Court

DECISION

1. Through this appeal, a decision dated 11.7.2017 of the Provincial Office of Inspection, Lahore Region, Lahore (hereinafter referred to as the POI) has been challenged. Brief facts of the case are that the Respondent is a domestic consumer of the LESCO bearing Ref No.17-11112-1204301 with a sanctioned load of 2 kW under the A-1(a) tariff category. The contention of the Respondent is that the billing meter was found missing and the electric supply of the premises was disconnected on 07.06.2014, therefore a



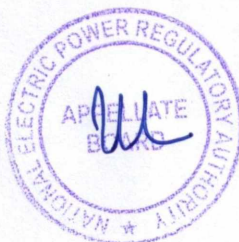


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complaint was filed before the LESCO for restoration of electric supply but neither the electric supply of the premises was restored nor was the stolen meter found. According to the Respondent, a complaint dated 07.04.2014 was also lodged before the SHO Gulshan-e-Ravi Lahore regarding the theft of the billing meter. Subsequently, the billing meter of the Respondent was found from the custody of the SDO LESCO on 09.06.2014, who alleged that the Respondent has committed theft of electricity through tampering with the meter. Resultantly, a detection bill of Rs.111,391/- for 4,845 units for the period February 2014 to July 2014 (6 months) was charged to the Respondent by the LESCO and added in the bill for September 2014, against which a Civil Suit was filed by him before the Civil Court Lahore on 13.10.2014. Consequently, the Respondent withdrew the Civil Suit and challenged the above detection bill before the POI on 01.08.2016. The matter was decided by the POI vide decision dated 11.07.2017, the operative portion of which is reproduced below:

“Summing up the foregoing discussion, it is held that the impugned detection bill amounting to Rs.111,391/- for 4845 units for the period from 02/2014 to 07/2014 added in the bill for 09/2014 as arrears is void, unjustified and of no legal effect; therefore the petitioner is not liable to pay the same. The Respondents are also directed to overhaul the account of the petitioner accordingly and any excess amount recovered be adjusted in future bills.”

2. Being dissatisfied with the POI decision dated 11.07.2017, the LESCO filed Appeal No.143/2017 before the NEPRA under Section 38(3) of the NEPRA Act 1997. NEPRA Appellate Board vide decision dated 03.08.2018 decided the appeal with the following observations:





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"In view of what has been stated in preceding paragraphs, we have reached the conclusion that the detection bill of Rs.111,391/- for 4,845 units for the period February 2014 to July 2014 is void as decided by POI. However, the Appellant Company may recover the detection bill for 1,276 units against the aforesaid disputed period. The appeal is disposed of in the above terms."

3. The Respondent was aggrieved with the decision dated 03.08.2018 of the NEPRA Appellate Board (hereinafter referred to as the impugned decision), hence challenged the same before the Lahore High Court Lahore vide the Writ Petition No.229055/2018. The Honorable Lahore High Court vide order dated 18.11.2021 disposed of the matter with the direction to the Respondent to approach the NEPRA Appellate Board within three (03) days for redetermination of theft of electricity. The relevant excerpts of the aforesaid order of the Honorable High Court are reproduced below:

"The Appellate Court has merely restricted the detection bill for three months from May 2014 to July 2014. Learned AAG assisted learned counsel for the respondents-LESCO has not opposed if the matter is sent back to the Appellate Forum to the extent that demand on allegation of theft was justified, be re-determined by the Appellate Forum. Order accordingly. Petitioner to approach the Appellate Forum with a copy of this Court's order within 03-days. If so approached, needful be done within 30-days. Till decision, as directed, respondents are directed not take any coercive measures."

4. In compliance with the directions of the Honorable Lahore High Court, the Respondent approached the NEPRA for adjudication of the matter. Accordingly, notice dated 01.12.2021 was issued to the Respondent and a hearing in the matter was fixed at the NEPRA Head Office Islamabad on 10.12.2021, however, both the parties did not show up for the hearing despite the issuance of notice. An email dated 03.12.2021 of the Respondent was received wherein he inter alia, requested for adjournment and fixation





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of the matter in Lahore. Therefore the appeal was again fixed for hearing at the NEPRA Regional Office Lahore on 30.12.2021 but no one entered an appearance for the Appellant LESCO. Due to urgency, the hearing was fixed for the very next day i.e.31.12.2021, which was attended by both parties. Learned counsel for the LESCO filed power of Attorney and requested for the adjournment to prepare for the arguments, which was not opposed by the Respondent, hence the hearing was adjourned. Later on, a notice dated 06.01.2022 was served and the hearing in the matter was held at the NEPRA Regional Office LESCO on 14.01.2022 in which both parties were present. Learned counsel for the LESCO argued that the billing meter of the Respondent was found tampered during the checking by the M&T LESCO on 09.06.2014 for which notice dated 09.06.2014 was issued to the Respondent and a detection bill of Rs.111,391/- for 4,845 units for the period February 2014 to July 2014 (6 months) was charged to the Respondent by the LESCO in September 2014. Learned counsel for the LESCO averred that the consumption recorded during the disputed period is much lesser than the consumption of the period after the dispute which confirms that the meter under dispute was tampered for theft of electricity. Learned counsel for LESCO defended the impugned decision dated 03.08.2018 and submitted that the NEPRA has rightly allowed the detection bill for three months after proper analysis of the consumption data and the impugned decision is in line with Chapter 9 of the Consumer Service Manual (CSM). Learned counsel for the LESCO further submitted that the impugned decision is well reasoned, speaking, and prayed for upholding the same. On





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the contrary, the Respondent appearing in person rebutted the stance of learned counsel for the LESCO and stated that on 07.06.2014, the electricity of the premises was disconnected for which he contacted SDO LESCO. As per Respondent, LESCO staff visited the premises at 9:30 pm on the same day and informed that the billing meter installed at the pole was missing and the electric supply was disconnected. According to the Respondent, an application was filed with the police regarding the stolen meter on .07.06.2014 and for registration of the FIR. It was revealed that the meter under dispute was under the custody of the SDO LESCO upon the inquiry. SDO LESCO asserted that the meter of the Respondent was tampered for the dishonest abstraction of electricity. The Respondent contended that the supply was restored and the same meter was reinstalled by the LESCO and later on a detection bill of Rs.111,391/- for 4,845 units for the period February 2014 to July 2014 (6 months) was charged by the LESCO in September 2014. The Respondent further contended that LESCO did not follow the procedure for theft of electricity as laid down in Chapter 9 of the CSM as neither the disputed meter was secured nor produced before the POI for verification of alleged tampering, hence there is no justification to charge the detection bill of Rs.111,391/- for 4,845 units for the period February 2014 to July 2014 (6 months) on account of the false and frivolous allegation levelled by LESCO. The Respondent opposed the impugned decision and emphasized that neither theft was established nor the provisions of Chapter 9 of the CSM were followed by the LESCO, hence the determination of the NEPRA Appellate Board for revision of the detection bill for three months based on future





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consumption is not based on merits and the same is liable to be withdrawn. The Respondent repeated the direction of the honorable Lahore High Court communicated vide the order dated 18.11.2021 and prayed for redetermination of the allegation of theft of electricity levelled by LESCO.

5. Arguments were heard and the record perused. Following are our observations:

- i. LESCO charged a detection bill of Rs.111,391/- for 4,845 units for the period February 2014 to July 2014 to the Respondent on the plea that he was involved in the illegal abstraction of electricity through tampering with the meter as noticed by the M&T LESCO on 09.06.2014. The Respondent assailed the above detection bill before POI.
- ii. We cannot deny the fact that the procedure as laid down in Chapter 9 of the CSM regarding dishonest abstraction of electricity was not followed by LESCO. Neither FIR for theft of electricity was registered against the Respondent nor was the disputed meter produced before the POI for checking. According to Clause 9.1c(3) of the CSM, the Respondent being General Supply Consumer i.e. A-I is liable to be billed maximum for three billing cycles, whereas in the instant case, the Respondent was charged continuously for six months i.e. February 2014 to July 2014 by the LESCO without soliciting the approval from Chief Executive Officer LESCO as required in CSM.
- iii. To further assess whether the consumption recorded by the billing meter of the Respondent during the disputed period February 2014 to July 2014 was correct,





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the consumption data of the Respondent is analyzed as per the criteria of Chapter 4 of the CSM in the below table:

Consumption of disputed month		Corresponding consumption of undisputed months of previous year		Average consumption of eleven months	
Month	Units	Month	Units	Month	Units
Feb-14	83	Feb-13	140	Mar-13	170
Mar-14	76	Mar-13	170	Apr-13	146
Apr-14	171	Apr-13	146	May-13	433
May-14	465	May-13	433	Jun-13	356
Jun-14	414	Jun-13	356	Jul-13	219
Jul-14	450	Jul-13	219	Aug-13	411
				Sep-13	619
				Oct-13	401
				Nov-13	259
				Dec-13	106
				Jan-14	112
Average	276	Average	244	Average	294

The above comparison of the consumption data indicates that the average consumption of the Respondent recorded @ 276 units/month during the disputed period February 2014 to July 2014 is higher than the average consumption recorded @ 244 units/month during the corresponding period of the preceding year i.e. 2013 and slightly lower than the average consumption recorded @ 294 units/month of the last eleven undisputed months. This confirms that the meter under dispute recorded correct consumption during the disputed period February 2014 to July 2014. Since the allegation of theft of electricity against the Respondent is not established, therefore there is no justification for charging any





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detection bill to the Respondent.

In the light of the aforesaid, the charging of the detection bill of Rs.111,391/- for 4,845 units for the period February 2014 to July 2014 by the LESCO to the Respondent is not justified and the same is declared as null and void as already decided by the Appellate Board vide the impugned decision dated 03.08.2018.

Similarly, the determination of the NEPRA Appellate Board in the impugned decision to the extent of revision of the detection for net 1,276 units for three months is recalled.

6. Foregoing in view, the appeal is dismissed.

Abid Hussain
Member/Advisor (CAD)

Nadir Ali Khoso
Convener/Senior Advisor (CAD)

Dated: 21.01.2022

