



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

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No. NEPRA/AB/Appeal/027/2022/441


August 10, 2023

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| 1. Naseer Hussain,
S/o. Muhammad Shafi,
R/o. Street No. 12, Mohalalh Lala Zar Colony,
Baradari Road, Lahore | 2. Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore |
| 3. Liaqat Ali Minhas,
Advocate High Court,
Minhas Law Company, Musa Mansion,
Third Floor, Office No. 10, 5-Fane
Road, Lahore | 4. Farrukh Mubarik,
Advocate High Court,
133-F, Raja Centre, Gulberg-II,
Lahore |
| 5. Sub Divisional Officer (Operation),
LESCO Ltd,
Jia Musa Sub Division,
Lahore | 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. Naseer Hussain Against the Decision Dated 21.12.2021 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 10.08.2023, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above


(Ikram Shakeel)
Deputy Director (AB)

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.027/POI-2022

Lahore Electric Supply Company Limited

.....Appellant

Versus

Naseer Hussain, S/o. Muhammad Shafi,
R/o. House Street No. 12, Mohalalh Lala Zar Colony,
Baradari Road, Lahore

.....Respondent

APPEAL U/S 38(3) OF REGULATION OF GENERATION, TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997

For the Appellant:

Mr. Liaqat Ali Minhas Advocate

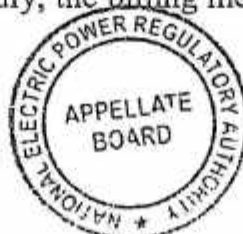
For the Respondent:

Mr. Naseer Hussain

DECISION

1. Through this decision, the appeal filed by the Lahore Electric Supply Company Limited (hereinafter referred to as the "Appellant") against the decision dated 21.12.2021 of the Provincial Office of Inspection, Lahore Region, Lahore (hereinafter referred to as the "POI") is being disposed of.
2. Briefly speaking, Mr. Naseer Hussain (hereinafter referred to as the "Respondent") is an industrial consumer of the Appellant bearing Ref No.24-11132-1538100-U with sanctioned load of 37 kW and the applicable Tariff category is B-2(b). The premises of the Respondent was checked by the Metering and Testing (M&T) team of the Appellant on 24.04.2019 and reportedly, the billing meter of the Respondent was found

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tampered (deliberately 43.77% slow) for the dishonest abstraction of electricity. Therefore, a detection bill amounting to Rs.1,392,029/- against 63,650 units for six months for the period from October 2018 to March 2019 was charged by the Appellant to the Respondent @ 43.77% slowness of the meter and added to the bill for April 2019.

3. Being aggrieved, the Respondent initially filed a civil suit against the above-mentioned detection bill, which was subsequently disposed of by the Honorable Civil Court vide order dated 02.03.2021 with the direction to the Respondent to approach the Provincial Office of Inspection, Lahore Region, Lahore (hereinafter referred to as the "POI"). Accordingly, the Respondent filed a complaint before the POI and assailed the above detection bill. The matter was disposed of by the POI vide the decision dated 21.12.2021, wherein the detection bill of Rs.1,392,029/- against 63,650 units for six months for the period from October 2018 to March 2019 was declared null and void. As per the POI decision, the Appellant was allowed to revise the bills w.e.f February 2019 and onwards as per consumption of corresponding months of the year or average consumption of the last eleven months, whichever is higher.
4. Subject appeal has been filed against the afore-referred decision dated 21.12.2021 of the POI (hereinafter referred to as the "impugned decision") by the Appellant before the NEPRA, wherein it is contended that the billing meter of the Respondent was found tampered (deliberately 43.77% slow) during the M&T checking dated 24.04.2019 for the dishonest abstraction of electricity, therefore a detection bill of Rs.1,392,029/- against 63,650 units for six months for the period from October 2018 to March 2019 was charged to the Respondent. As per the Appellant, the impugned decision is against the fact and



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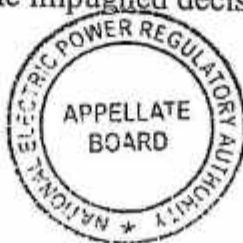
applicable law as the POI misconceived the real facts of the case and miserably failed to analyze the consumption data in true perspective and erred in holding that the above detection bill is null and void. The Appellant submitted that Clause 4.3.3(c)(iii) of the CSM-2021 is not applicable in the instant case, hence the impugned decision is not sustainable in the law. the above detection bill was debited to the Respondent after the completion of legal and departmental formalities, which is justified and payable by the Respondent. The Appellant stated that the POI failed to decide the matter within 90 days, which is violative of the provision of Section 26(6) of the Electricity Act 1910. The Appellant finally prayed to set aside the impugned decision.

5. Proceedings by the Appellate Board

Upon filing of the instant appeal, a Notice dated 25.03.2022 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days, which were filed on 19.05.2023. In his reply, the Respondent prayed for dismissal of the appeal on the grounds, *inter alia*, that the impugned decision being a comprehensive, well reason does not warrant any interference; that the Appellant miserably failed to pinpoint any illegality or jurisdictional defect, infirmity or passivity in the impugned decision; that the above detection bill was debited without any justification as the premises remained closed during the period from October 2018 to March 2019, therefore the Appellant is not entitled to get any relief from this forum; that the appeal filed before the NEPRA is barred by time as the same was forwarded in original by the Assistant Manager (O) Jia Musa sub division Lahore on 30.12.2021 through diary number 11029 with signature and stamp to XIEN Ravi Road division; and that the impugned decision is liable to be maintained.

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6. Hearing

6.1 Hearing in the matter of the subject Appeal was initially fixed for 24.11.2022 at NEPRA

Regional Office Lahore in which learned counsel along with other officials were present on behalf of the Appellant whereas the Respondent did not appear. Hence the hearing was adjourned till the next date. Accordingly, hearing of the appeal was again conducted at NEPRA Regional Office Lahore on 02.06.2023 in which both parties were present. At the outset of hearing, the Respondent raised the preliminary objection regarding limitation and stated that the copy of the impugned decision was received by the Appellant on 30.12.2021 as evident from the diary of AM(O), hence the appeal is time-barred and liable to be dismissed on this ground alone. On the other hand, learned counsel for the Appellant reiterated the same version as contained in memo of the appeal and contended that the billing meter of the Respondent was checked by the M&T team on 24.04.2019, wherein it was declared tampered for committing theft of electricity. Learned counsel for the Appellant further contended that the detection bill of Rs.1,392,029/- against 63,650 units for six months for the period from October 2018 to March 2019 was debited to the Respondent. Learned counsel for the Appellant defended the charging of the impugned detection bill and prayed that the same be declared as justified and payable by the Respondent.

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

7.1 Limitation for filing Appeal before the NEPRA:

Before going into the merits of the case, the preliminary objection of the Respondent regarding limitation needs to be addressed. It is observed that the copy of the impugned decision was obtained by the Appellant on 30.12.2021 and the appeal was filed before




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the NEPRA on 10.02.2022 after a lapse of 42 days. As per sub-section (3) of Section 38 of the NEPRA Act, any person aggrieved by the decision of the POI may prefer an appeal to NEPRA within thirty days of receipt of the order. Further, it is supplemented with Regulation 4 of the NEPRA (Procedure for filing Appeals) Regulations, 2012 (the "Appeal Procedure Regulations") which also states that the Appeal is required to be filed within 30 days of the receipt of the impugned decision of POI by the Appellant, however, a margin of 7 days' is provided in case of submission through registered post, and 3 days in case of submission of appeal through courier is given in the Appeal Procedure Regulations. Thus, the appeal was filed before the NEPRA after the prescribed time limit as envisaged in Section 38(3) of the NEPRA Act, and the same is liable to be dismissed being barred by time.

8. Foregoing in view, the appeal is dismissed.


Abid Hussain
Member


Muhammad Irfan-ul-Haq
Member


Naweed Illahi Sheikh
Convener

Dated: 10-08-2023

