



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/Appeal/072/POI/2022/ *003*


January 03, 2023

- | | |
|---|--|
| 1. Ehtesham-ul-Haq,
Prop: Automative Engineering Works,
Situated at 17-S, Industrial Estate,
Kot Lakhpat, Lahore | 2. Chief Executive Officer,
LESCO Ltd,
22-A, Queens Road,
Lahore |
| 3. Mirz Fazal Elahi Baig,
Advocate High Court,
House No. 418, Block No. 3,
Sector C/1, Umar Chowk,
Township, Lahore | 4. Sub Divisional Officer (Operation),
LESCO Ltd,
Green Town Sub Division,
Lahore |
| 5. POI/Electric Inspector,
Lahore Region, Energy Department,
Govt. of Punjab, Block No. 1,
Irrigation Complex, Canal Bank,
Dharampura, Lahore | |

Subject: **Appeal Titled LESCO Vs. Ehtesham-ul-Haq Against the Decision Dated 31.12.2021 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 03.01.2023, 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. Additional Director (IT) –for uploading the decision on NEPRA website



National Electric Power Regulatory Authority

Before The Appellate Board

In the matter of

Appeal No.072/POI-2022

Lahore Electric Supply Company Limited

.....Appellant

Versus

Ehtesham ul Haq, Prop Automotive Engineering Works,
Situating at 17-S, Industrial Estate, Kot Lakhpat, Lahore

.....Respondent

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

For the Appellant:

Mr. Muhammad Azeem Butt SDO

For the Respondent:

Mr. Masood Ahmad

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 31.12.2021 of the Provincial Office of Inspection, Lahore Region, Lahore (hereinafter referred to as the "POI") is being disposed of.
2. Briefly speaking, Mr. Ehtesham ul Haq (hereinafter referred to as the "Respondent") is an industrial consumer of the Appellant bearing Ref No.24-11213-100800-U with sanctioned load of 60kW and the applicable Tariff category is B-2(b). The Appellant has claimed that the TOU billing meter of the Respondent was found 33% slow due to one phase being dead and the backup meter was found working within





National Electric Power Regulatory Authority

specified limits during the Standing Committee checking dated 25.09.2019. During another checking dated 18.06.2021 of the Appellant, one phase of the billing meter was found dead stop, whereas, two phases of the backup meter were found dead stop. The multiplication Factor (M.F) was raised from 20 to 30 by the Appellant due to 33% slowness of the billing meter w.e.f. June 2021 and onwards. Thereafter, a detection bill amounting to Rs. 840,250/- against 39,000 units for 25.09.2019 to 18.06.2021 was debited to the Respondent due to the difference in readings between the TOU billing and backup meters and added to the bill for July 2021.

3. Being aggrieved, the Respondent assailed the above detection bill before the POI vide an application on 27.08.2021. The metering equipment of the Respondent was checked by POI on 23.12.2021 in presence of both parties in which the TOU billing and backup meters were witnessed 33% slow due to one dead phase and 66% slow due to two phases dead respectively. The complaint of the Respondent was disposed of vide the POI decision dated 31.12.2021, wherein the detection bill of Rs.840,250/- against 39,000 units debited in July 2021 due to the difference of readings between the TOU billing and backup meters was set aside. However, the Appellant was directed to charge the revised bills w.e.f. April 2021 and onwards after adding 33% slowness of the billing meter.
 4. Through the instant appeal, the afore-referred decision dated 31.12.2021 of the POI has been impugned by the Appellant before the NEPRA. In its appeal, the Appellant objected to the maintainability of the impugned decision, *inter alia*, on the following grounds, (1) the detection bill of Rs.840,250/- for 39,000 units was charged to the Respondent in July 2021 due to difference of reading between billing and backup meters; (2) both the billing and backup meters were found 33% slow and 66% slow
- Appeal No.072/POI-2022





National Electric Power Regulatory Authority

respectively during checking on 18.06.2021 which was subsequently confirmed by POI during joint checking on 13.12.2021; (3) the Respondent never paid the actual bills due to the above discrepancy in the metering equipment which justifies the charging of above detection bill; (4) the POI did not consider the previous consumption data and arbitrarily decided the matter which is not warranted by law; (5) the impugned decision is non-speaking and same is liable to be struck down and the above detection bill be allowed to meet the ends of justice.

5. Proceedings by the Appellate Board

- 5.1 Upon filing of the instant appeal, a notice dated 23.06.2022 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days. The Respondent submitted reply to the Appeal on 27.07.2022, wherein he objected to the maintainability of the appeal with the grounds that POI vide letter dated 31.12.2021 informed parties about the pronouncement of impugned decision as well as, a copy of the same was sent to the Appellant by them vide letter dated 12.01.2022 for further necessary action. Hence the delay on the part of the Appellant is deliberate and the appeal be dismissed being time-barred.

6. Hearing

- 6.1 Hearing in the matter of the subject Appeal was initially fixed for 29.09.2022 at Lahore and accordingly, the notices dated 21.09.2022 were sent to the parties (i.e. the Appellant and the Respondent) to attend the hearing. As per schedule, hearing of the appeal was conducted at Lahore on 29.09.2022, which was attended by learned counsel for the Appellant and the Respondent. Learned counsel for the Appellant





National Electric Power Regulatory Authority

requested for adjournment of the case to prepare for the case which was opposed by the Respondent. In view of the above, the adjournment request was allowed till the next date.

- 6.2 After issuing notices dated 07.10.2022 to both parties, hearing of the subject appeal was again fixed at NEPRA Regional Office Lahore on 13.10.2022 which was attended by both parties. At the beginning of the hearing, the representative for the Respondent reiterated his objection regarding limitation and averred that copy of the impugned decision was intentionally received late by the Appellant despite of acknowledgment through a letter dated 31.12.2021 as well as informed by us vide letter dated 12.01.2022. He submitted that the appeal be dismissed on the sole ground of limitation. In response, SDO of the Appellant repudiated the contention of the Respondent regarding limitation and informed that copy of the impugned decision dated 31.12.2021 was obtained on 31.01.2022 and the appeal was preferred before NEPRA on 18.02.2022 within 30 days of prescribed limit as per Section 38(3) of the NEPRA Act. SDO of the Appellant repeated the same grounds as given in the memo of the appeal, defended the charging of detection bill of Rs.840,250/- for 39,000 units to the Respondent, and prayed for setting aside the impugned decision being contrary to the facts of the case.
- 6.3 The Respondent supported the impugned decision and argued that POI decided the matter on facts and as per applicable provisions of law. He finally prayed for upholding the impugned decision.





National Electric Power Regulatory Authority

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

7.1 Limitation for filing Appeal:

As per sub-section (3) of Section 38 of the NEPRA Act 1997, any person aggrieved by the decision of the POI may, preferred an appeal to NEPRA within thirty days of receipt of 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. The Appellant produced a copy of the impugned decision dated 31.12.2021 received from the office of POI on 31.01.2022. Counting 30 days from the date of said receiving, the appeal filed on 18.02.2022 before the NEPRA is within the time limit as prescribed in the above-referred Regulations. Hence the objection of the Respondent in this regard has no force and is rejected.

7.2 Coming to the basic dispute, the record presented before us shows that the Appellant conducted two checkings of the metering equipment of the Respondent as per the following details.

S#	Inspection dated	conducted by	Discrepancies observed
1	25.09.2019	M&T	* impugned meter was found 33% slow with one dead phase. * Backup meter was found working within BSS limits. * As above in the first checking on 25.09.2019, the billing meter was found 33% slow with one dead phase. However, no action was taken to replace the billing meter
2	18.06.2021	M&T	* impugned meter was found 33% slow with one dead phase. * Backup meter was found 66% slow with two dead phases.





National Electric Power Regulatory Authority

- 7.3 The second checking was carried out by the M&T team of the Appellant on 18.06.2021 i.e. after 21 months of the first checking, whereby the impugned billing meter was again found 33% slow with one dead phase, whereas, the backup meter was also found 66% slow due to two dead phases. Thereupon, the Appellant issued a detection bill amounting to Rs. 840,250/- for 39,000 units of unclaimed energy from 25.09.2019 to 18.06.2021 to the Respondent based on the difference in readings between the billing and backup meters.
- 7.4 The above facts show serious lapses on the part of the Appellant in the discharge of their duties after having found 33% slowness in the impugned billing meter on 25.09.2019. As noted above, the backup meter is used to record consumption in case of defect in the billing meter and also as a check meter to check the accuracy of the billing meter in case of any doubt; therefore, the Appellant should have immediately replace the billing meter so as not to miss to record the correct consumption. However, the Appellant failed to do so, solely owing to the negligence of its relevant staff. Despite having found the billing meter 33% slow during the period from September 2019 to May 2021, the Appellant kept on raising the bills on the basis of the reading of the impugned billing meter which were duly paid by the Respondent.
- 7.5 The above facts show extreme negligence and carelessness on the part of the concerned officials of the Appellant. The Respondent having an industrial connection has high monthly consumption, which is a handsome source of revenue for the Appellant. The billing and recovery from such consumers require vigilance and carefulness to ensure full recovery against the consumed energy. Less recovery from such consumers, for reasons whatsoever, causes heavy loss to the distribution company. In realization of this fact, the CSM has made it compulsory that the connections having a load over 20 kW are to be recorded by the senior officers of
- Appeal No.072/POI-2022





National Electric Power Regulatory Authority

the distribution company. In the instant case, despite having noticed the faults in the impugned billing meter on 25.09.2019, the Appellant, instead of taking corrective measures, as prescribed in the CSM, continued to bill the Respondent for one year and nine months till the second checking dated 18.06.2021 of their M&T team. If the Appellant's claim regarding the 33% slowness in the impugned billing meter since the first checking dated 25.09.2019 is correct, then the negligence of its relevant officials to replace the billing meter in time has caused revenue loss to the company for not making timely recoveries. Such negligence warrants immediate inquiries for fixing responsibility and taking strict disciplinary action against responsible officers/staff of the Appellant.

7.6 Notwithstanding the negligence of its relevant officers and their failure to replace the billing meter declared faulty by its M&T department twice i.e. 25.09.2019 and 18.06.2021, the Appellant has issued a detection bill of Rs. 840,250/- for 39,000 units to the Respondent. Here, it needs to be realized that supply of electricity by the Appellant to its consumers is not a unilateral affair, rather it is administered under a standard contract mutually agreed between the Appellant and the Consumer which refers to CSM for the duties and rights of both parties under the contract. Under the CSM, the Distribution Company is responsible to take meter readings following the prescribed manner for different consumer categories, issue the bill prepared in accordance with the applicable tariff and deliver the same to the Consumer in timely manner. Whereas, the Consumer is responsible to pay the bill within the given time period. In case of a defect in the meter, Clause 4.4(b) of CSM-2010 which was in the field till December 2020, required the Distribution Company to replace the defective meter with the correct one immediately upon discovery of the fault. Similarly, Clause 4.4(e) of the CSM-2010 provided the methodology for charging the consumer on the Appeal No.072/POI-2022





National Electric Power Regulatory Authority

basis of the slowness of the billing meter for not more than two billing cycles. Further, Clause 4.3.1 of CSM-2021, presently in the field, also requires the Appellant to replace the defective/slow metering installation immediately within two billing cycles and in case, the meters are not available, the Appellant is allowed to charge the bills with enhanced MF for maximum of two months in case of a slow meter. The intent of the above provision of CSM-2010 and CSM-2021 is quite clear that the Distribution Company has to be vigilant and replace the defective meter within two months. In case of delay beyond two months in replacing the defective meters, where the defect is not attributable to any act of the consumer, the onus is on DISCO and the consumer is not liable to be charged for any loss incurred due to such delay beyond two months.

7.7 In this case, the Appellant should have replaced the defective billing meter within two months of the discovery of the defect. However, the Appellant continued to send bills to the Respondent without replacing the impugned metering equipment. On his part, the Respondent kept on fulfilling his responsibility under the contract to pay the bill, issued by the Appellant on monthly basis. As such the Respondent never defaulted to fulfill his duty under the supply contract, therefore, he cannot be made liable to pay the so-called detection bill for recovery of loss, if any, which incurred merely due to negligence of Appellant and its failure to fulfill its duty under the contract. In view of all the above facts and the applicable provisions of CSM, the detection bill of Rs.840,250/- for 39,000 units issued by the Appellant is unjustified and illegal.

7.8 The CSM-2021 allows recovery from the Respondent for maximum of two months period. As such, the detection bill of Rs.840,250/- for 39,000 units charged by the Appellant covering the period from 25.09.2019 to 18.06.2021 to the Respondent is

Appeal No.072/POI-2022




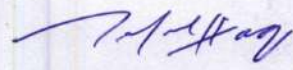



National Electric Power Regulatory Authority

unjustified and the same is declared null and void.

- 7.9 The Appellant observed 33% slowness in the billing meter during the checking dated 18.06.2021, the discrepancy noted thereof was later confirmed during the joint inspection of the metering equipment of the Respondent conducted by the POI on 23.12.2021 and the POI joint checking report was signed by both parties without raising any objections. Therefore, as per Clause 4.3.3(c)(ii) of the CSM-2021, the Respondent is liable to be debited the detection bill for two months i.e. April 2021 and May 2021 after adding 33% slowness of the meter, which in the instant case was allowed by the POI.
- 7.10 The billing account of the Respondent be overhauled after adjusting payments made against the above detection bill.
8. Foregoing in view, we do not find any reason to interfere with the impugned decision, the same is upheld and consequently the appeal is dismissed.


Syed Zavar Haider
Member


Muhammad Irfan-ul-Haq
Member


Abid Hussain
Convener

Dated: 03-01-2023

