



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

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No. NEPRA/AB/Appeal/102/2021/ 439


August 10, 2023

1. Mirza Fayyaz Ahmad,  
S/o. Ahmed Din,  
Star Mughal Rice Mills,  
People Pahar Road, Depalpur,  
District Okara
2. Chief Executive Officer  
LESCO Ltd,  
22-A, Queens Road,  
Lahore
3. Rai Abid Ali Kharal,  
Advocate High Court,  
Elahi Law Associates, Office No. 25,  
3<sup>rd</sup> Floor, Ali Plaza, 3-Mozang Road,  
Lahore
4. Assistant Manager (Operation),  
LESCO Ltd,  
Depalpur Sub Division,  
Depalpur
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. Mirza Fayyaz Ahmad Against the Decision Dated 25.06.2020 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 The Appellate Board

In the matter of

### Appeal No.102/POI-2021

Lahore Electric Supply Company Limited

.....Appellant

Versus

Mirza Fayyaz Ahmed S/o Ahmed Din,  
Star Mughal Rice Mills, People Pahar Road,  
Depalpur District Okara

.....Respondent

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

For the Appellant:

Rai Abid Kharal Advocate  
Malik Ejaz Ahmed SDO

For the Respondent:

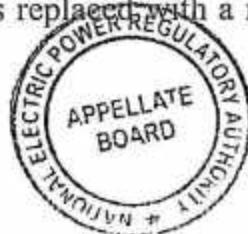
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### DECISION

1. Through this decision, the appeal filed by the Lahore Electric Supply Company Limited (hereinafter referred to as the "Appellant") against the decision dated 25.06.2020 of the Provincial Office of Inspection, Lahore Region, Lahore (hereinafter referred to as the "POI") is being disposed of.
2. Brief facts of the case are that Mirza Fayyaz Ahmed (hereinafter referred to as the "Respondent") is an industrial consumer of the Appellant bearing Ref No.27-11451-2211503 with sanctioned load of 250 kW and the applicable Tariff category is B-2(b). Reportedly, the billing meter of the Respondent was found defective with erratic behavior, hence it was replaced with a new meter vide meter change order

Appeal No.102/POI-2021

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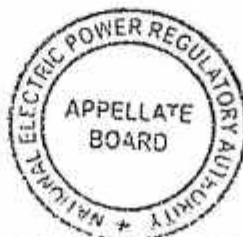
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## National Electric Power Regulatory Authority

(the "MCO") dated 24.12.2014. Subsequently, the Appellant debited a detection bill of Rs.452,884/- for seven months for the period from June 2014 to December 2014 to the Respondent in July 2015.

3. Being aggrieved with the above-mentioned actions of the Appellant, the Respondent initially approached the Civil Court Depalpur and challenged the above detection bill. Later on, the Respondent withdrew the civil suit due to lack of jurisdiction and assailed the above detection bill before the POI vide complaint dated 13.02.2019, which was disposed of by the POI vide the decision dated 25.06.2020, wherein the detection bill of Rs.452,884/- for seven months for the period from June 2014 to December 2014 was cancelled. The POI directed the Appellant to revise the bills from April 2014 to December 2014 as per Clause 4.4(c) of the Consumer Service Manual 2010 (the "CSM-2010").
4. Through the instant appeal, the afore-referred decision dated 25.06.2020 of the POI has been impugned by the Appellant before the NEPRA. In its appeal, the Appellant objected the maintainability of the impugned decision, *inter alia*, on the main grounds that the POI did not apply his independent and judicious mind while passing the impugned decision; that the impugned decision was based on illegal assumptions and presumptions; that the POI has not thrashed out the consisting reasons of the Appellant in the matter and passed the illegal order; that the POI failed to decide the matter within 90 days as envisaged in Section 26(6) of the Electricity Act 1910; and that the impugned decision is liable to be set aside.
5. **Proceedings by the Appellate Board**  
Upon filing of the instant appeal, a notice dated 22.10.2021 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days,



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which however were not filed.

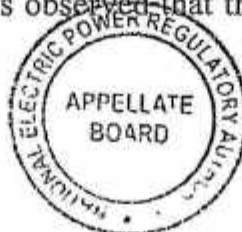
### 6. Hearing

6.1 Hearing of the appeal was initially conducted at Lahore on 13.10.2022, which however was adjourned till the next date due to the absence of the Respondent. Hearing of the appeal was again conducted at NEPRA Regional Office Lahore on 02.06.2023, which was attended by counsel for the Appellant, whereas again no one entered appearance for the Respondent. Learned counsel for the Appellant reiterated the same version as contained in the memo of the appeal and contended that the billing meter of the Respondent remained defective during the period from June 2014 to December 2014; hence it was replaced with a new meter on 24.12.2014. Learned counsel for the Appellant further contended that the detection bill of Rs.452,884/- for seven months for the period from June 2014 to December 2014 was charged to the Respondent. He prayed for setting aside the impugned decision in the best interest of justice and to allow the above detection bill. During the hearing, the Appellant was directed to submit the documents i.e. meter checking report, consumption data, detection proforma, meter change order and notice, etc. within seven working days.

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

#### 7.1 Objection regarding the time limit for POI for deciding the complaint

As per the record, the Respondent filed his complaint before the POI on 13.02.2019 under Section 38 of the NEPRA Act. POI pronounced its decision on 25.06.2020 i.e. after 498 days of receipt of the complaint. The Appellant has objected that the POI was bound to decide the matter within 90 days under Section 26(6) of the Electricity Act, 1910. In this regard, it is observed that the forum of POI has been established



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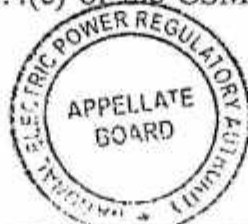
under Section 38 of the NEPRA Act which does not put a restriction of 90 days on POI to decide complaints. Section 38 of the NEPRA Act overrides provisions of the Electricity Act, of 1910. Reliance in this regard is placed on the judgments of the honorable Lahore High Court Lahore reported in 2017 PLJ 627 Lahore and 2017 PLJ 309 Lahore. Keeping in view the overriding effect of the NEPRA Act on the Electricity Act, 1910, and the above-referred decisions of the honorable High Court, the objection of the Appellant is dismissed.

**7.2 Detection bill of Rs.452,884/- for seven months for the period from June 2014 to December 2014**

The impugned meter of the Respondent was found defective and it was replaced with a new meter on 24.12.2014. Subsequently, the Appellant debited a detection bill of Rs.452,884/- for seven months for the period from June 2014 to December 2014 with the plea that actual consumption was not recorded by the impugned meter due to erratic behavior.

7.3 In its appeal, the Appellant prayed to set aside the impugned decision and allow the above detection bill. In order to reach just conclusion, the Appellant was directed to submit the documents i.e. MCO, meter checking report, consumption data, detection proforma, etc. within seven days, which however were not submitted by the Appellant. This shows gross negligence on the part of the Appellant and lack of interest to defend the charging of the impugned detection bill. Without any verifiable evidence, this forum is of the firm view that the recovery of the detection bill of Rs.452,884/- for seven months for the period from June 2014 to December 2014 from the Respondent is unjustified and the abovementioned detection bill is set aside.

7.4 In the instant case, Clause 4.4(e) of the CSM-2010 being relevant is reproduced





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below:


- (e) *The charging of consumers on the basis of defective code, where the meter has become defective and is not recording the actual consumption will not be more than two billing cycles. The basis of charging will be 100% of the consumption recorded in the same month of the previous year or the average consumption of the last 11 months whichever is higher. Only the Authorized employee of LESCO will have the power to declare a meter defective. However, the consumer has a right to challenge the defective status of the energy meter and the LESCO will get the meter checked at the site with a check meter or a rotary sub-standard or digital power analyzer accompanied by an engineer of the metering and testing laboratory free of cost."*


7.5 Above-referred clause of the CSM-2010 allows the Appellant to charge the bills on the DEF-EST code. Hence the impugned decision of the POI for revision of the bills from April 2014 to December 2014 as per the foregoing clause of the CSM-2010 is correct and the same is maintained.

7.6 The billing account of the Respondent be overhauled after adjusting payments made against the above detection bills.

8. Foregoing in view, the appeal is dismissed.

  
Abid Hussain  
Member

  
Naweed Illahi Sheikh  
Convener

  
Muhammad Irfan-ul-Haq  
Member

Dated: 10-08-2023

