



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

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No. NEPRA/Appeal/101/2023/ 080

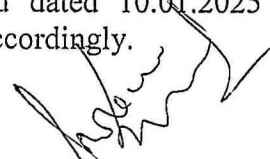
January 10, 2025

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| 1. Muhammad Rafiq Aslam,
S/o. Din Muhammad,
R/o. Harikay Naul,
Post Office Khudian Khas,
Tehsil & District Kasur
Cell No. 0308-4054632 | 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
Cell No. 0300-4350899 | 4. Assistant Manager (Operation),
LESCO Ltd,
Noor Pur Sub Division,
Kasur |
| 5. POI/Electric Inspector,
Lahore Region-II,
Energy Department, Govt. of Punjab,
342-B, Near Allah Hoo Chowk,
Johar Town, Lahore
Phone No. 042-99333968 | |

Subject: Appeal No.101/2023 (LESCO Vs. Muhammad Rafiq Aslam) Against the Decision Dated 03.04.2023 of the Provincial Office of Inspection to Government of the Punjab Lahore Region-II, Lahore

Please find enclosed herewith the decision of the Appellate Board dated 10.01.2025 (04 pages), regarding the subject matter, for information and necessary action, accordingly.

Encl: As Above


(Ikram Shakeel)
Deputy Director
Appellate Board

Forwarded for information please.

1. Director (IT) –for uploading the decision of the Appellate Board on the NEPRA website



National Electric Power Regulatory Authority

Before The Appellate Board

In the matter of

Appeal No.101/POI-2023

Lahore Electric Supply Company Limited

.....Appellant

Versus

Muhammad Rafiq Aslam S/o. Din Muhammad,
R/o. Harkay Naul, Post Office, Khudian Khas,
Tehsil and District Kasur

.....Respondent

APPEAL UNDER SECTION 38(3) OF THE REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997

For the Appellant:

Mr. Saeed Ahmed Bhatti Advocate

For the Respondent:

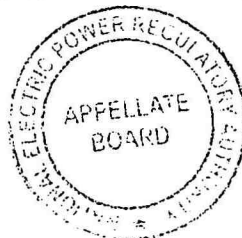
Mr. Maqsood Ahmed Khan Advocate

DECISION

1. As per the facts of the case, Muhammad Rafiq Aslam (hereinafter referred to as the "Respondent") is an agricultural consumer of Lahore Electric Supply Company Limited (hereinafter referred to as the "Appellant") bearing Ref No.45-11723-2206804-R having sanctioned load of 5.79 kW and the applicable tariff category is D-2(b). The Appellant debited the adjustment bill of Rs.109,298/- to the Respondent in February 2015.
2. Being aggrieved, the Respondent initially challenged the impugned bill before the Civil Court Kasur on 21.03.2015. After litigation in different courts, the Respondent finally withdrew Civil Revision No. 64039/20 on 08.12.2020 to avail remedy from the POI. Subsequently, the Respondent filed an application before the Provincial Office of Inspection, Lahore. Region-II, Lahore (hereinafter referred to as the "POI") on 08.03.2021 and challenged the adjustment bill of Rs.109,298/- added to the bill for February 2015. The complaint of the Respondent was disposed of by the POI vide decision dated 03.04.2023, wherein it was held that the impugned bill of Rs.109,298/- is void, unjustified, and of no legal effect.
3. Being dissatisfied, the Appellant has filed the instant appeal before NEPRA and assailed the decision dated 03.04.2023 of the POI (hereinafter referred to as the "impugned decision"). In its appeal, the Appellant opposed the maintainability of the impugned decision, *inter-alia*, on the following grounds that the impugned decision is against the law and facts of the case; that

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Mr. SA



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the POI misconceived and misconstrued the real facts of the case and erred in declaring the impugned adjustment bill of Rs.109,298/- as null and void; that no detection bill was charged to the Respondent as evident from the billing history from the year 2015 to 2021; that the application of the Respondent is hopeless time barred being filed after lapse 3 years; that the POI failed to decide the matter within 90 days, which is violation of Section 26(6) of the Electricity Act 1910 and that the impugned decision is liable to be set aside.

4. Notice dated 18.10.2023 of the appeal was issued to the Respondent for filing reply/para-wise comment, which was filed on 01.03.2024. In the reply, the Respondent rebutted the version of the Appellant regarding charging the impugned adjustment bill of Rs.109,298/- and contended that the POI after correct perusal of the record, rightly cancelled the impugned bill. The Respondent supported the impugned decision and prayed for the dismissal of the appeal.

5. **Hearing**

- 5.1 Hearing of the appeal was conducted at NEPRA Regional Office Lahore on 13.09.2024, wherein learned counsels appeared for both the Appellant and the Respondent. Learned counsel for the Appellant contended that the impugned adjustment bill of Rs.109,298/- was added to the bill for February 2015 due to partial payment of the Respondent and as such no detection bill was charged to the Respondent. Learned counsel for the Appellant further contended that the Respondent filed a complaint before the POI after a lapse of three years, hence the claim of the Respondent is hopelessly time-barred and the same should be decided before going into merits of the case. Learned counsel for the Appellant prayed that the impugned decision is unjustified and liable to be struck down.

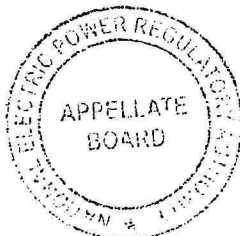
- 5.2 On the contrary, learned counsel for the Respondent repudiated the version of the Appellant regarding the impugned bill of Rs.109,298/- and argued that the above-said bill was debited by the Appellant with malafide intention, which was initially challenged before the Civil Court Kasur and after litigation at different courts, the POI was approached being the competent forum in the instant case. Learned counsel for the Respondent finally prayed for dismissal of the appeal being devoid of merits.

6. Having heard the arguments and record perused. Following are our observations:

6.1 **Objection of the Appellant regarding the time-barred complaint before the POI:**

The Respondent initially filed a civil suit before the Civil Court, Kasur against the adjustment bill of Rs.109,298/- added to the bill for February 2015. After litigation at different courts, the Respondent withdrew the Civil Revision on 08.12.2020 to approach the POI for redressal of the grievance. Accordingly, the Respondent filed a complaint before the POI on 08.03.2021 and challenged the above bill. Thus, the time consumed at the wrong forum is excluded as the

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Respondent availed the remedy by filing the complaint before the POI within three years from the date of order of the honorable Court i.e. 08.12.2020 as envisaged in Article 181 of the Limitation Act 1908. Even otherwise, the POI is a competent forum to adjudicate the instant dispute of billing raised due to the theft of electricity through tampering with the meter. Reliance in this regard is placed on the judgment of the Honorable Supreme Court of Pakistan reported in PLD 2012 SC 371. Therefore the objection of the Appellant in this regard bears no force and is overruled.

6.2 Objection regarding the time limit for POI

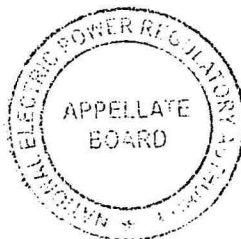
While addressing the objection of the Appellant regarding the jurisdiction of the POI, the Respondent filed his complaint before the POI on 08.03.2021 under Section 38 of the NEPRA Act. POI pronounced its decision on 03.04.2023 i.e. after ninety (90) days of receipt of the complaint. The Appellant has 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 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, 1910. Reliance in this regard is placed on the judgments of the honorable Lahore High Court Lahore reported in *PLJ 2017-Lahore-627* and *PLJ-2017-Lahore-309*. The relevant excerpt of the above judgments is reproduced below:

"PLJ 2017-Lahore-627:

Regulation of Generation Transmission and Distribution of Electric Power Act, 1997---838(3)--Electricity Act, 1910, S. 26(6)--Constitution of Pakistan, 1973. Art. 199--Constitutional petition--Consumer of LESCO.. The sanctioned load was differed with the connected load--Determine the difference of charges of the previous period of misuse to be recovered from the consumer--Validity--No disconnection or penal action was taken against petitioner rather only difference of charges between sanctioned load and load actually used by petitioner was charged, hence Clause 7.5 of Consumer Service Manual has not been violated-Issuance of detection bill itself amounts to notice and petitioner had also availed remedy before POI against determination--Order passed by POI was beyond 90 days--Order was not passed by the respondent under Section 26(6) of the Act as Electric Inspector rather the order was passed by him in the capacity of POI under Section 38(3) of Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (NEPRA Act), therefore, argument has no substance.

PLJ-2017-Lahore-309:

The learned counsel for the petitioner submitted that there was an outer time limit of 90 days for a decision by the Electric Inspector which has not been observed and which rendered the decision of the Electric Inspector a nullity. This submission of the learned counsel has been dealt with by the Appellate Board and in any case, is fallacious- The short and simple answer rendered by the Appellate Board was that the decision was made





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under Section 38 of the Act, 1997 and not in terms of Section 26 of the Electricity Act, 1910. Therefore, the outer time limit of 90 days was inapplicable.”

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.

6.3 Adjustment bill of Rs.109,298/- added to the bill for February 2015:

The Appellant included the adjustment bill of Rs.109,298/- in February 2015, which was cancelled by the POI against which the Appellant filed instant appeal before the NEPRA. To reach just conclusion, the billing statement as provided by the Appellant is reproduced below:

Month	Status	Opening Balance	Current bill	Detection Amount	FPA	Total Adjustment
Feb-15	Active	23837	10526	109298	0	143660

As evident from the above table, the Appellant debited a detection bill of Rs.109,298/- to the Respondent in February 2015. However, the Appellant did not provide any document i.e. checking report, detection proforma, etc before the POI as well as before the NEPRA to substantiate their stance. In this regard, four opportunities of hearings were provided to the Appellant and NEPRA vide order dated 20.06.2024 directed the Appellant to submit the detail of impugned arrears of Rs.109,298/- in the next hearing. Lastly, the hearing was held on 13.09.2024, wherein both parties were present. This forum enquired from the Appellant with regard to the disputed arrears of Rs.109,298/-, however, the Appellant neither gave just reasoning nor submitted any document to support their contention with regard to the above detection bill.

7. Under these circumstances, we do not find any reason to interfere with the impugned decision for cancellation of the impugned detection bill, the same is upheld and the appeal is dismissed.

Abid Hussain
Member/Advisor (CAD)

Muhammad Irfan-ul-Haq
Member/ALA (Lic.)

Naweed Illahi Sheikh
Convener/DG (CAD)

Dated: 10-01-2025

