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

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No. NEPRA/AB/Appeal/085/2021/ 443

August 11, 2023

1. Dr. Masud Asghar,
Basic Health Unit, Bhamba Kalan,
Tehsil Kot Radha Kishan,
District Kasur

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. Assistant Manager (Operation),
LESCO Ltd,
Raiwind 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. Dr. Masud Asghar Against the Decision Dated 24.02.2021 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 11.08.2023 (06 pages), 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. 085/POI-2021

Lahore Electric Supply Company Limited .....Appellant

Versus

Dr. Masud Asghar, Basic Health Unit, Bhamba Kalan,
Tehsil Kot Radha Kishan, District Kasur .....Respondent

APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 24.02.2021 PASSED BY THE PROVINCIAL OFFICE OF INSPECTION LAHORE REGION, LAHORE

For the Appellant:
Mr. Saeed Ahmed Bhatti Advocate
Mr. M. Usman Yaqoob

For the Respondent:
Dr. Masud Asghar

DECISION

1. Briefly speaking, Dr. Masud Asghar (hereinafter referred to as the "Respondent") is a domestic consumer of Lahore Electric Supply Company Limited (hereinafter referred to as the "Appellant") bearing Ref No.15-11223-1110400-U having sanctioned load of 2kW under the A-1(a) tariff category. Reportedly, the billing meter of the Respondent became defective in May 2020, hence it was replaced with a new meter with the final reading index noted as 26,867 by the Appellant on 18.06.2020. As per Appellant, 11,755 units were found uncharged being the difference between the final reading of the removed meter and units already charged till May 2020. Therefore a detection bill of Rs.317,767/- for 11,755 units was debited to the Respondent by the Appellant and added to the bill for July 2020.

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2. Being aggrieved, the Respondent approached the Provincial Office of Inspection, Lahore Region, Lahore (hereinafter referred to as the "POI") on 27.08.2020 against the charging of the above detection bill. The POI vide the decision dated 24.02.2021 set aside the detection bill of Rs.317,767/- for 11,755 units and directed the Appellant to overhaul the billing account of the Respondent after adjusting payments made against the above detection bill.

3. Being dissatisfied, the Appellant has filed the instant appeal before the NEPRA against the decision dated 24.02.2021 of POI (hereinafter referred to as the "impugned decision"), wherein it is contended that the old meter of the Respondent became defective in May 2020, hence it was replaced with a new meter on 18.06.2020. The Appellant further contended that 11,755 units were found uncharged based on the difference in readings between the last reading already charged and the retrieved data of the removed meter. As per the Appellant, the detection bill of Rs.317,767/- for 11,755 units was charged to the Respondent in July 2020 on account of pending units. According to the Appellant, the above detection bill was proved through authentic documents but the POI erred in declaring the same as null and void without perusing the case in letter and spirit. The Appellant submitted that the POI did not decide the matter within ninety (90) days) from the date of receipt of the complaint as envisaged in Section 26(6) of the Electricity Act, 1910, hence the impugned decision becomes void, ab initio, without lawful authority. The Appellant prayed for setting aside the impugned decision.

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4. **Proceedings by the Appellate Board**

Upon filing of the instant appeal, a Notice dated 17.08.2021 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days, which however were not filed.

5. **Hearing**

5.1 Hearing in the matter of the subject Appeal was initially fixed for 13.10.2022 at Lahore in which no one appeared for the Respondent. In order to provide an opportunity of hearing to the Respondent, the case was adjourned.

5.2 Hearing of the Appeal was again conducted at NEPRA Regional Office Lahore on 02.06.2023, wherein both parties were present. During the hearing, learned counsel for the Appellant reiterated the same arguments as given in memo of the appeal and defended the charging of the detection bill of Rs.317,767/- for 11,755 units to the Respondent with the plea that the said detection bill was charged on account of pending units. He averred that the billing of the Respondent was carried out on assumption basis due to a defective meter. Learned counsel for the Appellant prayed to allow the above-mentioned detection bill being justified.

5.3 The Respondent appearing in person rebutted the version of the Appellant and stated that the impugned meter was burnt in the year 2020, which was subsequently removed by the Appellant in June 2020 and the above detection bill was debited by the Appellant. The Respondent defended the impugned decision and prayed for upholding the same.

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6. Arguments heard and the record examined. Following are our observations:

6.1 Objection regarding the time limit for POI

As per the record, the Respondent filed his complaint before the POI on 27.08.2020 under Section 38 of the NEPRA Act. The POI pronounced its decision on 24.02.2021 i.e. after 181 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 NEPRA 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 the 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. 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.

6.2 Detection bill amounting to Rs.317,767/- for the cost of 11,755 units debited to the Respondent

The record presented before us shows that the impugned meter of the Respondent became defective in May 2020, hence it was replaced with a new meter by the Appellant on 18.06.2020. Subsequently, a detection bill of Rs.317,767/- for 11,755 units was debited to the Respondent by the Appellant being the difference between the final reading of the removed meter and units already charged till May 2020 and added to the bill for July 2020.

6.3 The matter, therefore, needs to be examined in light of the applicable law to decide the fate of the detection bill of the Appellant. The services provided by the DISCOs to

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their Consumers are administered under the Consumer Service Manual 2010 (the "CSM-2010") approved by the NEPRA.

6.4 Facts given as above, the Appellant took readings of the Respondent since the installation of the impugned meter till May 2020 but no discrepancy of defectiveness of the impugned meter was pointed out by the meter reader of the Appellant before the alleged checking. This shows extreme negligence and carelessness on the part of the concerned officials of the Appellant. The Appellant is required to be vigilant and careful regarding the accuracy of the impugned meter of the Respondent to ensure full recovery against the consumed energy.

6.5 Notwithstanding the negligence of its relevant officers and their failure to point out the defectiveness in the impugned meter timely. The Appellant issued a detection bill of Rs.317,767/- for the cost of 11,755 units to the Respondent. Under the CSM-2010, the Appellant LESCO 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.

6.6 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 the Appellant and its failure to fulfill its duty under the contract.

6.7 The Appellant has issued the detection bill of 11,755 units to the Respondent due to

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the difference between the final reading of the removed meter and the reading already charged till May 2020. However, the Appellant neither submitted any document to justify their assertion with regard to the charging of the above detection nor could produce the impugned billing meter before the POI for verification of its reading and accuracy. Thus under these circumstances, we are of the firm view that the detection bill of Rs.317,767/- for the cost of 11,755 units charged by the Appellant to the Respondent is unjustified and the same is declared null and void.

6.8 The billing account of the Respondent may be overhauled after the adjustment of payments made against the above detection bill.

7. Foregoing in view, the appeal is dismissed.

Abid Hussain
Member

Muhammad Irfan-ul-Haq
Member

Naweed Illahi Sheikh
Convener

Dated: 11-08-2023