



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

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No. NEPRA/AB/Appeal-013/POI-2018/ 600 - 603

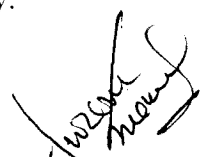
April 12, 2018

- |   |   |
|---|---|
| 1. Mohsin Gul<br>S/o Gul Hassan,<br>R/o. Village Mirza Khan Mari,<br>Taluka Tando Adam,<br>District Sanghar | 2. Chief Executive Officer,<br>HESCO Ltd.,<br>WAPDA Offices Complex,<br>Hussainabad, Hyderabad                      |
| 3. Executive Engineer (Operation),<br>HESCO Ltd,<br>Operation Division,<br>Tando Adam                       | 4. Electric Inspector,<br>Mirpur Khas Region,<br>Government of Sindh,<br>Plot No. 107, Nawab Colony,<br>Mirpur Khas |

Subject: **Appeal Titled HESCO Vs. Mohsin Gul Against the Decision Dated 17.04.2017 of the Provincial Office of Inspection to Government of the Sindh Mirpur Khas Region, Mirpur Khas**

Please find enclosed herewith the decision of the Appellate Board dated 10.04.2018, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

  
(Ikram Shakeel)

No. NEPRA/AB/Appeal-013/POI-2018/ 604

April 12, 2018

Forwarded for information please.

**Assistant Director**  
**Appellate Board**

1. Registrar

CC:

1. Member (CA)



**Before the Appellate Board**  
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No. NEPRA/AB/Appeal-013/POI-2018/ *662-663*

April 12, 2018

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**Encl: As Above**

No. NEPRA/AB/Appeal-013/POI-2018/ *664*

Forwarded for information please.

(Ikram Shakeel)

April 12, 2018

**Assistant Director  
Appellate Board**

1. Registrar

CC:

1. Member (CA)



# National Electric Power Regulatory Authority

## **Before Appellate Board**

In the matter of

**Appeal No. NEPRA/Appeal-013/POI-2018**

Hyderabad Electric Supply Company Limited .....Appellant

Versus

Mohsin Gul S/o Gul Hassan, R/o Deh Pai,  
Taluka Tando Adam, District Sanghar .....Respondent

For the appellant:

Mr. Jan Muhammad Commercial Superintendent

For the respondent:

Nemo

## **DECISION**

1. Through this decision, an appeal filed by Hyderabad Electric Supply Company Limited (hereinafter referred to as HESCO) against the decision dated 17.04.2017 of Provincial Office of Inspection, Mirpur Khas Region, Mirpur Khas (hereinafter referred to as POI) is being disposed of.
2. HESCO is a licensee of National Electric Power Regulatory Authority (hereinafter referred to as NEPRA) for distribution of electricity in the territory specified as per terms and conditions of the license and the respondent is its consumer having two agricultural connections bearing Ref No.14-37333-0679110-47 (first connection) and



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No.14-37333-0676810-47 (second connection) under D-1 tariff. As per HESCO, both the connections of the respondent were checked by SDO HESCO on 08.10.2015 and reportedly the respondent was found stealing electricity through the tampered meters (strips were found missing). After issuing notice to the respondent, two detection bills of Rs.107,683/- for 7,587 units and Rs.107,582/- for 7,580 units for the period August 2015 to October 2015 (3 months) were charged by HESCO against the first and second connections respectively and added in the bill for November 2015.

3. The respondent being dissatisfied with the action of HESCO filed an application before POI and challenged the aforesaid both the detection bills. POI disposed of the matter vide its decision dated 17.04.2017, wherein both the detection bills of Rs.107,683/- and Rs.107,582/- along with late payment surcharges (LPS) were declared null and void.
4. The appeal in hand has been filed by HESCO against the decision dated 17.04.2017 of POI (hereinafter referred to as the impugned decision) along with the application for condonation of the delay. In its appeal, HESCO explained that the appeal was initially filed before Secretary Power and Irrigation Department, Government of Sindh Karachi, which was returned to HESCO by the Secretary Power and Irrigation Department Government of Sindh, Karachi with the direction to file the same before NEPRA. In its appeal, HESCO stated that the premises of the respondent was inspected on 08.10.2015 and the electricity was being used illegally for both the tube wells and the connected load of each connection was observed as 14.92 kW. As per

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HESCO, the detection bills of Rs.107,683/- and Rs.107,582/- were charged to the respondent against the first and second connections respectively in order to recover the revenue loss sustained due to theft of electricity. HESCO objected the maintainability of the impugned decision and pleaded that POI has no jurisdiction to adjudicate the instant matter being theft case by bypassing the meter as envisaged in the judgment reported as PLD 2012SC 371.

5. Notice of the appeal was issued to the respondent for filing reply/parawise comments, which were filed by the respondent on 16.02.2018. In his reply, the respondent raised the preliminary objection on the ground of limitation and pleaded for dismissal of the appeal being barred by time as envisaged u/s 38(3) of NEPRA Act, 1997. On merits, the respondent refuted the allegation of theft of electricity and stated that if any discrepancy was detected by HESCO during the alleged checking then why the consumption of the disputed period was not compared with the consumption of the period after the installation of check meter.
6. Hearing of the appeal was fixed for 23.02.2018 at Hyderabad and notice thereof was served upon both the parties. On the date of hearing, Mr. Jan Muhammad CS appeared for HESCO whereas no one represented the respondent. The representative for HESCO reiterated the same grounds as contained in memo of the appeal and pleaded for setting aside the impugned decision.
7. Arguments heard and record perused. There is a preliminary objection as to limitation for which HESCO stated that the appeal against the impugned decision

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dated 17.04.2017 was initially filed before the Secretary Power and Irrigation Department, Government of Sindh Karachi, which was returned to HESCO with the direction to file before NEPRA. HESCO however did not provide any documentary evidence, which could substantiate their stance regarding the delay in filing the appeal. Obviously, the appeal was filed before NEPRA on 14.07.2017 after lapse of 80 days of the receipt of the impugned decision and is time barred. We are not convinced with the arguments of HESCO for condonation of the delay as no sufficient reasons have been given for the delay in filing the appeal before NEPRA. Hence the application for condonation of the delay does not merit consideration. As regards the preliminary objection of HESCO regarding lack of jurisdiction of POI being a case of theft of electricity, it is observed that the theft of electricity was alleged through tampering the meter by HESCO during its checking dated 08.10.2015, therefore POI is competent to adjudicate the matter as per decision of honorable Supreme Court. Reliance is placed on PLD 2012 Supreme Court 371, the operative portion of which is reproduced below:

*“---Ss. 26(6) & 26-A---Detection bill, issuance of---Theft of energy by consumer, charge of--- Jurisdiction of Electric Inspector and Advisory Board---Scope---Electric Inspector for possessing special expertise in examining the working of metering equipment and other related apparatus had jurisdiction to entertain reference under S.26(6) of Electricity Act, 1910 only in case of dishonest consumption of energy by consumer through deliberate manipulation of or tampering with metering equipment or other similar apparatus---Electric Inspector would have no jurisdiction in matter of theft by means other than tampering or manipulation of metering equipment etc.”*

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Hence objection of HESCO in this regard is not sustainable.

As regard merits of the case, HESCO charged the two detection bills amounting to Rs.107,683/- and Rs.107,582/- to the respondent against the first and second connections respectively on the plea that the respondent was involved in theft of electricity by tampering the meters of both the connections, which were assailed by him before POI. However no legal proceedings or action as per Consumer Service Manual was taken against the respondent. A perusal of the consumption data as provided by HESCO revealed that mostly nil consumption was recorded during the period after dispute, which could not be based for comparison. The consumption of disputed and the undisputed periods before the dispute will be compared to ascertain the justification of the aforesaid detection bills:

First connection: Ref No. 14-37333-0679110-47		
Period	Normal Mode Average Units/Month	Detection Mode Average Units/Month
Period before dispute September 2014 to July 2015	699	-
Disputed period August 2015 to October 2015	738	3.267
Second connection: Ref No. 14-37333-0676810-47		
Period	Normal Mode Average Units/Month	Detection Mode Average Units/Month
Period before dispute September 2014 to July 2015	686	-
Disputed period August 2015 to October 2015	740	3.267

Perusal of the above table transpires that both the detection bills charged @ 3.267



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units/month against first and second connections are much higher than the normal average consumption of the respondent recorded during the period before dispute. Moreover the normal average consumption of both the connections recorded during the disputed period August 2015 to October 2015 is even higher than the normal average consumption of the period before dispute, which establishes that the normal healthy consumption was recorded during the disputed period. Therefore there is no justification for charging the detection bills of Rs.107,683/- for 7,587 units and Rs.107,582/- for 7,580 units for the period August 2015 to October 2015 against the first and second connections of the respondent respectively.

8. From the reasons recorded above, it is evident that the appellant failed to substantiate its contentions raised in the appeal; therefore, the appeal is dismissed.

Muhammad Qamar-uz-Zaman  
Member

Nadir Ali Khoso  
Convener

Muhammad Shafique  
Member

Dated: 10.04.2018