



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

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No. NEPRA/AB/Appeal-014/POI-2018/ 605-608

April 12, 2018

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

Subject: Appeal Titled HESCO Vs. Ali Muhammad 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-014/POI-2018/ 609

April 12, 2018

Forwarded for information please.

Assistant Director  
Appellate Board

1. Registrar

CC:

1. Member (CA)



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| 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 |

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*(Signature)*  
Assistant Director  
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# National Electric Power Regulatory Authority

## Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-014/POI-2018

Hyderabad Electric Supply Company Limited

.....Appellant

Versus

Ali Muhammad S/o Mir Khan Mari, R/o Village  
Mirza Khan Mari, Taluka Tando Adam, Sanghar

.....Respondent

For the appellant:

Mr. Jan Muhammad

For the respondent:

Nemo

## DECISION

1. Brief fact leading to the filing of instant appeal are that the respondent is an agricultural consumer of Hyderabad Electric Supply Company Limited (hereinafter referred to as HESCO) bearing Ref No.15-37333-0722100-50 with sanctioned load of 14.92 kW under D-1 tariff. As per HESCO, connection of the respondent was checked by SDO HESCO on 08.10.2015 and the respondent was found stealing electricity through the tampered meter. After issuing notice dated 27.10.2015 to the respondent, the detection bill of Rs.118,152/- for the cost of 8.289 units for the period August 2015 to October 2015 was charged by HESCO and added in the bill

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for November 2015.

2. The respondent was dissatisfied, hence filed an application before Provincial Office of Inspection, Mirpur Khas Region, Mirpur Khas (POI) and challenged the above mentioned detection bill. The matter was decided by POI vide its decision dated 17.04.2017, wherein the detection bill of Rs.118,152/- along with late payment surcharges (LPS) were declared null and void.
3. The appeal in hand has been filed by HESCO against the POI decision dated 17.04.2017 (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 on 16.05.2017, 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 utilized by bypassing the meter and the connected load was noted as 14.92 kW. As per HESCO, the detection bill of Rs.118,152/- for 8,289 units charged to the respondent is justified. HESCO raised the objection for the jurisdiction of POI being a theft case of electricity through bypassing the meter by making reliance on the judgment reported vide PLD 2012 SC 371. HESCO finally prayed for acceptance of the appeal and for setting aside the impugned decision.
4. A 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

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respondent raised the preliminary objection on the ground for limitation and pleaded for dismissal of the appeal being barred by time. 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. The respondent defended the impugned decision and prayed for its maintainability.

5. 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 the representative for HESCO reiterated the same grounds as contained in memo of the appeal and pleaded for setting aside the impugned decision. Whereas no one entered appearance for the respondent to plead the case.

6. Arguments heard and examined the record placed before us. Following is our observation:

- i. As regards the preliminary objection of the respondent regarding the limitation, it is observed that the impugned decision was announced by POI on 17.04.2017 and copy of the same was obtained by HESCO on 25.04.2017 against which the appeal was filed before NEPRA on 14.07.2017 after lapse of 80 days of receipt of the impugned decision. Regarding the delay in filing the appeal, HESCO submitted that the appeal against the impugned decision was initially filed before the Secretary Power and Irrigation Department, Government of Sindh Karachi on 16.05.2017, which however was returned to HESCO with the direction to file it

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before NEPRA. We are not convinced with the arguments of HESCO for condonation of the delay as neither sufficient reasons have been given for the delay in filing the appeal before NEPRA nor any documentary evidence was provided regarding filing and return of appeal by the Provincial Government. Hence the application for condonation of the delay is rejected and the appeal is liable to be dismissed on the ground of limitation.

- ii. 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. 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."*

Objection of HESCO in this regard is not sustainable, therefore rejected.

- iii. As for as the merits of the case are concerned, a detection bill of Rs.118,152/- for

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8,289 units for the period August 2015 to October 2015 was charged to the respondent by HESCO on account of theft of electricity, which was agitated before POI.

- iv. In order to ascertain the justification of the aforesaid detection bill, following comparison between the consumption of disputed and the undisputed periods is done:

Period	Normal Mode Average Units/Month	Detection Mode Average Units/Month
<b>Period before dispute</b> September 2014 to July 2015	385	-
<b>Disputed period</b> August 2015 to October 2015	504	3,267
<b>Period after dispute</b> November 2015 to September 2016	420	-

Perusal of the above table transpires that the detection bill charged @ 3,267 units/month during the disputed period i.e. August 2015 to October 2015 is much higher than the normal average consumption recorded during the periods before and after the dispute. Moreover the normal average consumption of the disputed period is even higher than the normal average consumption of the undisputed periods (prior/after), which proves that the actual consumption was recorded during the disputed period. Therefore there is no justification to further burden the respondent through charging the detection bill of Rs.118,152/- for 8,289 units for the same period. We are inclined to agree with determination of POI that the respondent is not obligated to pay the aforesaid detection bill along with LPS and



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the same should be withdrawn.

7. Forgoing in consideration, the appeal is dismissed.

Muhammad Qamar-uz-Zaman  
Member

Muhammad Shafique  
Member

Nadir Ali Khoso  
Convener

Dated: 10.04.2018