



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

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No. NEPRA/AB/Appeal-159/POI-2017/ 672-675

April 18, 2018

1. M/s R. K. Oil Mills (S.S.I.C)
Mirwaha Road,
Mir Pur Khan
2. Chief Executive Officer,
HESCO Ltd.,
WAPDA Offices Complex,
Hussainabad, Hyderabad
3. Executive Engineer (Operation),
HESCO Ltd,
Operation Division,
Mir Pur Khan
4. Electric Inspector,
Mirpur Khas Region,
Government of Sindh,
Plot No. 107, Nawab Colony,
Mirpur Khas

Subject: Appeal Titled HESCO Vs. M/s R. K. Oil Mills Against the Decision Dated 07.08.2017 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 16.04.2018, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(Ikram Shakeel)

No. NEPRA/AB/Appeal-159/POI-2017/ 676

April 18, 2018

Forwarded for information please.

Assistant Director
Appellate Board

1. Registrar



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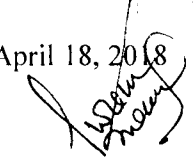
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National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-159/POI-2017

Hyderabad Electric Supply Company Limited

.....Appellant

Versus

M/s. R. K. Oil Mills, S.S.I.C, Mirwaha, Road, Mirpur Khas

.....Respondent

For the appellant:

Mr. Long Khan Add. DG(Legal)

Mr. Masroor Qureshi XEN

For the respondent:

Mr. Dileep Kumar

DECISION

1. Through this decision, an appeal filed by Hyderabad Electric Supply Company Limited (hereinafter referred to as HESCO) against the decision dated 07.08.2017 of Provincial Office of Inspection, Mirpur Khas region, Mirpur Khas (POI) under Section 38 of the NEPRA Act 1997 is being disposed of.
2. As per facts of the case, the respondent is an industrial consumer of HESCO bearing Ref No.24-37414-0052604 with a sanctioned load of 140 kW under B-2 tariff. Metering equipment along with 3 x 300/5 current transformers (CTs) of the respondent was installed by HESCO on 30.07.2012. Subsequently metering equipment of the respondent was checked by metering and testing (M&T) HESCO on 28.11.2016, wherein it was



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noticed that the electricity bills were charged with multiplication factor (MF) 40 instead of applicable MF=60 since the date of installation of connection i.e. 30.07.2012. Consequently a detection bill amounting to Rs.1,051,376/- for the period July 2012 to November 2016(52 months) was charged to the respondent by HESCO due to the difference of applicable MF=60.

3. The respondent being aggrieved with the action of HESCO filed an application before POI on 30.12.2016 and challenged the aforesaid detection bill. A joint inspection of the metering equipment of the respondent was carried out by POI on 07.02.2017, wherein the installation of 3 x 300/5 CTs at the respondent's premises was confirmed. The matter was decided vide POI decision dated 07.08.2017, the operative portion of which is reproduced below:

"A). To cancel the detection bill of Rs.1,051,376/- along with alleged adjustment of MDI for Rs.233,200/- as the same has no justification on legal and technical grounds. B). To cancel the monthly bills after December 2016, as the electricity was already disconnected on 30.11.2016 by the Opponents and complainant was not found at fault. C). To cancel the monthly bill of December 2016 and revision of the same as per actual meter reading/consumption for payment by the complainant. D). To restore the electricity of the consumption without any delay. To charge the multiplication factor 60 as per installed CTs 300/5 Amp from December 2016 and onwards. The opponents are directed to act in terms of above instructions, accordingly."

4. The appeal in hand has been filed by HESCO against the POI decision dated 07.08.2017 (the impugned decision) before NEPRA. In its appeal, HESCO contended that industrial connection of the respondent along with 3 x 300/5 CTs was installed on 30.07.2012. HESCO further contended that during subsequent M&T HESCO checking dated

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28.11.2016, it was observed that the electricity bills for the period July 2012 to November 2016 were being charged with MF=40 instead of applicable MF=60. As per HESCO, a detection bill amounting to Rs.1,051,376/- for the period July 2012 to November 2016 (53 months) was charged to the respondent by HESCO due to difference of applicable MF=60 on the basis of M&T checking report dated 28.11.2016. As per HESCO, the respondent through submission of an undertaking agreed for the payment of the aforesaid detection bill, which however was not paid. According to HESCO, the electric supply of the respondent was disconnected by HESCO in December 2016 due to non-payment of the arrears. HESCO finally prayed for setting aside the impugned decision.

5. Notice of the appeal was issued to the respondent for filing the reply/parawise comments, which were filed on 21.11.2017. In his reply, the respondent objected the maintainability of the appeal on the grounds that the same is badly time barred, that the impugned decision is self-speaking, comprehensive and fully covers all four corners of the law and technical aspects, that the M&T checking dated 28.11.2016 was done unilaterally, that the signature was obtained on blank paper on the plea that everything is okay and checking report will be provided. As per respondent, electric supply was disconnected on the same date, which however was not restored till to date. According to the respondent, if it is presumed that the afore-referred detection bill is justified, then the same is liable to be recovered from the concerned officials of HESCO being not vigilant

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and he is not liable to pay the same. The respondent prayed that POI decision may be upheld.

6. Hearing of the appeal was conducted in Hyderabad on 23.02.2018, wherein both the parties entered appearance. Learned representative for HESCO repeated the same arguments as contained in memo of the appeal and contended that new connection along with CTs = 300/5 was installed at the premises of the respondent by HESCO on 30.07.2012. Learned representative for HESCO further contended that the wrong application of MF was noticed during routine checking of M&T HESCO dated 28.11.2016, therefore the detection bill of Rs.1,051,376/- for the period July 2012 to November 2016 charged by HESCO is justified and payable by the respondent. On the contrary, Mr. Dileep Kumar the representative for the respondent rebutted the stance of HESCO and reiterated the same grounds as taken in his reply/parawise comments to the appeal. The representative for the respondent supported the impugned decision and pleaded for upholding the same.
7. Arguments heard and record perused. It is observed that:
 - i. The respondent raised the preliminary objection regarding limitation. It is noticed that the impugned decision was announced by POI on 07.08.2017, copy of the same was delivered to HESCO on 18.08.2017, therefore the appeal filed before NEPRA on 13.09.2017 is within 30 days of the receipt of the impugned decision as envisaged under Section 38 (3) of NEPRA Act 1997. Objection of the respondent in this regard carries no weight, therefore over ruled.

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- ii. Regarding merits of the case, admittedly the industrial connection of the respondent was installed with CTs 300/5 by HESCO on 30.07.2012. Subsequently metering equipment of the respondent was checked by M&T HESCO on 28.11.2016, wherein it was revealed that the respondent was charged by HESCO with MF=40 instead of applicable MF=60 since the date of installation of connection i.e. 30.07.2012 and onwards. Consequently the detection bill of Rs.1,051,376/- for the period July 2012 to November 2016 (53 months) was charged to the respondent by HESCO and added in the bill for December 2016 on account of difference of MF from 40 to 60. The respondent agitated the above mentioned detection bill before POI on 30.12.2016.
- iii. Connection of the respondent was jointly checked by POI on 07.02.2017, wherein installation of 300/5 CTs was confirmed. Hence it is established that MF applicable is 60 instead of 40 due to the installation of 3 x 300/5 CTs but HESCO failed to do so for the period July 2012 to November 2016. Obviously the billing process by HESCO is violation of Consumer Service Manual (CSM), which binds HESCO to charge the bills as per actual meter reading and the applicable MF to the respondent. As a matter of fact, the concerned officials are liable to face the disciplinary action due to their failure in applying the actual MF=60 as per CTs ratio accordingly. The question arises whether the detection bill of Rs.1,051,376/- for the period July 2012 to November 2016 (53 months) is legally recoverable from the respondent. In this regard, reliance is placed on the Lahore High Court, judgment dated 30.11.2015 in

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respect of W.P. petition No.17314-2015 titled “Muhammad Hanif v/s NEPRA and others”, wherein it is held that the period of limitation would be 3 years, where the time limit has not been provided. In the instant case, HESCO debited the detection bill of Rs.1,051,376/- for the period July 2012 to November 2016 (53 months), which is legally unjustified and the same is liable to be cancelled as already determined in the impugned decision.

- iv. No controversy has been raised regarding the reading and accuracy of the metering equipment by the respondent as such the respondent is liable to pay the detection bill in pursuance of clause 6.2(b) of CSM, which is reproduced below:

“In cases where accumulated readings are recorded, segregate bills shall be prepared keeping in view the number of months for which the readings have been accumulated to give relief to the consumer.”

In view of forgoing clause of CSM, the respondent is liable to pay the arrears bill for the period December 2013 to November 2016 (3 years) and the said bill would be segregated into 36 equal installments and calculated as per applicable tariff of particular month instead of the tariff applicable in December 2016. Impugned decision to this extent is liable to be modified. However the respondent is liable to pay the electricity bills from December 2016 and onwards at MF 60 as determined by POI.

8. Forgoing in view, we have reached to the conclusion that:

- i. The detection bill of Rs.1,051,376/- for the period July 2012 to November 2016 (52 months) charged by HESCO is not justified and declared null & void.

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- ii. The respondent is obligated to pay the arrears with MF-60 (instead of 40) from December 2013 to November 2016. However HESCO is directed to recover the amount as arrears in 36 installments along with current monthly bills of the future.
9. The impugned decision is modified in above terms.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Dated: 16.04.2018