



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

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No. NEPRA/AB/Appeal-197/POI-2017/ 677-680

April 18, 2018

- | | |
|---|---|
| 1. M/s Abdul Sattar (Sindh Iron Casting Factory)
Tando Allah Yar Road,
Tando Adam | 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. M/s Abdul Sattar (Sindh Iron Casting Factory)**
Against the Decision Dated 12.10.2017 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 17.04.2018, regarding the subject matter, for information and necessary action accordingly.

Encl: **As Above**

(Ikram Shakeel)

No. NEPRA/AB/Appeal-197/POI-2017/ 681

April 18, 2018

Forwarded for information please.

Assistant Director
Appellate Board

1. Registrar



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National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-197/POI-2017

Hyderabad Electric Supply Company Limited

.....Appellant

Versus

M/s. Abdul Sattar (Sindh Iron Casting Factory),
Tando Allah Yar Road, Tando Adam

.....Respondent

For the appellant:

Mr. Imtiaz-ul-Haq Superintendent Engineer

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 12.10.2017 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



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terms and conditions of the license and the respondent is its industrial consumer bearing Ref No. 24-37333-0420701 with a sanctioned load of 350 kW under B-2 (b) tariff. As per fact of the case, the old electricity meter of the respondent was checked by HESCO on 22.06.2016 and its date and time were found disturbed, therefore the old meter was replaced with a new meter by HESCO on 26.07.2016. Connection of the respondent was again checked by metering and testing (M&T) HESCO on 26.12.2016 and reportedly the new meter was found tampered (device installed inside the new meter for theft of electricity) and the connected load was noticed as 750 kW, being much higher than the sanctioned load. Supply of the respondent was disconnected by HESCO and the transformer along with the metering equipment was removed from the premises on 28.12.2016 and a case against the respondent was registered with Senior Judge, Sanghar on 28.12.2016. After issuing notice dated 28.12.2016 to the respondent, the detection bill amounting to Rs.24,696,346/- for 1,476,300 units/2,712 kW MDI for the period July 2016 to December 2016 (6 months) was charged to the respondent by HESCO on the basis of connected load.

3. The respondent initially approached Sindh High Court, Hyderabad through C.P.No.D-110/2017 and challenged the actions of HESCO. The honorable High Court vide its order dated 28.02.2017 referred the matter to POI for further adjudication. Consequently the respondent filed an application before POI and

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assailed the aforesaid detection bill, disconnection of electric supply and removal of metering equipment along with transformer. POI disposed of the matter vide its decision dated 12.10.2017, the operative portion of which is reproduced below:-

"After conducting several number of hearings, giving fair opportunities to hear both the parties, scrutinizing the record, made available with this office and in the light of relevant law & regulations and above findings, I am of the considered opinion that Opponents have violated the mandatory requirements of Electricity Act-1910 and guide lines communicated through consumer service manual of NEPRA as quoted in above findings. A) That the act of Opponents of disconnection of electricity connection, removal of 630 KVA transformer & allied accessories and charging of impugned detection bill, amounting to Rs.24,696,346/- of 1,476,300 units for the period from July 2016 to December 2016 are void, unjustified and of no legal consequences; therefore the complainant is not liable to pay the detection bill. B). that the monthly bills raised after December 2016 are void, unjustified and of no legal effect, as the electricity was already disconnected on 26.12.2016 and the complainant is not liable to pay the same. C). The Opponents are directed to withdraw the impugned detection bill and bills raised after December 2016 and restore the electricity connection of the complainant by re-installing the electrical equipment/material etc, immediately without any charges as the consumer/complainant has been victimized through financial & mental torture caused by the Opponents, without any delay. The opponents are directed to act in terms of above instructions, accordingly."

4. HESCO has filed the instant appeal against the aforementioned decision (impugned decision) before NEPRA under Section 38 (3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (hereinafter referred to as

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NEPRA Act 1997). In its appeal, HESCO stated that the premises of the respondent was inspected on 26.12.2016 and the respondent was found stealing electricity through the tampering the new meter and the capacity of transformer was malafidely enhanced from 650 kVA to 1,000 kVA. As per HESCO, a detection bill of Rs.24,696,346/- for 1,476,300 units/2,712 kW MDI for the period July 2016 to December 2016 was charged to the respondent by HESCO in order to recover the revenue loss sustained due to theft of electricity. HESCO objected the jurisdiction of POI and maintained that being a case of theft of electricity, it was within the jurisdiction of civil court. LESCO further submitted that POI rendered the impugned decision without applying his judicious mind, examination of the record and M&T HESCO report dated 26.12.2016. HESCO prayed that the impugned decision is contrary to law, reliance in this regard was placed on PLD 2012 (SC-371) and further pleaded for setting aside the same. Notice of the appeal was issued to the respondent for filing reply/parawise comments, which however were not filed.

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. Imtiaz-ul-Haq Superintendent Engineer (SE) HESCO appeared on behalf of HESCO but no one represented the respondent. SE HESCO reiterated the same arguments as contained in memo of the appeal and contended that a raid was conducted by HESCO along with

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police on the premises of the respondent on 26.12.2016 in which the new meter was found stopped through artificial means and the electricity was being consumed by bypassing the new meter. SE HESCO further contended that the capacity of the transformer is malafidely enhanced to 1,000 kVA whereas 650 kVA mentioned on the name plate of the transformer and the connected load was even found much above the sanctioned load. SE HESCO informed that the supply of the respondent was disconnected and the metering equipment along with the transformer were removed from the premises of the respondent. HESCO further pleaded that it was established that new meter of the respondent was tampered and not recording the actual consumption of electricity, therefore the detection bill of Rs.24,696,346/- for 1,476,300 units/2,712 kW MDI for the period July 2016 to December 2016 charged to the respondent by HESCO is justified and the respondent is liable to pay the same.

6. We have heard the argument and examined the record placed before us. Following are our observations:

- i. 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 has been alleged through tampering the new meter by HESCO during its checking dated 26.12.2016, therefore POI is competent to adjudicate the matter as per

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- decision of honorable Supreme Court reported vide PLD 2012 Supreme Court 371. Objection of HESCO in this regard is not sustainable, therefore rejected.
- ii. Regarding merits of the case, premises of the respondent was checked by M&T HESCO on 26.12.2016 and the respondent was found involved in dishonest abstraction of electricity through the tampered meter, therefore the detection bill amounting to Rs.24,696,346/- for 1,476,300 units/2,712 kW MDI for the period July 2016 to December 2016 was charged to the respondent by HESCO, which was agitated by him before POI.
- iii. HESCO alleged that the connected load of the respondent was observed 750 kW, remarkably higher than the sanctioned load during M&T checking dated 26.12.2016. Such discrepancy was neither noticed by HESCO prior alleged checking dated 26.12.2016 nor any notice regarding the illegal extension of load was served to the respondent. Furthermore perusal of the consumption data reveals that the average MDI recorded @336 kW/month during the period June 2015 to January 2017 is even lesser than the sanctioned load of 350 kW. Therefore allegation of HESCO regarding the illegal extension of load to the tune of 750 kW has no force and the same is liable to be dismissed.
- iv. It would be judicious to charge the detection bill for the period June 2016 to December 2016 to the respondent on the basis of sanctioned load i.e.350 kW. Calculation in this regard is done below:



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Period: July 2016 to December 2016

Consumption	Units	MDI
(A) To be charged	= sanct. load x No. of Hrs/month x L.F x No. of months = 350 kW x 730 Hrs. x 0.5 x 6 = 766,500 units	= sanct. load x No. of months = 350 kW x 6 = 2,100 kW
(B) Already charged	= [12,400+1,800+17,800+26,000+34,000+40,800+45,800] = 166,200 units	= [340+250+334+344+262+268] = 1,798 kW
(C) Net chargeable	= (A) - (B) = 766,500 - 166,200 = 600,300 units	= (A) - (B) = 2,100 - 1,798 = 302 kW

The respondent is liable to be charged net 600,300 units/302 kW MDI for the disputed period July 2016 to December 2016. Under these circumstances, the detection bill of Rs.24,696,346/- for 1,476,300 units/2,712 kW MDI for the period July 2016 to December 2016 charged by HESCO on the basis of connected load is unjustified, therefore the same is liable to be cancelled as already decided by POI.

- v. As regards the impugned decision of POI regarding cancellation of electricity bills after December 2016, it is observed that neither any electricity bill was charged after December 2016 nor it was assailed by the respondent before POI. Impugned decision to that extent is irrelevant.

7. In view of above, we have reached to the conclusion that:

- i. The detection bill of Rs.24,696,346/- for 1,476,300 units for the period July 2016 to December 2016 is unjustified, therefore declared null and void as already determined by POI.

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- ii. The respondent should be charged net 600,300 units/302 kW MDI for the period July 2016 to December 2016.
 - iii. Billing account of the respondent should be overhauled in accordance with para 7 (i) and (ii) above.
8. Impugned decision is modified in above terms.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Dated: 17.04.2018