



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

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No. NEPRA/AB/Appeal/195/POI/2018/ 232-235

March 10, 2020

- |   |   |
|---|---|
| 1. Faizullah Khan (Daee)<br>Divisional Superintendent Office,<br>Pakistan Railway, Sukkur | 2. Chief Executive Officer,<br>HESCO Ltd, ,<br>WAPDA Offices Complex,<br>Hussainabad, Hyderabad                       |
| 3. Executive Engineer<br>HESCO Ltd,<br>Operation Division,<br>Nawab Shah                  | 4. Electric Inspector/POI<br>Mirpurkhas Region,<br>Government of Sindh,<br>House No. 107, Nawab Colony,<br>Mirpurkhas |

Subject: **Appeal Titled HESCO Vs. Faizullah Khan (Daee) Against the Decision Dated 12.07.2018 of the Provincial Office of Inspection to Government of the Sindh Mirpurkhas Region, Mirpurkhas**

Please find enclosed herewith the decision of the Appellate Board dated 09.03.2020, regarding the subject matter, for information and necessary action accordingly.

**Encl: As Above**

  
**(Ikram Shakeel)**

No. NEPRA/AB/Appeal/195/POI/2018/

March 10, 2020

Forwarded for information please.

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

1. Director (IT) –for uploading the decision on NEPRA website



## National Electric Power Regulatory Authority

**Before Appellate Board, National Electric Power Regulatory Authority, Islamabad**

In the matter of

**Appeal No. 195/2018**

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,  
TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997  
AGAINST THE DECISION DATED 12.07.2018 PASSED BY PROVINCIAL  
OFFICE OF INSPECTION MIRPURKHAS REGION, MIRPURKHAS**

Hyderabad Electric Supply Company Limited .....Appellant

Versus

Faizullah Khan DAEF, Divisional Superintendent Office,  
Pakistan Railways Sukkur .....Respondent

For the appellant:

Mr. Insaf Ali Brohi Executive Engineer

For the respondent:

Mr. Arsalan Lashari DAEF

### **DECISION**

1. Hyderabad Electric Supply Company Limited (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 bearing Ref No. 29-37313-1368200 having a sanctioned load of 65 kW under the C-1b tariff.
2. The billing meter of the respondent was checked by metering and testing (M&T) HESCO on 06.11.2017 and reportedly its reading was observed as 20,030, whereas the reading already charged by HESCO till October 2017 was 9920. Revenue Officer (RO) HESCO recommended to charge 1,011,000 units to the respondent being the difference of reading already charged till October 2017 and the reading of the meter noted on 06.11.2017. Consequently, HESCO issued a bill of



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Rs.18,148,368/- for 1,013,900 units to the respondent in November 2017.

3. Being aggrieved with the actions of HESCO, the respondent filed a complaint before the Provincial Office of Inspection (POI) and challenged the above bill. POI disposed of the matter vide its decision dated 12.07.2018 with the conclusion that the claim of HESCO regarding the bill of Rs.18,148,368/- for 1,013,900 units charged in November 2017 is unjustified being a human error, therefore cancelled along with late payments surcharges (LPS).
4. Through the instant appeal, HESCO has assailed the decision dated 12.07.2018 of POI (hereinafter referred to as the impugned decision) in which HESCO opposed the impugned decision inter alia on the grounds that the POI did not consider the material facts i.e. M&T report and rendered the impugned decision without providing proper opportunity to HESCO to plead the case; that the impugned decision was passed in a hasty manner; that 1,011,000 units are recoverable from the respondent as per recommendation of RO HESCO and that the impugned decision is not sustainable under the law.
5. Notice of the appeal was issued to the respondent for filing reply/para-wise comments, which were filed on 31.01.2019. In his reply, the respondent contended that the HESCO officials including RO HESCO unanimously agreed and admitted before POI that the charging of 1,011,000 units to the respondent was a sheer case of misunderstanding in taking energy meter reading; that HESCO is now showing malevolent intention towards the solution of this dispute; that several M&T reports have been issued but none has pointed out this issue; that the consumption before and after the dispute remained same; that HESCO did not provide the consumption

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data, M&T report to the respondent and that the impugned decision is liable to be endorsed.

6. Hearing of the appeal was fixed for 10.01.2020 at Hyderabad and notice thereof was served upon both the parties. On the date of hearing, both the parties were in attendance. XEN HESCO reiterated the same grounds as contained in memo of the appeal and contended that the billing meter of the respondent was checked by M&T HESCO in November 2017 and the reading was noticed as 20,059, hence the respondent was charged the bill of Rs.18,148,368/- for 1,013,900 units in November 2017 as per actual meter reading. HESCO defended the charging of the above bill and prayed for setting aside the impugned decision. On the contrary, the respondent rebutted the version of HESCO and argued that the above bill was charged due to the personal grudge of Mr. Riaz Pathan XEN HESCO. The respondent averred that HESCO did not provide consumption data to ascertain whether the billing was done with five digits instead of four. In response, XEN HESCO assured to provide the consumption data from the date of meter change order (MCO), M&T report and other relevant documents. The respondent defended the impugned decision and pleaded for upholding the same.

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

- i. HESCO charged a bill of Rs.18,148,368/- for 1,013,900 units to the respondent in November 2017 due to the difference of readings noted by meter reader in October 2017 and by M&T in November 2017, which was disputed before POI. As per record provided by HESCO, the disputed meter was installed on the premises of the respondent vide MCO dated 18.01.2007 and the billing



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continued on the same meter since then. This indicates that the meter was functioning correctly at the time of M&T checking dated 06.11.2017. It is observed that meter readers never pointed out the discrepancy of pending units in a long span of time i.e. from the date of installation of the meter i.e. 18.01.2007 to M&T checking dated 06.11.2017 (almost 12 years), this is gross negligence on the part of HESCO. Moreover, the claim of HESCO for 1,013,900 pending units on a meter installed for the twelve years i.e. January 2007 to November 2017 is inconsistent with Article 181 of Limitation Act, 1908, which restricts the period of claim for three years only. In this regard, reliance is placed on the Lahore High Court, judgment dated 30.11.2015 in respect of writ petition No.17314-2015 titled "Muhammad Hanif v/s NEPRA and others", wherein it is held as under:

*"The petitioner at the most can invoke Article 181 of The Limitation Act, 1908 which is the residuary provision and caters the issue of limitation where no period of limitation is provided elsewhere in the Schedule of The Limitation Act, 1908 or under Section 48 of The Code of Civil Procedure (V of 1908). Article 181 of The Limitation Act, 1908 prescribes the period of three years for filing an application that applies when the right to apply accrues as prescribed in Article 181 of Limitation Act, 1908."*

In consideration of the above facts, the bill of Rs.18,148,368/- for 1,013,900 units for the period January 2007 to November 2017 along with LPS is illegal, unjustified and not payable by the respondent, which is also the determination of POL.

- ii. As per Article 181 of Limitation Act, 1908, the billing of the last three disputed years i.e. November 2014 to October 2017 was compared with the future consumption of the same meter and it was observed that less consumption

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recorded during the disputed last three years i.e. November 2014 to October 2017. Hence it would be judicious to charge the bills for the last three years i.e. November 2014 to October 2017 as per below calculation:

- Period November 2014 to October 2017=(3 years)
- **Units to be charged** =  $\frac{\text{Units charged as per final reading} \times \text{No. of years allowed}}{\text{No. of disputed years}}$
- **Units to be charged** =  $\frac{1,013,900 \times 3}{12} = 253,475 \text{ units}$
- **Units/month to be charged** =  $\frac{253,475 \text{ units}}{36 \text{ months}} = 7,041 \text{ units/month}$

Hence the bills for the period November 2014 to October 2017 (36 months) be recovered from the respondent @ 7,041 units/month as arrears. The impugned decision is liable to be modified to this extent.

8. In view of what has been stated above, it is concluded that the bill of Rs.18,148,368/- for 1,013,900 units along with LPS is unjustified and cancelled. The respondent may be charged @ 7,041 units/month for the period November 2014 to October 2017 (36 months) as per tariff applicable in that month. HESCO may recover above arrears in thirty-six equal installments along with the current monthly bill of the respondent.
9. Forgoing into consideration, the appeal is partially accepted in the above terms.

Muhammad Qamar-uz-Zaman  
Member

Muhammad Shafique  
Member

Nadir Ali Khoso  
Convener

Dated: 09.03.2020