



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

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No. NEPRA/AB/Appeal/059/POI/2019/ 9/0

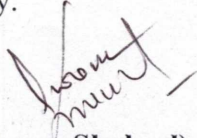
November 23, 2021

- | | |
|--|---|
| 1. Qazi Zafar Ahmed
R/o. House No. F/1285,
Near Rehmania Masjid,
Doaba Police Line, Hyderabad | 2. Chief Executive Officer,
HESCO Ltd.,
WAPDA Offices Complex,
Hussainabad, Hyderabad |
| 3. Executive Engineer
HESCO Ltd,
Operation Division,
Garikhata, Hyderabad | 4. POI/Electric Inspector
Hyderabad Region,
Government Building No. 48/B,
Civil Lines, Hyderabad |

Subject: Appeal Titled HESCO Vs. Qazi Zafar Ahmed Against the Decision Dated 01.10.2018 of the Provincial Office of Inspection to Government of the Sindh Hyderabad Region, Hyderabad

Please find enclosed herewith the decision of the Appellate Board dated 16.11.2021, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above


(Ikram Shakeel)
Deputy Director (M&E)
Appellate Board

Forwarded for information please.

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



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. 059/2019

Hyderabad Electric Supply Company Limited

.....Appellant

Versus

Qazi Zafar Ahmed R/o House No.F-1286, Near Rehmania
Masjid, Doaba police Line, Garhi Khata, Hyderabad

.....Respondent

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,
TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997
AGAINST THE DECISION DATED 01.10.2018 PASSED BY PROVINCIAL
OFFICE OF INSPECTION HYDERABAD REGION, HYDERABAD**

For the Appellant:

Mr. Suhail Sheikh XEN

Ms. Amber Shah Incharge (TM&CM)

For the Respondent:

Nemo

DECISION

1. Brief facts of the case are that the Hyderabad Electric Supply Company Limited (HESCO) is a licensee of the National Electric Power Regulatory Authority (hereinafter referred to as the NEPRA) for the distribution of electricity in the territory specified as per terms and conditions of the license and the Respondent is its consumer of a domestic connection bearing Ref No. 01-37112-0081800 U with a sanctioned load of 1 kW under the A-1 Tariff. The premises of the Respondent was initially checked by SDO HESCO on 28.11.2017 and subsequently by the Metering and Testing (M&T) HESCO on 29.11.2017 and on both the occasions,





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allegedly the Respondent was found stealing electricity through the tampered (device installed) meter and the connected load was observed as 6.65 kW including two split ACs. Resultantly, a detection bill amounting to Rs.95,000/- for 6,269 units for the period June 2017 to November 2017 six (6) months was debited to the Respondent by HESCO at the rate of 25% load factor of the connected load and added in the bill for December 2017. The Respondent made partial payment against the abovementioned detection bill, thereafter the disputed meter of the Respondent was replaced with a new meter by HESCO in January 2018.

2. Being aggrieved, the Respondent initially filed a CP No.D-3819/2017 before the Honorable High Court of Sindh, Hyderabad Circuit and challenged the bill of Rs.132,617/- for December 2017, which contained the above detection bill. Later on the Respondent withdrew the above constitution petition and filed a complaint before the Provincial Office of Inspection, Hyderabad Region, Hyderabad (the POI), wherein he challenged the detection bill of Rs.95,000/- for 6,269 units charged by the HESCO for the period June 2017 to November 2017. During the POI joint checking dated 05.01.2018 the new meter installed on the premises of the Respondent was found working correctly, the electricity was being used through the new meter and the connected load was noticed as 4 kW. The POI disposed of the matter vide its decision dated 01.10.2018, wherein the detection bill of Rs.95,000/- for 6,269 units for the period June 2017 to November 2017 along with the late payments surcharges (LPS) was cancelled and the HESCO was directed to revise the bills for three (3) months at the rate of 648 units/month as per average consumption of undisputed period after the dispute i.e. January 2018 to August 2018.





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3. Through the instant appeal, the HESCO has assailed the decision dated 01.10.2018 of the POI (hereinafter referred to as the impugned decision) before the NEPRA. In its appeal, the HESCO contended that the premises of the Respondent was checked twice i.e. 28.11.2017 and 29.11.2017 and on both occasions, the Respondent was found involved in the dishonest abstraction of electricity through installing a device in the disputed meter. The HESCO further contended that the notice was issued to the Respondent regarding the above discrepancy and a detection bill of Rs.95,000/- for 6,269 units for the period June 2017 to November 2017 was issued after adopting the proper procedure to recover the revenue loss. As per the HESCO, the POI neither considered their arguments nor perused the billing history of the Respondent and rendered the unjustified impugned decision. According to the HESCO, the average consumption of the Respondent is much lesser than the consumption assessed on the basis of connected load, which reflects that the Respondent is involved in illegal abstraction of electricity. The HESCO finally defended the charging of the above detection bill and prayed for setting aside the impugned decision being passed beyond jurisdiction.
4. Notice of the appeal was issued to the Respondent for filing reply/para-wise comments, which however were not filed.
5. Hearing of the appeal was fixed for 08.10.2021 at the NEPRA Regional Office Hyderabad and notice thereof was served upon both the parties. On the date of hearing, the HESCO officials were in attendance whereas no one appeared for the Respondent. XEN HESCO reiterated the same grounds as contained in memo of the appeal and contended that the detection bill of Rs.95,000/- for 6,269 units for





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the period June 2017 to November 2017 was charged to the Respondent on account of theft of electricity through the tampered (device installed) meter as observed on 29.11.2017. XEN HESCO defended the charging of the above detection and argued that the dip in the consumption during the disputed period proves the involvement of the Respondent in the theft of electricity. To support his version, XEN HESCO submitted the consumption data of the Respondent as documentary evidence.

6. Arguments heard and the record examined. It is observed as under:

- i. The HESCO raised the preliminary objection regarding the jurisdiction of the POI. It is observed that the Respondent was found stealing electricity through tampering with the metering equipment and a detection bill of Rs.95,000/- for 6,269 units for the period June 2017 to November 2017 was charged by the HESCO to him due to the above-said discrepancy. Metering equipment is involved in the instant case, hence POI has exclusive jurisdiction to entertain such dispute of billing as per the judgment of Honorable Supreme Court of Pakistan reported in PLD 2012 SC 371. The relevant excerpt from the mentioned paragraph is reproduced as follows:

"P L D 2012 Supreme Court 371

"In case, the theft alleged is by means other than the tampering or manipulation of the metering equipment etc., the matter would fall exclusively under Section 26-A of the Act, the Electricity Act, outside the scope of powers of the Electric Inspector. Since the Electric Inspector possess special expertise in examining the working of the metering equipment and other relater apparatus, it makes sense that any issue regarding their working, functioning or correctness, whether or not deliberately caused, be examined by him. It may be added that Section 26-A is an enabling provision empowering the licensee to charge the consumer for dishonest extraction or consumption of electricity. It does not provide any procedure for resolving any dispute between the consumer and the licensee on a charge of theft. It should be, therefore be read in conjunction with the other relevant provisions including section 26(6) of the Act."





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In view of the above, the objection of HESCO is not valid and rejected.

- ii. The HESCO charged the detection bill of Rs.95,000/- for 6,269 units for the period June 2017 to November 2017 six (6) months to the Respondent at the rate of 25% load factor of the connected load i.e. 6.65 kW on the plea that the Respondent was stealing electricity through tampering the (device installed) meter on 29.11.2017. The Respondent disputed the above detection bill before the POI.
- iii. Under the Clause 9.1c(3) of the Consumer Service Manual (CM), the HESCO may charge the detection bill maximum of three (3) months to a general supply consumer in the absence of approval of the Chief Executive Officer. However, in the instant case, HESCO charged the detection bill for a period of six (6) months i.e. June 2017 to November 2017 to the Respondent due to theft of electricity, which is violative of the ibid clause of the CSM. In order to check the stance of the HESCO, consumption pattern of the Respondent is drawn below:

Disputed period			Period after dispute	
Month	Normal units	Detection units	Month	Normal units
Jun-17	412	7284	Jun-18	928
Jul-17	200		Jul-18	1043
Aug-17	312		Aug-18	911
Sep-17	332		Sep-18	634
Oct-17	246		Oct-18	550
Nov-17	310		Nov-18	366
Average	302	1214	Average	738

Examination of the above consumption data indicates that the detection bill debited at the rate of 1,214 units/month to the Respondent is much higher than the average consumption of 738 units/month as recorded during the period after



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the dispute i.e. June 2018 to November 2018. Under these circumstances, we hold that the detection bill of Rs.95,000/- for 6,269 units for the period June 2017 to November 2017 six (6) months debited to the Respondent by the HESCO at the rate of 25% load factor of the connected load is unjustified and liable to be cancelled, which is also the determination of the POI.

iv. It would be judicious to charge the detection bill at the rate of 738 units/month for three (3) months i.e. September 2017 to November 2017 to the Respondent as per average consumption of the corresponding period after the disputed i.e. June 2018 to November 2018. The impugned decision is liable to be modified to this extent.

7. Summing up the foregoing discussion, it is held that the detection bill of Rs.95,000/- for 6,269 units for the period June 2017 to November 2017 charged to the Respondent by the HESCO is unjustified and the same along with the LPS should be withdrawn. The HESCO may charge the revised bill at the rate of 738 units/month for three (3) months i.e. September 2017 to November 2017 to the Respondent as per average consumption of the corresponding period after the disputed i.e. June 2018 to November 2018. However, the payment already made/units already charged, if any during the above said period need to be adjusted.
8. Forgoing into consideration, the appeal is partially accepted.

Abid Hussain
Member/Advisor (CAD)

Maria Rafique
Member/ Legal Advisor

Nadir Ali Khoso
Convener/Senior Advisor (CAD)

Dated: 16.11.2021

