



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

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No. NEPRA/AB/Appeal/055/POI/2022/ 783

July 25, 2022

1. Syed Muhammad Haroon Rashid,  
R/o. Saadaat House, House No. 186/2,  
Civil Line, Hyderabad
2. Chief Executive Officer,  
HESCO Ltd.,  
WAPDA Offices Complex,  
Hussainabad, Hyderabad
3. Executive Engineer (Operation),  
HESCO Ltd,  
Gari Khata Operation Division,  
Gari Khata
4. POI/Electric Inspector,  
Hyderabad Region,  
Government Building No. 48/B,  
Civil Lines, Hyderabad

Subject: **Appeal Titled HESCO Vs. Syed Muhammad Haroon Rashid Against the Decision Dated 20.09.2021 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 21.07.2022, 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. Additional Director (IT) –for uploading the decision on NEPRA website





# National Electric Power Regulatory Authority

## Before The Appellate Board

In the matter of

### Appeal No. 055/POI-2022

Hyderabad Electric Supply Company Limited

.....Appellant

Versus

Syed Muhammad Haroon Rashid, R/o Sadaat House,  
House No. 186/2, Civil Line, Hyderabad

.....Respondent

### **APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 20.09.2021 PASSED BY THE PROVINCIAL OFFICE OF INSPECTION HYDERABAD REGION HYDERABAD**

#### For the Appellant:

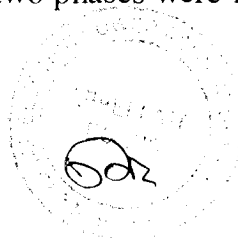
Mr. Ikhtiar Ahmed Memon XEN  
Syed Nihal Zaidi

#### For the Respondent:

Syed Muhammad Haroon Rashid

## DECISION

1. As per fact of the case, the Respondent is a domestic consumer of the Appellant (the “Hyderabad Electric Supply Company Limited” or “HESCO”) bearing Ref No.08-37111-0438700 having sanctioned load of 03 kW and the applicable tariff category is A-1(a). As per Appellant, the premises of the Respondent was inspected on 10.05.2018, wherein he was found stealing electricity through tampering with the meter (shunt installed inside the meter), two phases were found dead stop and the connected



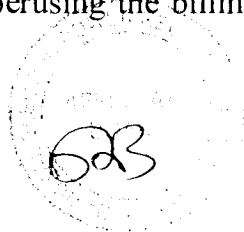




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load was noticed as 10.8 kW. A notice thereof was issued to the Respondent regarding the above discrepancy and a detection bill of Rs.95,069/- for 4,783 units for three (03) months i.e. March 2018 to May 2018 was debited by the Appellant to the Respondent in May 2018.

2. Subsequently, the Respondent filed a complaint before the Provincial Office of Inspection Hyderabad Region, Hyderabad (the "POI") on 19.05.2021 and challenged the above detection bill. According to the decision of the POI, an opportunity of hearing was provided to both parties on 02.09.2021 but the Appellant neither appeared before the POI nor submitted the reply/para-wise comments to the appeal. The POI decided the case ex-parte vide decision dated 20.09.2021 whereby the detection bill of Rs.95,069/- for 4,783 units for the period March 2018 to May 2018 three (03) months debited by the Appellant to the Respondent along with late payment surcharge (LPS) was declared as null and void.
3. The appeal in hand has been filed by the Appellant against the POI decision dated 20.09.2021 (hereinafter referred to as the "impugned decision") before the NEPRA. In its appeal, the Appellant opposed the impugned decision *primarily* on the grounds that neither any notice was served nor received during the pendency of complaint before the POI; that the detection bill of Rs.95,069/- for 4,783 units for the period March 2018 to May 2018 three (03) months was debited by the Appellant to the Respondent in May 2018 on account of theft of electricity but the POI did not consider it properly and passed the ex-parte decision; that the POI did not refer any evidence on technical grounds and without perusing the billing history rendered the ex-parte





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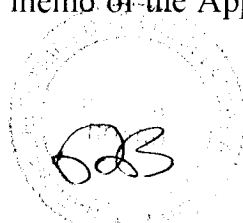
decision. The Appellant prayed that the impugned decision is liable to be set aside.

#### 4. Proceedings by the Appellate Board

4.1 Upon the filing of the instant appeal, a Notice dated 24.05.2022 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days. The Respondent submitted his reply before the NEPRA on 03.06.2022 wherein he denied the allegation of theft of electricity leveled by the Appellant. The Respondent averred that the notice was served in the XEN office of the Appellant but the clerk of the Appellants did not hand over the said notice to the concerned officer, hence there was no representation during the hearing conducted by the POI. As per Respondent, the impugned decision was implemented by the Appellant and the disputed bill of Rs.95,000/- was withdrawn, hence such conduct of the Appellant shows misuse of authority and harassment of the consumers. According to the Respondent, the POI has rightly passed the ex-parte decision, the same is valid speaking order. The Respondent finally prayed for dismissal of the Appeal and to conduct an inquiry against the Appellants for filing a frivolous malafide appeal.

#### 4. Hearing

4.1. Hearing in the matter of the subject Appeal was scheduled for 04.07.2022 at NEPRA Regional Office Karachi for which notices dated 28.06.2022 were issued to both parties (the Appellant and Respondent). On the date of the hearing, the Appellant officials were present, whereas the Respondent attended the hearing via zoom link. The representatives for the Appellant repeated the same contentions as given in memo of the Appeal and argued that during site



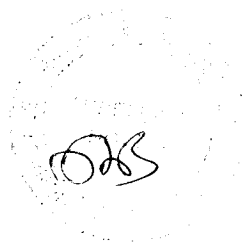


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inspection dated 10.05.2018, the Respondent was found involved in the dishonest abstraction of electricity through tempering (shunt installed) with the meter, its two phases were found dead and the connected load was observed higher than the sanctioned load, therefore a detection bill of Rs.95,069/- for 4,783 units for three (03) months was debited to the Respondent in May 2018. The representatives for the Appellant *inter alia* contended that neither any notice was served by the POI nor any intimation was given by the Respondent regarding the proceedings before the POI, hence the impugned decision could not be decided on ex-parte basis. The Appellant prayed that the impugned decision be set aside and the matter be remanded back to POI for decision afresh after hearing the parties.

4.2. The Respondent refuted the allegation of theft of electricity levelled by the Appellant and argued that the entire proceedings were carried out by the Appellant unilaterally, hence the POI has rightly cancelled the above detection bill. The Respondent rebutted the version of the Appellant regarding the nonservice of notice regarding the proceedings before the POI and averred that the notice for hearing was properly served to the Appellant's office, however, concerned officials of the Appellant deliberately failed to attend the hearing before the POI, hence the ex-parte decision was rendered by the said forum. Lastly, both parties agreed to remand back the case to the POI for redetermination of the fate of the disputed detection bill of Rs.95,000/-.

5. Arguments were heard and the record placed before us was examined. Following are our findings:



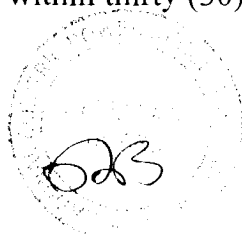






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- 5.1 In its appeal, the Appellant took the primary ground that no notices were served by the POI with regard to the proceedings of the Respondent's complaint, hence the impugned ex-parte decision be set aside and the matter be remanded back to the POI for the decision on merits.
- 5.2 According to the Decision dated 20.09.2021 of POI, a single notice was issued to the Appellant after which the hearing was held on 02.09.2021 wherein nobody appeared on behalf of the Appellant and the case was decided on ex-parte basis. In the Appeal, the Appellant has contended that it did not receive any notice of POI whereas, the Respondent, in his reply dated 03.06.2022, refuted the Appellant's version and has claimed that the notice was duly received by the Appellant. As such a factual controversy is involved which cannot be determined at the Appellate stage and the Office of the POI, having custody of its dispatch record, is in better position to confirm the veracity of Appellant's claim regarding non-receipt of notice.
- 5.3 Besides the factual controversy regarding receipt of notice of the POI by the Appellant, the ex-parte decision by POI after issuance of single notice may not be in the interest of justice. Therefore, it would be appropriate to remand back the case to POI to decide the case after confirming the veracity of the Appellant's claim and providing an opportunity of hearing to both the parties.
- 6 In view of the above, the impugned decision is set aside and the matter is remanded back to the POI for deciding afresh after providing the opportunity of hearing to both the parties in accordance with the law within thirty (30) days from the date of receipt





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of NEPRA decision.

7 The appeal is disposed of in the above terms.

Syed Zawar Haider  
Member

Abid Hussain  
Convener

Muhammad Irfan-ul-Haq  
Member

Dated: 21/7/2022

