



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

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No. NEPRA/Appeal/020/2019/

780-785

September 23, 2020

1. M/s. Community Based Organization,
Through its Chairman,
Office at Water & Sanitation Project,
Rehmatabad, Rawalpindi
2. Chief Executive Officer
IESCO Ltd,
Head Office, St. No. 40,
Sector G-7/4, Islamabad
3. Faisal Bin Khurshid,
Advocate Supreme Court,
Al Rushd Advocates,
32-Haroon-Ur-Rasheed Block,
Near Post Office, Johar Road,
F-8 Markaz, Islamabad
4. Executive Engineer,
IESCO Ltd,
Operation Division Cantonment,
Marrir Hassan, Rawalpindi
5. Sub Divisional Officer
IESCO Ltd,
Chaklala Sub Division,
Rawalpindi
6. Electric Inspector/POI,
Islamabad Region,
XEN Office, Irrigation & Power
Department,
Rawal Dam Colony, Park Road,
Islamabad

Subject: Appeal Titled IESCO Vs. Chairman Community Based Organization, Rehmatabad, Rawalpindi Against the Decision Dated 26.11.2018 of the Provincial Office of Inspection to Government of the Punjab Islamabad Region, Islamabad

Please find enclosed herewith the decision of the Appellate Board dated 22.09.2020, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(Ikram Shakeel)
Assistant Director
Appellate Board

Forwarded for information please.

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.020/2019

Islamabad Electric Supply Company LimitedAppellant
Versus

M/s. Community-Based Organization Through its Chairman,
Office at Water & Sanitation Project, Rehmatabad, RawalpindiRespondent

APPEAL U/S 38 OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997

For the appellant:

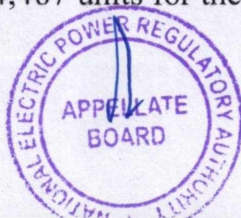
Mr. Faisal Bin Khurshid Advocate
Mr. Shahzad Ahmed Jalil XEN

For the respondent:

Mr. Taj Abbasi Chairman CBO

DECISION

1. Through this decision, an appeal filed by Islamabad Electric Supply Company Limited (IESCO) against the decision dated 26.11.2018 of the Provincial Office of Inspection, Islamabad region, Islamabad (POI) is being disposed of.
2. As per facts of the case, the respondent is a (water supply scheme) consumer of IESCO bearing Ref No.28-14334-5721700 with a sanctioned load of 45 kW and the applicable tariff is A-3(A). Meter of the respondent was checked by IESCO thrice in May 2017, December 2017 and June 2018 and reportedly on all the occasions, 39% slowness was observed in the meter. IESCO recommended to charge total 71,658 units (14,487 units for the period February 2017 to April 2017,



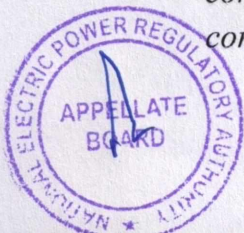


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35,867 units for the period May 2017 to November 2017 and 21,304 units for the period December 2017 to March 2018) to the respondent @ 39% slowness of the meter but the bill was not charged. Subsequently, notice No.1261-62 dated 13.06.2018 was served to the respondent regarding 39% slowness of the meter and multiplication factor (MF) was raised from 20 to 33 due to 39% slowness of the meter w.e.f July 2018 and onwards. Thereafter, a detection bill of Rs.1,567,924/- for 84,803 units for the period February 2017 to June 2018 was charged to the respondent @ 39% slowness of the meter and added in the bill for August 2018.

3. Being aggrieved, the respondent assailed the above detection bill before POI on 31.08.2018. The disputed meter of the respondent was checked by POI on 10.09.2018 in presence of both the parties and it was found 45% slow. The complaint of the respondent was disposed of by POI vide decision dated 26.11.2018 with the following conclusion:

“Summing up all the above observations/discussion and keeping in view all the aspects of the case this forum declares charging on the faulty meter null and void as the meter found slow and results varied. From all above calculations it is therefore directed to the respondents to set aside all the units charged null and void from 02/2017 that impugned checking including all the actions and proceedings so taken by the respondents in the utter violation of the consumer service manual 2010 and related law, rules unauthorized, ex-parte, unilateral, without notice, illegal unlawful having no value in the eye of law and are ineffective, inoperative against the rights of the complainant and disputed detection bill amount of Rs.1567924/- separately for the cost of 84803 units (off peak and peak units) for the period from 02/2017 to 04/2018, so prepared & presented by the respondents is illogical, unilateral, without notice self-estimated, without data retrieval report, fake inflated, highly excessive, unjustified, illegal, null and void against the actual consumption of electricity so consumed by the complainant and is neither recoverable nor payable by the complainant or his premises and is ineffective, inoperative against the rights of





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the complaints be set aside and revised after due to rendition of accounts by making due adjustments by the respondents according to the actual consumption as calculated by the undersigned."

4. Through the instant appeal, afore-referred decision dated 26.11.2018 of POI has been impugned by IESCO in which it was contended that the meter of the respondent was found 39% slow during IESCO checking in May 2017, December 2017 and June 2018 but the MF of the respondent was not enhanced timely. As per IESCO, after issuing notice dated 13.06.2018, a detection bill of Rs.1,567,924/- for 84,803 units for the period February 2017 to June 2018 was charged to the respondent. IESCO opposed the impugned decision and pleaded that the respondent did not adduce any formal authorization with the petition, which was ignored by the POI while passing the impugned decision. According to IESCO, POI flouted the legal, technical and factual aspects of the matter and jumped upon assuming jurisdiction forthwith on the very first opportunity and the impugned decision was passed in undue haste. IESCO finally prayed for setting aside the impugned decision and declaring the detection bill as justified.
5. Notice for filing reply/para-wise comments to the appeal was issued to the respondent, which were filed on 30.05.2019. In his reply, the respondent submitted that the connection having a load of 45 kW was sanctioned by IESCO on 16.03.2006 to supply water to the local residents of the area. The respondent further submitted that IESCO served a detection bill of Rs.1,567,924/- for 84,803 units for the period February 2017 to June 2018 due to 39% slowness of the meter. As per respondent, neither any checking was carried in his representation nor was any notice issued to him prior checking of the metering equipment, hence he cannot be



held responsible for the slowness of the meter. According to the respondent, if 39% slowness was observed in the meter by IESCO then why IESCO waited so long for verification of slowness of disputed meter from POI. The respondent stated that there is no deviation in the consumption of the meter during the last five years, which proves that the meter was functioning correctly. The respondent further stated that IESCO did not submit the surveillance reports of the checking, which is illegal in the eyes of law. The respondent prayed for declaring the detection bill of Rs.1,567,924/- for 84,803 units as null and void.

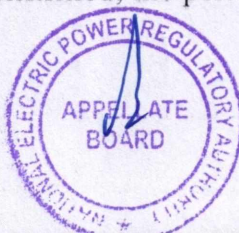
6. Hearing of the appeal was conducted in NEPRA Head Office, Islamabad on 07.07.2020, which was attended by both the parties. Learned counsel for IESCO reiterated the same version as contained in the memo of the appeal and contended that 39% slowness was reported in the meter repeatedly in May 2017, December 2017 and June 2018 but the MF was not raised effectively to account for the above slowness. Learned counsel for IESCO further contended that notice dated 13.06.2018 was sent to the respondent regarding 39% slowness of the meter but he did not reply. As per learned counsel for IESCO, the detection bill of Rs.1,567,924/- for 84,803 units for the period February 2017 to June 2018 was charged to the respondent in August 2018 to recover 39% slowness of the meter. According to the learned counsel for IESCO, 45% slowness was established in the meter during POI joint checking dated 10.09.2018, hence the above detection bill is justified and payable by the respondent. Learned counsel for IESCO prayed that the impugned decision is liable to be struck down. On the contrary, the respondent rebutted the



version of IESCO and contended that neither any checking was conducted during his presence nor any notice in this regard was received from IESCO. The respondent explained that the discrepancy in the meter came to his knowledge on receipt of the detection bill of Rs.1,567,924/- for 84,803 units. The respondent claimed that consumption of the disputed meter remained the same during the disputed and undisputed periods, hence the above detection bill is not justified and rightly set aside by POI.

7. Arguments heard, the record perused. Following are our observations:

- i. In its appeal, IESCO raised the preliminary objection regarding authorization and averred that the person representing the respondent is not authorized to plead the case. It is observed that Mr. Muhammad Taj Abbasi Chairman Community Based Organization has pleaded the case before POI on behalf of the respondent and no such objection was raised by IESCO. Therefore raising the objection at the belated stage is not sustainable in the eye of law and dismissed.
- ii. Reportedly, the meter of the respondent was found 39% slow during various IESCO checkings in May 2017, December 2017 and June 2018 but detection bill were not charged promptly. However IESCO charged the detection bill of Rs.1,567,924/- for 84,803 units for the period February 2017 to June 2018 to the respondent @ 39% slowness of the meter and added in the bill for August 2018, which was assailed by him before POI. Subsequently, 45% slowness in the meter was established during POI joint checking dated 10.09.2018. Though slowness in the meter has been confirmed, the period of slowness needs to be determined.





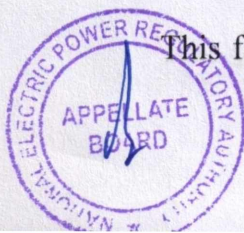
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It is observed that IESCO did not provide the site inspection reports of May 2017 and December 2017 in order to substantiate their claim that the meter was 39% slow since May 2017. Moreover, IESCO failed to provide any document showing the representation of the respondent during the alleged checkings of May 2017 and December 2017. To further verify the claim of IESCO, the consumption of the disputed and undisputed periods is compared below:

Undisputed year 2016		Disputed period	
Month	Units	Month	Units
Jan-16	8520	Feb-17	9000
Feb-16	6480	Mar-17	4220
Mar-16	8440	Apr-17	9440
Apr-16	8800	May-17	7940
May-16	5100	Jun-17	6880
Jun-16	6240	Jul-17	9520
Jul-16	6800	Aug-17	6860
Aug-16	6000	Sep-17	8260
Sep-16	7900	Oct-17	8200
Oct-16	10240	Nov-17	8440
Nov-16	7340	Dec-17	7300
Dec-16	7320	Jan-18	9760
		Feb-18	7920
		Mar-18	7920
		Apr-18	7120
		May-18	6860
		Jun-18	7000
Average consumption	7,598	Average consumption	7,802

From the above comparison of consumption data, it is revealed that the average consumption of the disputed period i.e. February 2017 to June 2018 is higher than the average consumption of the undisputed year 2016. Even otherwise, the consumption of the checking months i.e. May 2017 and December 2017 is compatible with the consumption of corresponding months of the years i.e. 2016.

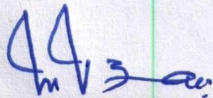
This fact contradicts the stance of IESCO that the meter was 39% slow during



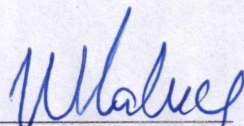
checkings in May 2017 and December 2017. Hence we are in agreement with the determination of POI regarding the cancellation of the detection bill of Rs.1,567,924/- for 84,803 units for the period February 2017 to June 2018.

iii. As per the only report submitted by IESCO, 39% slowness in the meter was observed during checking on 13.06.2018, as such the respondent is liable to be charged the detection bill maximum for two months i.e. May 2018 and June 2018 @ 39% slowness of the meter in pursuance of clause 4.4 of CSM. 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 impugned decision for declaring null and void the detection bill of Rs.1,567,924/- for 84,803 units for the period February 2017 to June 2018 is correct and the same is maintained. However, the respondent may be charged the detection bill for the months May 2018 and June 2018 (2 months) by IESCO @ 39% slowness of the meter. The billing account of the respondent may be overhauled accordingly.
9. Foregoing in view, the appeal is partially accepted and consequently, the impugned decision is modified in the above terms.



Muhammad Qamar-uz-Zaman
Member



Nadir Ali Khoso
Convener



Muhammad Shafique
Member

Dated: 22.09.2020

