



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

NEPRA Office , Atta Turk Avenue (East), G5/1, Islamabad
Tel. No. +92 051 2013200 Fax No. +92 051 2600030
Website: www.nepra.org.pk E-mail: office@nepra.org.pk

No. NEPRA/Appeal/046/2019/ 788-791

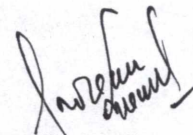
September 23, 2020

1. Haji Abdul Rasheed Khan,
Hotel Royal Palace,
5-Morgah, Opposite National Park,
G. T. Road, 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,
Swan 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. Haji Abdul Rasheed Khan Against the Decision Dated 04.12.2018 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.046/2019

Islamabad Electric Supply Company Limited

.....Appellant

Versus

Haji Abdul Rashid Khan, Hotel Royal Palace, 5-Morgah,
Opposite Ayub National Park, G.T.Road, Rawalpindi

.....Respondent

APPEAL UNDER SECTION 38 OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 04.12.2018 OF PROVINCIAL OFFICE OF INSPECTION, ISLAMABAD REGION, ISLAMABAD

For the appellant:

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

For the respondent:

Mr. Naveed Akhtar

DECISION

1. As per facts of the case, the respondent is a commercial consumer of IESCO bearing Ref No.27-14336-6061600 with a sanctioned load of 250 kW under the A-2c tariff. The electricity Meter of the respondent was initially checked by IESCO in June 2017 and reportedly it was found defective due to upset date and time, hence the DEF-EST code was fed by IESCO w.e.f June 2017 and onwards. The defective meter of the respondent was replaced with a new meter by IESCO vide meter change order (MCO) No.1212/2017 dated 13.12.2017. Reportedly, the removed





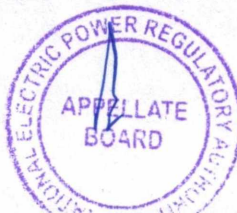
National Electric Power Regulatory Authority

meter of the respondent was sent to metering and testing (M&T) laboratory IESCO for the data retrieval, wherein the final reading of the meter was retrieved as (OP=6655, P=1524). Subsequently, the Audit department vide Audit Note No.46 dated 05.06.2018 recommended to charge 39,857 (OP=37,280, P=2,577) units/277 kW MDI for the period June 2017 to December 2017 to the respondent as per M&T report. Accordingly IESCO charged the detection bill of Rs.850,833/- for 39,857 (OP=37,280, P=2,577) units/277 kW MDI for the period June 2017 to December 2017 to the respondent in September 2018.

2. Being dissatisfied, the respondent assailed the above referred detection bill before the Provincial Office of Inspection (POI). The matter was decided by POI vide decision dated 04.12.2018 with the following conclusion:

"Summing up all the above observations/discussion and keeping in view all the aspects of the case this forum declares the charging of Rs.850,833/- on the basis of Audit Note is null and void and without legal effect and the consumer is not liable to pay the same. The IESCO/Respondents are directed to withdraw the same and overhaul the petitioner's account by adjusting all Credits, Debits, Deferred Amount & Payments already made by the consumer."

3. The subject appeal has been filed by IESCO against the POI decision dated 04.12.2018 (hereinafter referred to as the impugned decision) before NEPRA in which IESCO contended that the meter of the respondent became defective in June 2017 and the respondent was billed on an estimated basis during the period

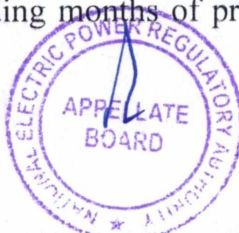




National Electric Power Regulatory Authority

June 2017 to December 2017. IESCO further contended that the defective meter was replaced with a new meter vide MCO dated 13.12.2017 and referred to M&T laboratory for data recovery, whereupon 37,283 off peak/2,577 peak units were found chargeable. As per IESCO, the Audit Department vide Audit Note No.46 dated 05.06.218 recommended to recover the abovementioned pending off-peak/peak units from the respondent, hence a detection bill of Rs.850,833/- was served to the respondent in September 2018. According to IESCO, a perusal of the consumption data justifies the charging of detection bill of Rs.850,833/- to the respondent but POI declared the above detection bill as null and void. 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.

4. Notice for filing reply/para-wise comments to the appeal was served to the respondent, which were replied on 31.07.2019. In his reply, the respondent rebutted the version of IESCO and stated that the meter was declared defective by IESCO in June 2017 and the onwards bills were charged on DEF-EST code as per Consumer Service Manual (CSM) but subsequently IESCO debited a detection bill of Rs.850,833/- on the basis of Audit Note. As per respondent, the consumption recorded during the disputed period June 2017 to December 2017 is higher than the consumption of corresponding months of preceding and succeeding years but the





National Electric Power Regulatory Authority

detection bill of Rs.850,833/- was additionally charged by IESCO against the disputed period, which is unjustified. The respondent submitted that IESCO did not replace the defective meter within two months as laid down in CSM.

5. 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 arguments as contained in the memo of the appeal and contended that the billing meter of the respondent became defective in June 2017 and the billing was done on DEF-EST code w.e.f June 2017 till the replacement of the defective meter vide MCO dated 13.12.2017. As per learned counsel for IESCO, the data of the removed meter was retrieved and the detection bill of Rs.850,833/- was debited to the respondent based on the final reading of the removed meter and the recommendation of the Audit Department vide Audit Note No.46 dated 05.06.2018, which is justified and payable by the respondent. Learned counsel for IESCO raised the objection on the authorization of the representative for the respondent and argued that the person appearing on behalf of the respondent is not legally authorized to plead the case. Conversely, the representative for the respondent assured this forum to provide the authorization within two days. On merits, the representative for the respondent repeated the same contention as given in the reply/para-wise comments to the appeal and stated that the detection bill of Rs.850,833/- was charged by IESCO on the recommendation of Audit Department, as such the respondent is not bound to pay the above detection bill. The respondent supported the impugned decision and prayed for its maintainability.

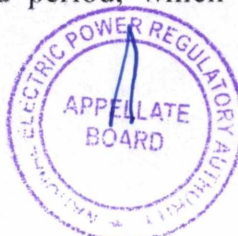




National Electric Power Regulatory Authority

6. Arguments heard and the record perused. Following are our observations:

- i. As regards the preliminary objection of learned counsel for IESCO regarding the authorization of the person appearing on behalf of the respondent, the representative for the respondent submitted the authorization letter dated 07.07.2020, wherein Mr. Abdul Rasheed Khan Chairman of Hotel Royal Palace the respondent has authorized Mr. Naveed Akhtar to represent him for the hearing of the case before the NEPRA Appellate Board.
- ii. Admittedly, the meter of the respondent became defective in June 2017 and the respondent was billed on DEF-EST code for the period from June 2017 and onwards till the replacement of the defective meter in December 2017. Subsequently, the Audit department pointed out less charging of total 39,857 units (off peak=37,280, peak=2,577)/277 kW MDI during the period June 2017 to December 2017 vide Audit Note No.46 dated 05.06.2018. Consequently, IESCO charged the detection bill of Rs.850,833/- for 39,857 (off peak=37,280, peak=2,577) units/277 kW MDI for the period June 2017 to December 2017 to the respondent in September 2018, which was assailed by him before POI.
- iii. It is observed that the respondent was charged the bills on DEF-EST code for the period June 2017 to December 2017 by IESCO due to a defective meter. However, another detection bill of Rs.850,833/- was debited to the respondent for the same disputed period, which is tantamount to overburdening the





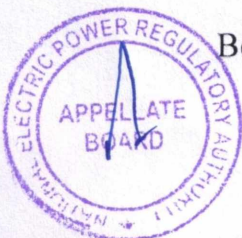
National Electric Power Regulatory Authority

respondent. IESCO was of the plea that less consumption was charged during the disputed period June 2017 to December 2017 as compared to the final reading of the removed meter retrieved during M&T checking, hence the detection bill of Rs.850,833/- was charged to the respondent to recover the pending units/MDI on the basis M&T checking and the Audit recommendation vide Audit Note No.46 dated 05.06.2018. To verify the claim of IESCO, the consumption of the disputed and undisputed periods is compared below:

Consumption					
Period before dispute		Disputed period		Period after dispute	
Month	Units	Month	Units	Month	Units
Jun-16	34880	Jun-17	34880	Jun-18	22080
Jul-16	24960	Jul-17	25440	Jul-18	35360
Aug-16	32280	Aug-17	33280	Aug-18	34720
Sep-16	28640	Sep-17	28640	Sep-18	36160
Oct-16	25280	Oct-17	25891	Oct-18	20640
Nov-16	24960	Nov-17	25452	Nov-18	16800
Dec-16	17120	Dec-17	11040	Dec-18	16480
Total	188,120	Total	184,623	Total	182,240

The above comparison of the consumption data reveals that the total consumption charged during the disputed period i.e. June 2017 to December 2017 is compatible with the total consumption of corresponding months of the preceding and succeeding years. It is further observed that the data retrieval of the removed meter was done by IESCO but neither the respondent was served notice in this regard nor was he associated during the retrieval process.

Besides, the removed meter was not produced before POI for the verification





National Electric Power Regulatory Authority

of its accuracy. Even otherwise, the audit observation is an internal matter between the DISCO and Audit Department and the respondent cannot be held responsible for payment of the same. In this regard, reliance is placed on the cases reported in 2014 MLD 1253 titled M/s. Mehmood Textile Mills v/s MEPCO and 2008 YLR 308 titled WAPDA v/s Fazal Karim. In view of the above, we are inclined to agree with the determination of POI that the detection bill of Rs.850,833/- for total 39,857 (off peak=37,280, peak=2,577) units/277 kW MDI for the period June 2017 to December 2017 charged to the respondent in September 2018 on the basis of Audit Note No.46 dated 05.06.2018 is unjustified and the same is liable to be declared null and void.

7. The upshot of the above discussion is that the impugned decision for declaring the detection bill of Rs.850,833/- for total 39,857 (off peak=37,280, peak=2,577) units/277 kW MDI for the period June 2017 to December 2017 as null and void is correct and therefore maintained. Consequently the appeal is dismissed.

Muhammad Qamar-uz-Zaman
Member

Nadir Ali Khoso
Convener

Muhammad Shafique
Member

Dated: 22.09.2020

