



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

NEPRA Office , Ata 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/004/POI/2021/ 1063

December 28, 2021

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| 1. Dr. Muhammad Aslam Malik,
S/o. Malik Sardar Ali,
House No. 204/4, CB,
Shimla Valley, Range 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,
Office No. 3, First Floor,
National Arcade, 4-A,
F-8 Markaz, Islamabad | 4. Sub Divisional Officer (Operation),
IESCO Ltd,
Seham Sub Division,
Upper Floor, Ashraf Plaza,
Near Bhatta Chowk, Rawalpindi |
| 5. POI/Electric Inspector,
Islamabad Region,
XEN Office, Irrigation & Power Department,
Rawal Dam Colony, Park Road,
Islamabad | |

Subject: **Appeal Titled IESCO Vs. Dr. Muhammad Aslam Malik Against the Decision Dated 19.11.2019 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 01.12.2021, 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. 004/POI-2021

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,
TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997
AGAINST THE DECISION DATED 19.11.2019 PASSED BY PROVINCIAL
OFFICE OF INSPECTION ISLAMABAD REGION, ISLAMABAD**

Islamabad Electric Supply Company Limited

.....Appellant

Versus

Dr. Muhammad Aslam Malik S/o Malik Sardar Ali,

House No.204/4, CB, Shimla Valley, Range Road, Rawalpindi.....Respondent

For the Appellant:

Mr. Faisal Bin Khurshid Advocate

Syed Munawar Ali Shah SDO

For the Respondent:

Dr. Muhammad Aslam Malik

DECISION

1. Islamabad Electric Supply Company Limited (the IESCO) is a licensee of the National Electric Power Regulatory Authority (hereinafter referred to as the NEPRA) for the distribution of the electricity in the territory specified as per the terms and conditions of the license and the Respondent is its domestic consumer bearing Ref No.15-14358-2455900 having a sanctioned load of 5 kW under the





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Tariff A-1(b).

2. Brief facts of the case are that the billing meter of the Respondent was found defective with display washed by the IESCO in August 2016, which was replaced vide the Meter Change Order (MCO) dated 21.07.2017. The removed meter was checked in the Metering and Testing (M&T) IESCO laboratory, wherein 16,835 units were found uncharged. Resultantly, IESCO charged a detection bill of Rs.276,396/- for 16,835 units to the Respondent in October 2017 on account of less units charged.
3. Being aggrieved with the actions of the IESCO, the Respondent filed a complaint before the Provincial Office of Inspection, Islamabad Region, Islamabad (hereinafter referred to as the POI) on 17.09.2019 and challenged the above detection bill. The matter was disposed of by the POI vide decision dated 19.11.2019, wherein the detection bill of Rs.276,396/- for 16,835 units charged in October 2017 was declared null and void.
4. Through the instant appeal, the IESCO has assailed the decision dated 19.11.2019 of the POI (hereinafter referred to as the impugned decision) in which the IESCO opposed the impugned decision inter alia, on the following grounds; (1) the billing meter of the Respondent became defective with washed display in August 2016 which was replaced with a new meter vide the MCO dated 21.07.2017; (2) the said meter was subsequently checked in the M&T IESCO laboratory in which 16,385 units were found pending; (3) the POI flouted the factual bearings of the matter by





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restraining the IESCO from recovery of the above detection bill; (4) the impugned decision suffers from technical, factual and legal infirmities, which is unlawful, malafide, arbitrary and calls for interference by this Authority; (5) the opinion of the POI is scanty and without a valid basis and reflection of wheeling and dealing as it is passed without taking into account the expert opinion based on technical testing which shows the real aspects of the case and that the impugned decision is liable to be set aside.

5. Notice of the appeal was issued to the Respondent for filing reply/para-wise comments, which were filed on 05.02.2021. In his reply, the Respondent rebutted the contentions of the IESCO on the following grounds; (1) the billing meter was neither checked in his present nor any prior notice was served by the IESCO; (2) the IESCO did not install the check meter and issued the average bills for the period December 2016 to August 2017; (3) SDO IESCO is responsible for payment of the detection bill of Rs.276,396/- for the cost of 16,835 units to the Respondent in October 2017 since the defective meter was under his custody; (4) IESCO charged the bills @ 5000 units/month for the four (4) months despite the fact remains that the average consumption of the premises was recorded @ 377 units/month for last three and half (3.1/2) years; (5) SDO and RO IESCO were not able to defend the case before the POI, since the IESCO officials misplaced the disputed meter, which could have been used in some factory; (6) IESCO was approached time and again against the above detection bill but no relief was granted; (7) the appeal is time





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barred since the POI dispatched the copy of the impugned decision dated 19.11.2019 vide letter No.E1/ISD/ARB-19-4499-45063 and received by him on 20.11.2019; (8) RO IESCO received the first copy of the impugned decision on 12.03.2020 and the second copy of the impugned decision on 24.11.2020 and filed the time barred appeal; (9) the impugned decision is liable to be maintained and the recovery of the abovementioned detection bill be made from the SDO IESCO.

6. Hearing of the appeal was fixed for 14.10.2021 at the NEPRA Head Office Islamabad and notice thereof was served upon both the parties. On the date of hearing, both the parties were in attendance. At the outset of hearing, the Respondent appearing in person raised the preliminary objection regarding limitation and averred that the first copy of the impugned decision was received by RO IESCO on 12.03.2020 and after failure in bargaining with him, the second copy of the impugned decision was obtained by the IESCO on 24.11.2020, therefore the appeal file before the NEPRA is time barred. In response to the question of limitation, learned counsel for the IESCO argued that the RO IESCO was not the party before the POI and prayed for exemption of limitation due to COVID-19. Learned counsel for the IESCO reiterated the same grounds as contained in memo of the appeal and contended that the display of the billing meter of the Respondent became vanished in August 2016, therefore the average bills were charged for the period August 2016 to December 2016. Learned counsel for the IESCO further contended that the defective meter of the Respondent was replaced with a new





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meter vide the MCO dated 21.07.2017. As per learned counsel for the IESCO, the detection bill of Rs.276,396/- for 16,835 units was charged to the Respondent in October 2017 on account of pending units as observed during the M&T data retrieval report. According to learned counsel for the IESCO, the above detection bill is justified and payable by the Respondent. Conversely, the Respondent averred that the display of the defective meter became defective in August 2016 and it was replaced with a new meter in December 2016. The Respondent argued that the removed meter remained under the custody of SDO IESCO for the period from December 2016 to August 2017, which might have been used for some other connection. As per Respondent, bribe was demanded by the concerned SDO IESCO but he refused, therefore the detection bill of Rs.276,396/- for the cost of 16,835 units was charged in October 2017 which is illegal, unjustified, and not payable. According to the Respondent, the average consumption of last three and half (3.1/2) years does not justify the charging of the above-said detection bill. The Respondent finally defended the impugned decision and pleaded for upholding the same.

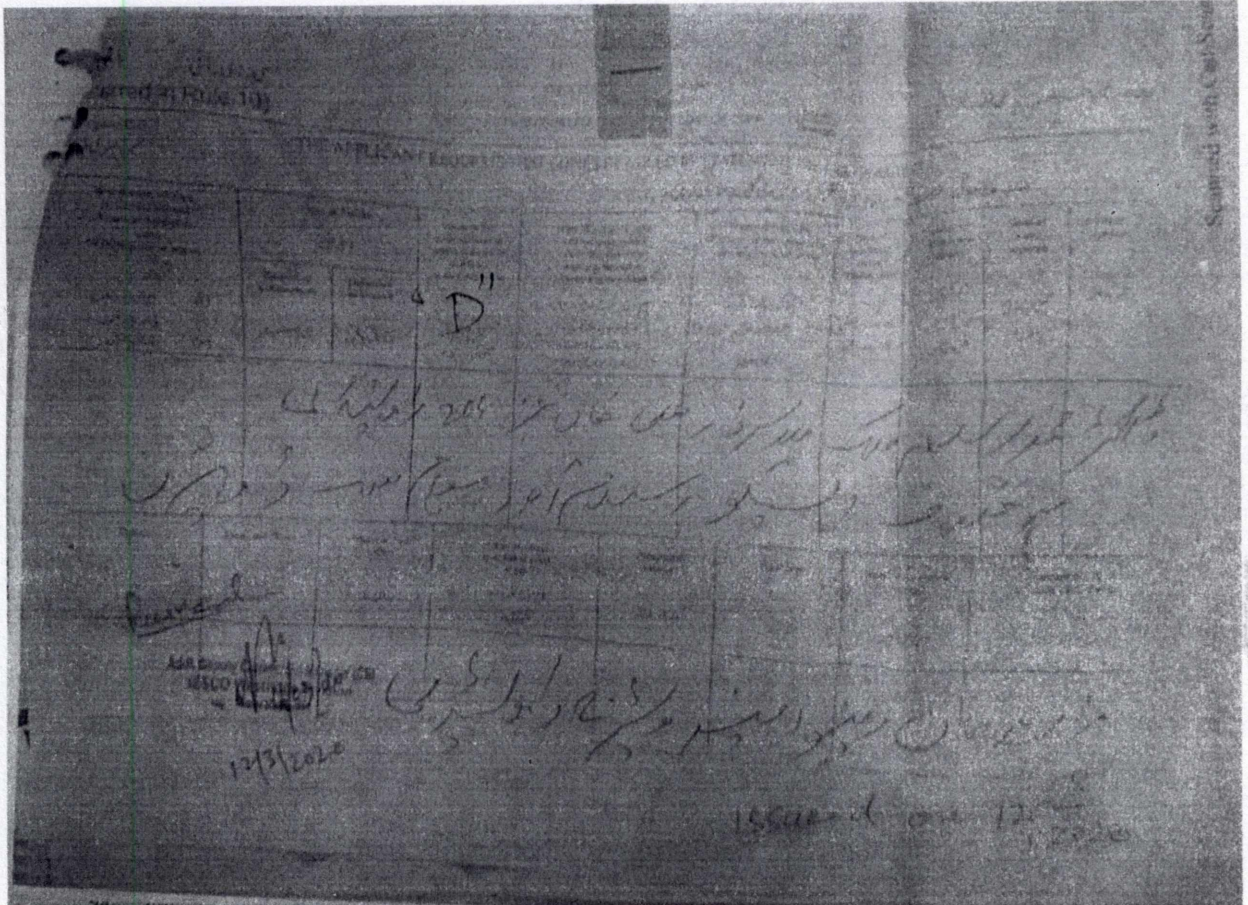
7. Arguments were heard and the record placed before us was examined. Following are our observations:
 - i. With regard to the preliminary objection of the Respondent for the limitation, it is observed that the impugned decision was pronounced by the POI on 19.11.2019, the first copy of the impugned decision was received by the RO





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IESCO on 12.03.2020 as evident from the following document:



The above image clearly indicates that the IESCO was well aware of the announcement of the impugned decision but did not file the appeal within the stated time limit of thirty (30) days as envisaged in Section 38 of the NEPRA Act, 1997. A perusal of the impugned decision further revealed that Mr. Rashid Khan RO attended the proceedings before the POI in the instant case on behalf of the IESCO. Therefore, there is no force in the arguments of learned counsel for the IESCO that RO IESCO was a not party in the instant case. Obviously, the appeal filed before the NEPRA on 16.12.2020 after two hundred eighty





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(280) days of its receipt on 12.03.2020. The appeal is liable to be dismissed on the ground of limitation.

ii. Even otherwise, the version of the IESCO for charging the detection bill of Rs.276,396/- for the cost of 16,835 units charged in October 2017 is not correct. The disputed meter was neither produced before the POI for verification of the pending units nor was the data retrieval done in presence of the Respondent. After declaring the billing meter of the Respondent as defective in August 2016, the IESCO was charging the average bills. There is no justification for charging the additional bill on the basis of unreliable data retrieval reports.

8. From the foregoing reasons, we hold that the detection bill of Rs.276,396/- for the cost of 16,835 units charged by the IESCO to the Respondent in October 2017 is unjustified and should be withdrawn. However, the amount deposited by the Respondent against the above detection bill should be adjusted.
9. In view of the above, the appeal is dismissed.

Abid Hussain
Member/Advisor (CAD)

Maria Rafique
Member/ Legal Advisor

Nadir Ali Khoso
Convener/Senior Advisor (CAD)

Dated: 01.12.2021

