



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

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No. NEPRA/Appeal/076/POI/2021/ *809*

October 27, 2021

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|---|---|
| 1. Wing Commander (R) Ijaz Al Muzaffar Minhas
R/o. House No. 411, St. No. 17,
PAF Falcon Complex (AFOHS),
PAF Base, Chaklala, 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
IESCO Ltd,
Koarnng Sub Division,
Rawalpindi |
| 5. Electric Inspector/POI,
Islamabad Region,
XEN Office, Irrigation & Power Department,
Rawal Dam Colony, Park Road,
Islamabad | |

Subject: **Appeal Titled IESCO Vs. Wing Commander (R) Ijaz Al Muzaffar Minhas
Against the Decision Dated 16.03.2021 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 20.10.2021, 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. 076/POI-2021

Wing Commander (R) Ijaz-al-Muzaffar Minhas
R/o House No.411, St No.17, PAF Falcon Complex (AFOHS),
PAF Base Chaklala Rawalpindi

.....Appellant

Versus

Islamabad Electric Supply Company Limited

.....Respondent

APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 16.03.2021 PASSED BY PROVINCIAL OFFICE OF INSPECTION ISLAMABAD REGION ISLAMABAD

For the Appellant:

Wing Commander ® Ijaz-al-Muzaffar Minhas

For the Respondent:

Mr. Faisal Bin Khurshid Advocate
Mr. Muhammad Obaid RO

DECISION

1. As per facts of the case, the Appellant is a domestic consumer of the Islamabad Electric Supply Company Limited (IESCO) bearing Ref No.28-15741-0291300 with a sanctioned load of 9 kW and billed under the A-1 tariff. IESCO charged the detection bill amounting to Rs.186,000/- for 10,118 units to the Appellant in October 2017 on account of pending units.
2. Being aggrieved, the Appellant filed an application before NEPRA in January 2018 against the above detection bill, which was forwarded to the Provincial Office of



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Inspection, Islamabad Region, Islamabad (hereinafter referred to as POI) by NEPRA vide letter dated 04.02.2020. On the direction of POI, the Appellant made a payment of Rs.57,441/- against the above detection bill on 04.03.2020. The matter was disposed of by the POI vide its decision dated 30.09.2020 with the following conclusion:

"Summing up all the above observations/discussion and keeping in view all the aspects of the case of this forum. I have thoroughly examined the consumption pattern and reply of the Respondents & I am of the opinion that the plea of the Respondents regarding charging of 10,118 pending units is justified. Respondents agreed to withdraw Rs.40,000/- (if already not given) on account of FPA and LPS. Also agreed to provide 12 equal installments. This forum directed Respondent to recover the remaining amount through 12 monthly equal installments & withdraw Rs.40,000/- (if already not given) on account of FPA and LPS. The Respondents are directed to make all debits and credits on the above findings."

3. The Appellant was dissatisfied with the POI decision dated 30.09.2020 (hereinafter referred to as the first decision), hence filed the appeal before NEPRA under Section 38 of the NEPRA Act, 1997. NEPRA Appellate Board vide decision dated 25.11.2020 remanded back the matter to the POI for adjudication on merits after providing an opportunity of hearing to both the parties.
4. Accordingly, POI afforded the opportunity of hearing to both the parties and disposed of the matter vide decision dated 16.03.2021, the operative portion of which is reproduced below:

"Summing up all the above observations/discussion and keeping in view all the aspects of the case. I have thoroughly examined the consumption pattern and reply of the Respondents and I am in the opinion that the plea of Respondents regarding charging of 10118 pending units is justified and as per law and charging of billing charged by the Respondents is correct & justified. IESCO/Respondents are directed to overhaul the petitioner's account by adjusting all Credits, Debits, Deferred Amount & Payments already made by the consumer."



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5. Through the instant appeal, the Appellant challenged the POI decision dated 16.03.2021 (hereinafter referred to as the impugned decision) before NEPRA. In its appeal, the Appellant contended that the premises remained on rent during the period September 2013 to September 2017 (4 years) and was vacated by the tenant in September 2017. The Appellant further contended that the detection bill of Rs.186,000/- for 10,118 units was debited by IESCO in November 2017 on account of accumulated units due to fake billing. As per Appellant, the above detection bill was initially assailed before NEPRA in January 2018 from where the matter was referred to POI for decision in February 2020. According to the Appellant, IESCO disconnected the electric supply of the premises, hence the payment of Rs.57,441/- against the above-said detection bill was made on 04.03.2020 for restoration of electric supply. The Appellant submitted that the POI vide first decision held that IESCO should afford a rebate of Rs.40,288/- and to recover the remaining amount of the abovementioned detection bill in twelve (12) installments. The Appellant prayed that the entire amount of the detection bill i.e. Rs.186,000/- is unjustified and may be withdrawn.
6. Notice of the appeal was issued to IESCO for filing a reply/para-wise comments, which however was not filed.
7. After issuing the notice, the appeal was fixed for hearing in NEPRA Head Office Islamabad on 12.08.2021 in which both the parties were in attendance. The Appellant reiterated the same arguments as narrated in memo of the appeal and contended that the premises was vacated by the tenant in September 2017 after clearing all electricity dues, whereas IESCO debited the detection bill of Rs.186,000/- for 10,118 units in October 2017 pertaining to the unbilled units. The Appellant averred that he approached IESCO time and again and lastly before the POI for withdrawal of the above detection bill. As



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per Appellant, the POI has rendered the impugned decision in favor of IESCO without considering the merits of the case and no responsibility was fixed on the IESCO meter reader for the fake readings taken during the previous months. The Appellant informed that he had agitated the entire detection bill of Rs.186,000/- and did not agree to any adjustment. Conversely, learned counsel for IESCO termed the above detection bill as justified and payable by the Appellant. Learned counsel for IESCO argued that the said dispute of billing was raised by the Appellant before the Civil Court vide a civil suit, which was dismissed by the Honorable Civil Court vide order dated 14.09.2019. As per learned counsel for IESCO, the matter was already decided by the Civil Court which has attained finality as no appeal was filed against it. Hence the same matter cannot be challenged and reconsidered by another forum pursuant to the principle of res judicata. In response, the Appellant averred that the above detection bill was challenged before the Civil Court due to lack of knowledge regarding the competent forum. The Appellant finally prayed for acceptance of the appeal and withdrawal of the above detection bill.

8. We have heard the arguments of both parties and examined the record. It is observed that IESCO charged the wrong bills to the Appellant with fake snapshots till September 2017 and later on raised a detection bill of Rs.186,000/- for 10,118 units as per meter reading noted by IESCO. The above detection bill was initially agitated by the Appellant before NEPRA in January 2018. During the pendency of complaint before NEPRA, the Appellant filed a civil suit before the Civil Court, Rawalpindi on 15.05.2018 against the charging of the above-said detection bill, which was dismissed by the Honorable Civil Court vide order dated 14.09.2019, the operative portion of which is reproduced below:

"As plaintiff has miserably failed to produce the cogent and confident inspiring evidence in support of his version, therefore, suit of the plaintiff is hereby dismissed.



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There is no order as to cost. Decree sheet be prepared accordingly and Ahlmad of this court is directed to consign the file to the record room after its due completion and compilation."

However, in previous proceedings before NEPRA and POI, both the parties did not disclose the filing of the civil suit and passing of the order dated 14.09.2019. We are therefore inclined to agree with the arguments of learned counsel for IESCO that the matter had already been adjudicated by the Honorable Civil Court Rawalpindi and as such cannot be agitated before NEPRA or POI.

9. Foregoing in view, the appeal is dismissed and all the previous decisions by the POI and NEPRA are revoked.

Abid Hussain
Member/Advisor (CAD)

Maria Rafique
Member/ Legal Advisor

Nadir Ali Khoso
Convener/Senior Advisor (CAD)

Dated: 20.10.2021