



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/237/POI/2019/ *144*

February 24, 2021

- | | |
|--|---|
| 1. Muhammad Shahab
S/o. Syed Nisar Hussain,
R/o. House No. 979, Gali No. 69,
G-10/4, Islamabad | 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. Assistant Manager (Operation)
IESCO Ltd,
G-9 Sub Division,
Faisal Market, G-9/4,
Islamabad |
| 5. POI/Electric Inspector,
Islamabad Region,
XEN Office, Irrigation & Power Department,
Rawal Dam Colony, Park Road,
Islamabad | |

Subject: **Appeal Titled IESCO Vs. Muhammad Shahab Against the Decision Dated 16.04.2019 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 23.02.2021, regarding the subject matter, for information and necessary action accordingly.

Encl: **As Above**

(Iqbal 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.237/POI-2019

Islamabad Electric Supply Company Limited

.....Appellant

Versus

Muhammad Shahab S/o Syed Nisar Hussain R/o House No.979,
Gali No.69, G-10/4, Islamabad

.....Respondent

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

For the appellant:

Mr. Faisal Bin Khurshid Advocate
Ms. Kanwal Addl. XEN

For the respondent:

Nemo

DECISION

1. As per facts of the case, the respondent is a domestic consumer of IESCO bearing Ref No.11-14123-2086600 with a sanctioned load of 5 kW under the tariff A-1. Electric supply of the respondent was disconnected by IESCO vide disconnection order (DCO) dated 16.01.2014 due to the non-payment of arrears amounting to Rs.5,878/- and the metering equipment of the respondent was removed from the premises vide equipment removal order (ERO) dated 31.03.2014. Subsequently, the Appeal No.237-2019



National Electric Power Regulatory Authority

premises of the respondent was visited by IESCO staff on 24.07.2018 and allegedly the respondent was found stealing electricity directly and no meter exists at the site. Hence detection bill of Rs.500,000/- for 27,375 units for fifty months was charged to the respondent based on 15% load factor of the sanctioned load and added in the bill for July 2018 against which he paid the first installment amounting to Rs.100,000/- on 19.09.2018 and submitted an undertaking dated 27.09.2018 for payment of the remaining installments of above-mentioned detection bill. Consequently, IESCO restored the electric supply of the respondent vide reconnection order (RCO) dated 27.09.2018.

2. Being aggrieved with the actions of IESCO, the respondent initially approached Wafaqi Mohtasib, who vide order dated 18.10.2018 referred the matter to the Provincial Office of Inspection (POI) for further adjudication. Meanwhile, the electric supply of the respondent's premises was again disconnected by IESCO vide DCO dated 20.11.2018 due to non-payment of the remaining installments of the above detection bill. The complaint of the respondent was disposed of by POI vide the decision dated 16.04.2019 wherein the detection bill of Rs.500,000/- for 27,375 units for fifty months charged in July 2018 was declared as null and void. As per POI decision, IESCO was allowed to charge the revised bills @ 365 units/month for the last eleven months i.e. November 2017 to September 2018 as per consumption of October 2018.



National Electric Power Regulatory Authority

3. Through the instant appeal, the afore-referred decision dated 16.04.2019 of POI (hereinafter referred to as the impugned decision) has been assailed by IESCO before NEPRA. In its appeal, IESCO contended that supply of the respondent was disconnected since long due to nonpayment of bills but he consumed electricity directly through the mainline as confirmed during the checking dated 24.07.2018 and reported vide letter dated 02.08.2018. IESCO further contended that the detection bill of Rs.500,000/- for 27,375 units for fifty months was served to the respondent upon fulfillment of legal formalities. As per IESCO, the respondent admitted illegal theft of electricity and paid the first installment of Rs.100,000/- against the above detection bill, hence the electric supply was restored vide RCO dated 27.09.2018. According to IESCO, the respondent neither remitted regular bills for October 2018 and November 2018 nor paid the 2nd and 3rd installment of the above detection bill, therefore the electric supply of the respondent was again disconnected vide ERO dated 20.11.2018. IESCO submitted that the impugned decision suffers from technical, factual, and legal infirmities is unlawful, malafide, arbitrary, and calls for interference by this Authority. IESCO averred that electricity was being utilized illegally in the absence of an electric meter at the site but this fact was brushed aside by POI. IESCO further submitted that the opinion of POI is scanty, without 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. IESCO finally prayed for setting aside the



National Electric Power Regulatory Authority

impugned decision.

4. Notice for filing reply/para-wise comments to the appeal was issued to the respondent, which however were not filed.
5. Hearing of the appeal was conducted in NEPRA Head Office, Islamabad on 09.02.2021, which was attended by learned counsel along with Addl. XEN IESCO for the appellant and no one represented the respondent. Learned counsel for IESCO repeated the same arguments as written in memo of the appeal and contended that electric supply of the respondent was disconnected by IESCO due to default in making the payment of regular bills. Learned counsel for IESCO further contended that the respondent was subsequently found stealing electricity directly through the mains without meter at site. As per IESCO, the detection bill of Rs.500,000/- for 27,375 units for fifty months was charged to the respondent as the electric supply remained disconnected for more than four years but the respondent was stealing electricity in this period. According to the learned counsel for IESCO, the respondent admitted theft of electricity and submitted an undertaking for the payment of the above detection bill, as such the said detection bill is legitimate and payable by the respondent. Learned counsel for IESCO opposed the impugned decision on the ground that the POI lacks jurisdiction to adjudicate the case of theft of electricity, wherein metering equipment was bypassed. Learned counsel for IESCO finally prayed that the impugned decision

A handwritten signature is located at the bottom center of the page, below the page number.



National Electric Power Regulatory Authority

is unjustified and liable to be struck down.

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

- i. Electric supply of the respondent was disconnected by IESCO vide DCO dated 16.01.2014 due to nonpayment of arrears of Rs.5,878/- and the billing meter was removed from the site vide ERO dated 31.03.2014. Subsequently, the premises of the respondent was raided by IESCO on 24.07.2018 and it was alleged that the respondent was stealing electricity directly as no meter existed at the site. A detection bill amounting to Rs.500,000/- for 27,375 units for fifty months was charged to the respondent by IESCO and added in the bill for July 2018 against which he made payment of Rs.100,000/- as the first installment on 19.09.2018 and submitted an undertaking dated 27.09.2018 for payment of the remaining installments of the afore-referred detection bill. Resultantly, IESCO restored the electric supply of the respondent vide RCO dated 27.09.2018. This whole scenario manifests that the dispute of billing pertains to the detection bill charged by IESCO to the respondent due to theft of electricity directly from the mains and no metering equipment is involved in this case, as such the POI is not a competent forum to decide such billing dispute. Reliance in this regard is placed on the judgment of honorable Supreme Court of Pakistan reported in PLD 2012 SC 372 as reproduced below:

"P L D 2012 Supreme Court 371

(a) Electricity Act (IX of 1910)--- Ss. 26(6) & 26-A---Detection bill, issuance of---Theft of energy by consumer, charge of--- Jurisdiction of Electric Inspector and Advisory Board---Scope---Electric



National Electric Power Regulatory Authority

Inspector for possessing special expertise in examining the working of metering equipment and other related apparatus had jurisdiction to entertain reference under S.26(6) of Electricity Act, 1910 only in case of dishonest consumption of energy by the consumer through deliberate manipulation of or tampering with metering equipment or other similar apparatus---Electric Inspector would have no jurisdiction in the matter of theft by means other than tampering or manipulation of metering equipment, etc., falling exclusively under S. 26-A of Electricity Act, 1910-

(b) Electricity Act (IX of 1910)-----Ss. 26(6) & 26-A--- Procedure Code (V of 1908), S.9—Detection bill, issuance of---charge of theft of energy by consumer through metering equipment or relating to reading thereof—Jurisdiction of Electric Inspector has powers to take cognizance thereof—Illustrations.

(c) Electricity Act (IX of 1910)--- ----Ss. 26(6) & 26-A---Civil Procedure Code (V of 1908), S.9—Detection bill, issuance of---charge of theft of energy through bypassing metering equipment—Jurisdiction of Electric Inspector Scope—Such matters would not fall within S.26(6) of Electricity Act, 1910 and ambit of powers of Electric Inspector---Consumer in such case could take resource to any other legal remedy available to him under the law—Illustrations. [pp.379] D&G."

Moreover the payment of the above detection bill made and submission of undertaking by the respondent proves that the consumption electricity during the disconnection period. The documents as provided by IESCO further substantiates their stance for dishonest abstraction of electricity by the respondent. In view of the above, the impugned decision is set aside.

Muhammad Qamar-uz-Zaman
Member

Nadir Ali Khoso
Convener

Dated: 23.02.2021