



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

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No. NEPRA/Appeal/123/POI/2018/ 227

March 19, 2021

- | | |
|---|---|
| 1. Haji Mansoor-ul-Hassan
S/o. Abdul Qayyum,
Aabpara Ice Factory,
Darya Abad, Rawalpindi | 2. Chief Executive Officer
IESCO Ltd,
Head Office, St. No. 40,
Sector G-7/4, Islamabad |
| 3. Muhammad Khalid Zaman
Advocate High Court,
Suit No. 4, First Floor,
Malik Plaza, F-8 Markaz,
Islamabad | 4. Ch. Muhammad Imran Bhatti
Advocate High Court,
44-District Courts,
Faisalabad |
| 5. Sub Divisional Officer
IESCO Ltd,
Gawal Mandi Sub Division,
Rawalpindi | 6. POI/Electric Inspector,
Islamabad Region,
XEN Office, Irrigation & Power
Department,
Rawal Dam Colony, Park Road,
Islamabad |

Subject: **Appeal Titled IESCO Vs. Haji Mansoor-ul-Hassan Against the Decision Dated 02.05.2018 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 12.03.2021, 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.123/POI-2018

Islamabad Electric Supply Company Limited

.....Appellant

Versus

Haji Mansoor-ul-Hassan S/o Abdul Qayyum,
Prop: Aabpara Ice Factory, Daryabad, Rawalpindi

.....Respondent

For the appellant:

Mr. Khalid Zaman Advocate
Hafiz Muhammad Ashraf Hayat SDO

For the respondent:

Mr. Mansoor-ul-Hassan

DECISION

1. Through this decision, an appeal filed by Islamabad Electric Supply Company Limited (hereinafter referred to as IESCO) against the decision dated 02.05.2018 of the Provincial Office of Inspection Islamabad Region, Islamabad (hereinafter referred to as POI) is being disposed of.
2. Brief facts giving rise to the instant appeal are that the respondent is an industrial consumer (ice factory) of IESCO bearing Ref No.27-14326-5360400 with sanctioned load of 123 kW under the B-2(b) tariff. Audit Department vide Audit Note No.83 dated 17.01.2017 pointed out that 12,307 peak units were less charged by IESCO to the respondent in June 2015 and July 2015. Consequently, IESCO debited a detection bill amounting to Rs.300,237/- for 12,360 units for the period June 2015 and July 2015



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(2 months) to the respondent based on Audit Para and added in the bill for November 2017.

3. The respondent being aggrieved with the above detection bill filed an application before POI on 28.11.2017, which was decided vide POI decision dated 02.05.2018 (hereinafter referred to as the impugned decision) wherein the detection bill of Rs.300,237/- for 12,360 units for the period June 2015 and July 2015 charged as per Audit Note No.83 dated 19.01.2017 was declared as null and void.
4. Through the instant appeal, IESCO challenged the POI decision dated 02.05.2018 (hereinafter referred to as the impugned decision) before the NEPRA in which it is contended that the meter of the respondent was found defective during M&T checking, this fact was endorsed by the Audit Department vide Audit Note No.83 dated 19.01.2017, who recommended to charge the detection bill of Rs.300,237/- for 12,360 units for the period June 2015 and July 2015 to the respondent on the basis of the peak consumption of June 2014 and July 2014. IESCO further contended that the claim of the respondent to afford relief against the above detection bill is time-barred and utter violation of chapter 4, 14, 16 of the Consumer Service Manual (CSM). As per IESCO, POI based its decision on all those case laws, which never apply upon the facts and circumstances of the present case for the reason that the meter was declared defective not due to a malfunctioning fault or by any mistake of the appellants. IESCO relied upon the judgment dated 26.10.2017 of NEPRA in the case titled LESCO vs Qamar



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Din and pointed out that NEPRA has considered the facts of the case while deciding the matter. According to IESCO, billing history shows that the multiplication factor (MF) of the respondent remained the same despite defectiveness of the meter, however, the respondent remained silent over the consumption under the same MF, which benefited him. IESCO finally prayed for setting aside the impugned decision.

5. Notice for filing reply/para-wise comments to the appeal was issued to the respondent, which were filed on 23.10.2018. In the reply, the respondent inter alia, opposed the maintainability of the impugned decision on the grounds that the appeal is time-barred by 7 days; that the appeal is filed without any lawful authority; that the meter was working correctly under BSS limits and no discrepancy was pointed out by the meter reader till October 2017; that IESCO sent a fake bill in November 2017 containing the current bill of Rs.42,397/- and the detection bill of Rs.300,237/- for 12,360 units charged as per Audit Note No.83 dated 19.01.2017; that neither prior notice was served by IESCO nor the alleged proceedings were carried during the presence of the respondent; that the respondent is not responsible for payment of above detection bill as already held by Higher Courts in the different cases reported in PLJ 2017 Lahore 474, 2014 MLD 1253, etc.; that the POI passed the impugned decision according to law and facts of the case and that the appeal is liable to be dismissed with cost.
6. Notice was issued and hearing of the appeal was conducted in NEPRA Head Office, Islamabad on 09.03.2021, which was attended by learned counsel along with SDO

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IESCO for the appellant and the respondent appeared in person. Learned counsel for IESCO argued that Audit Department vide Audit Note No.83 dated 19.01.2017 pointed out the less charging of peak units during the period June 2015 and July 2015 due to defective peak segment and recommended to charge 12,360 units. Learned counsel for IESCO submitted that IESCO charged the detection bill of Rs.300,237/- for 12,360 units for the period June 2015 and July 2015 to the respondent as per Audit Para, which is justified and payable by the respondent. Further, he opposed the determination of POI for cancellation of the above detection bill and prayed for the acceptance of the appeal. On the contrary, the respondent appearing in person repudiated the stance of learned counsel for IESCO and averred that his counsel is busy before the other court. The respondent stated that the written contentions submitted by his learned counsel be considered as arguments and prayed for maintainability of the impugned decision.

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

- i. As regards the preliminary objection of the respondent for limitation, it is observed that the copy of the impugned decision dated 02.05.2018 was obtained by IESCO on 30.05.2018 and the appeal was filed before NEPRA on 08.06.2018 within 30 days of receipt of the impugned decision according to Section 38 of NEPRA Act 1997. Hence objection of the respondent in this regard carries no weight and is rejected.
- ii. For another objection of the respondent regarding the maintainability of the appeal

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being filed through an authorized person, it is observed that IESCO has authorized Additional Director General (Legal) to sign the memorandum of the appeal and vakalatnama. Hence preliminary objection of the respondent regarding the filing of the appeal by an authorized person is not justified and overruled.

- iii. Audit Department vide Audit Note No.83 dated 19.01.2017 pointed out less charging of peak units during June 2015 and July 2015 and recommended to charge the detection bill of 12,360 units for the period June 2015 & July 2015 to the respondent based on the corresponding consumption of the year 2014. Consequently, IESCO charged the detection bill of Rs.300,237/- for 12,360 units for the period June 2015 and July 2015 to the respondent and added in the bill for November 2017, which was disputed by him before POI.
- iv. It is observed that the Audit para is an internal matter between IESCO and the Audit Department and the respondent cannot be held responsible for payment of any detection bill on the recommendation of the Audit Department. 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. Besides, the respondent was neither associated during the audit proceedings nor the disputed billing meter was produced before the POI for checking. Besides IESCO did not produce M&T checking report to substantiate their contentions regarding the defectiveness of the meter. In view of the above discussion, we hold that the recommendation of the Audit Department for recovery of the detection bill



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amounting to Rs.300,237/- for 12,360 units for the period June 2015 and July 2015 from the respondent is unjustified, illegal, incorrect and the same is liable to be withdrawn, which is also the determination of POI.

v. Consumption data is tabulated below:

Disputed period			Undisputed period		
Units	Off-peak	Peak	Units	Off-peak	Peak
Jun-15	19920	400	Jun-14	22200	5320
Jul-15	26200	80	Jul-14	34920	7520
Total	46120	480	Total	57120	12840

Examination of the above table manifests that the peak segment of the meter was defective due to which actual consumption was not recorded during the period June 2015 and July 2015. However, the billing for June 2015 and July 2015 cannot be revised on the DEF-EST code as the connection of the respondent is ice factory and the consumption varies due to seasonal demand and supply. Under these circumstances, total consumption of the disputed period i.e. June 2015 and July 2015 be divided into off-peak and peak segments, calculation of which is done below:

Off-peak units = $\frac{\text{Total units already charged} \times \text{No. of off-peak Hrs.}}{\text{Total Hours in a day}}$	= $\frac{46,600 \times 20}{24}$ = 38,833 units
Peak units = $\frac{\text{Total units already charged} \times \text{No. of peak Hrs.}}{\text{Total Hours in a day}}$	= $\frac{46,600 \times 04}{24}$ = 7,777 units

8. In view of the above, we have concluded that the impugned decision for cancellation of the detection bill of Rs.300,327/- for 12,360 units for the period June 2015 &



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July 2015 is correct and maintained to this extent. The respondent should pay the electricity bills for (off peak=38,833 and peak=7,777) units for the disputed period June 2015 and July 2015. The billing account of the respondent be overhauled after making the adjustment of units already charged/payments made (if any) against the above bills.

9. The impugned decision is modified in the above terms.

Muhammad Qamar-uz-Zaman
Member/SA (Finance)

Nadir Ali Khoso
Convener/DG (M&E)

Dated: 12.03.2021