



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/253/POI/2019/ 670


September 27, 2021

- | | |
|---|--|
| 1. Syed Ali Taqi Kazmi
S/o. Ghulam Shabbir Hussain Shah,
Office at KH No. 202, Marble Factory,
Dhoke Hamida, Fateh Jhang 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. Assistant Manager (Operation),
IESCO Ltd,
Tarnol Sub Division,
KTM Grid Station, 132 KV,
Chishtianbad, Peshawar Road,
Golra More, Rawalpindi |
| 5. POI/Electric Inspector,
Islamabad Region,
XEN Office, Irrigation & Power Department,
Rawal Dam Colony, Park Road,
Islamabad | |

Subject: **Appeal Titled IESCO Vs. Syed Ali Taqi Kazmi Rehman Against the Decision Dated 16.07.2019 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 24.09.2021, 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.253/POI-2019

Islamabad Electric Supply Company Limited

.....Appellant

Versus

Syed Ali Taqi Kazmi S/o Ghulam Shabir Hussain Shah, Office at KH No.202,
Marble Factory, Dhoke Hamida, Fatah Jhang Road, RawalpindiRespondent

For the appellant:

Mr. Faisal Bin Khurshid Advocate

For the respondent:

Nemo

DECISION

1. Through this decision, an appeal filed by Islamabad Electric Supply Company Limited (hereinafter referred to as IESCO) against the decision dated 16.07.2019 of the Provincial Office of Inspection Islamabad Region, Islamabad (hereinafter referred to as POI) under Section 38(3) of the NEPRA Act 1997 is being disposed of.
2. Brief facts giving rise to the instant appeal are that the Respondent is an industrial consumer of IESCO bearing Ref No.28-14357-6451200 with a sanctioned load of 23 kW under the B-1 tariff. Audit Department vide Audit Note No.117 dated 09.1.2019 recommended for recovery of Rs.200,607/- for 413 kW MDI for the period May 2017 to August 2018 from the Respondent due to extension of load beyond 25 kW. Consequently, IESCO debited a detection bill (first detection bill) amounting to Rs.200,607/- to the Respondent on the basis of recommendation. Afterward, the billing meter of the Respondent was found 33% slow during IESCO





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checking dated 11.02.2019. After issuing notice dated 18.02.2019, IESCO charged another detection bill (second detection bill) of Rs.70,226/- for 3,602 units for the period December 2018 to February 2019 (3 months) to the Respondent @ 33% slowness of the billing meter. Slow meter of the Respondent was replaced with a new meter by IESCO vide meter change order (MCO) dated 05.06.2019.

3. Being aggrieved, the Respondent disputed the first detection bill of Rs.200,607/- before Wafaqi Mohtasib, which referred the matter to POI for decision. The Respondent filed another application dated 29.04.2019 before POI against the charging of second detection bill of Rs.70,226/-. POI clubbed both the matters of the Respondent and disposed of the same through single consolidated decision, wherein the first detection bill of Rs.200,607/- and second detection bill of Rs.70,226/- were declared as null and void.
4. Through the instant appeal, IESCO challenged the POI decision dated 16.07.2019 (hereinafter referred to as the impugned decision) before the NEPRA in which it is contended that the Audit Department vide Audit Note No.117 dated 09.01.2019 pointed out the extension of load beyond 25 kW during the period May 2017 to August 2018 and recommended to charge the first detection bill of Rs.200,607/- for 413 kW MDI for the period May 2017 to August 2018 to the Respondent. IESCO further contended that the second detection bill of Rs.70,226/- for 3,602 units for the period December 2018 to February 2019 (3 months) was charged to the Respondent @ 33% slowness of the meter as observed on 11.02.2019. As per IESCO, the impugned decision suffers from technical, factual, and legal infirmities, which is unlawful, malafide, arbitrary, and calls for interference by this Authority. IESCO supported the Audit Report and stated that it has legal length, which was flouted by

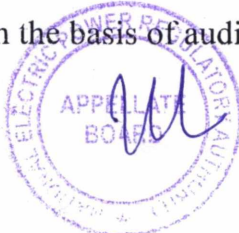




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POI, while passing the impugned decision. According to IESCO, the opinion of POI is without a valid basis and since it is passed without taking into account the expert opinion based on technical testing, which reveals the real aspects of the case. 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 however were not filed.
6. Hearing of the appeal was conducted in NEPRA Head Office, Islamabad on 11.08.2021, which was attended by the learned counsel for the Appellant IESCO while no one appeared for the Respondent. Learned counsel for IESCO argued that the Audit Department vide Audit Note No.117 dated 09.01.2019 pointed out the misuse of tariff during the period May 2017 to August 2018. Learned counsel for IESCO submitted that the first detection bill of Rs.200,607/- for 413 kW MDI for the period May 2017 to August 2018 was charged to the Respondent as per Audit Para, which is justified and payable by the Respondent. With regards to the second detection bill of Rs.70,226/-, learned counsel for IESCO explained that the said detection bill was debited on account of 33% slowness of the meter observed by IESCO on 11.02.2019. Further, he opposed the determination of POI for cancellation of the above detection bills on a single count i.e. Audit Note, and prayed for setting aside the impugned decision.
7. Arguments heard and the record perused. The Respondent assailed the following detection bills before the POI:
 - First detection bill of Rs.200,607/- for 413 kW MDI for the period May 2017 to August 2018 charged on the basis of audit para.





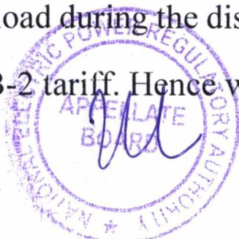
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- Second detection bill of Rs.70,226/- for 3,602 units for the period December 2018 to February 2019 (3 months) charged @ 33% slowness of the meter.

First detection bill of Rs.200,607/-: Audit Department vide Audit Note No.117 dated 09.01.2019 recommended to charge 413 kW MDI for the period May 2017 to August 2018 to the Respondent on account of illegal extension of load beyond 25 kW. Consequently, IESCO charged the first detection bill of Rs.200,607/- for 413 kW MDI for the period May 2017 to August 2018 to the Respondent.

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 following reported, 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 any prior notice was served by IESCO regarding an illegal extension of the load. In view of the above,, we hold that the recommendation of the Audit Department vide Audit Note No.117 dated 09.01.2019 for recovery of the first detection bill of Rs.200,607/- for 413 kW MDI for the period May 2017 to August 2018 from the Respondent is unjustified, illegal, incorrect and the same is liable to be withdrawn, which is also the determination of POI.

Perusal of billing history revealed that the connected load of the Respondent exceeded beyond 25 kW as claimed by IESCO during the disputed period May 2017 to August 2018, which falls under the tariff B-2. IESCO was required to take action against the Respondent as per provisions of Chapter 7 of CSM for misuse of tariff. However, it is established that the load during the disputed period was about 25 Kw, which justifies the application of B-2 tariff. Hence we hold that IESCO may charge





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the Respondent its revised bills for the period May 2017 to August 2018, as per the applicable tariff B-2 and adjust the payments already made against the bills for the said period. The impugned decision is liable to be modified to this extent.

Second detection bill of Rs.70,226/-: Billing meter of the Respondent was found 33% slow during IESCO checking dated 11.02.2019 for which second detection bill of Rs.70,226/- for 3,602 units for the period December 2018 to February 2019 (3 months) was charged by IESCO to the Respondent @ 33% slowness of the meter. According to clause 4.4(e) of the Consumer Service Manual (CSM), the Respondent may be charged with the detection bill maximum for two months, in case of slow meter, whereas, IESCO charged the second detection bill beyond two billing cycles in violation of the ibid clause of CSM. Therefore, the second detection bill of Rs.70,226/- for 3,602 units for the period December 2018 to February 2019 (3 months) is liable to be cancelled, which is also the determination of POI. Since 33% slowness in the billing meter of the Respondent was observed by IESCO on 11.02.2019, hence the Respondent is liable to be charged with the detection bill for two (2) months only i.e. January 2019 and February 2019 @ 33% slowness of the meter, as per clause 4.4 of the CSM. The impugned decision is liable to be modified to this extent.

8. Summing up the foregoing discussion, it is concluded that the impugned decision for cancellation of the first detection bill of Rs.200,607/- for 413 kW MDI for the period May 2017 to August 2018 charged on the basis of Audit Note No.117 dated 09.01.2019 and second detection bill of Rs.70,226/- for 3,602 units for the period December 2018 to February 2019 (3 months) charged @ 33% slowness of the meter is correct and same is maintained to this extent. The Respondent should be charged with the bills for the period May 2017 to August 2018, as per applicable tariff B-2. However, the bills charged/ payments already made during the said period should





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be adjusted in the revised bill. IESCO is further directed to charge 33% slowness of the meter for the period January 2019 and February 2019 (Two 2 months only). The billing account of the Respondent may be overhauled accordingly.

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

Abid Hussain
Member/Advisor (CAD)

Maria Rafique
Member/ Legal Advisor

Nadir Ali Khoso
Convener/Senior Advisor (CAD)

Dated: 24.09.2021

