



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

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No. NEPRA/Appeal/239/POI/2019/ 799

October 18, 2021

- | | |
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| 1. Malik Kamran Aslam
S/o. Malik Muhammad Aslam,
Wah CNG Station,
G. T. Road, Wah | 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. Ch. Muhammad Imran Bhatti
Advocate High Court,
44-District Courts, Faisalabad |
| 5. Sub Divisional Officer (Operation)
IESCO Ltd,
Hassanabadal Sub Division,
Hassanabdal | |

Subject: **Decision of the Appellate Board Regarding Review Petition Filed By IESCO Against the Decision of the Appellate Board Dated 20.01.2021 In The Matter IESCO Vs. Malik Kamran Aslam**

Please find enclosed herewith the decision of the Appellate Board dated 06.10.2021, 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

Motion for leave for review filed by IESCO against the decision dated 20.01.2021 of NEPRA Appellate Board given in the Appeal-239/POI-2019 titled (IESCO Vs. Malik Kamran Aslam)

For IESCO:

Mr. Faisal Bin Khurshid Advocate
Mr. Asif Ali Shah Addl. XEN
Mr. N.E. SDO

For the Consumer:

Ch. Imran Bhatti Advocate
Mr. Rizwan

DECISION

1. Through this decision, the review petition filed by Islamabad Electric Supply Company Limited (hereinafter referred to as IESCO) against the decision dated 20.01.2021 of the National Electric Power Regulatory Authority (hereinafter referred to as NEPRA) Appellate Board is being disposed of.
2. Brief facts of the case are that IESCO charged the following detection bills to Malik Kamran Aslam (hereinafter referred to as the consumer) due to the slowness of the TOU billing meter, which was replaced with a new meter vide meter change order (MCO) dated 15.10.2018.
 - First detection bill of Rs.4,660,386/- for 74,304 units for the period January 2007 to June 2007 charged @ 35.4% slowness of the meter.
 - Second detection bill of 89,032 units/562 kW MDI for the period May 2008 to August 2008 charged @ 56.51% slowness of the meter.
3. Being aggrieved, the consumer assailed the above detection bills before the Provincial Office of Inspection, Islamabad Region, Islamabad (hereinafter referred to as POI). Metering equipment of the consumer was checked by POI on 27.11.2010 in presence of both the parties, wherein the billing meter of the consumer was found 80% slow. POI vide decision dated



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30.05.2011 (first decision) directed IESCO to revise the first detection bill for 03 months i.e. March 2007 to June 2007 @ 35.4% slowness and the bills for the period December 2007 to November 2008 on the basis of reading of the check meter instead of any slowness. Subsequently, IESCO issued a bill total amounting to Rs.2,082,236/- to the consumer in December 2018, which included the arrears of Rs.1,347,812/- against which the consumer approached the Islamabad High Court. The honorable High Court vide its order dated 28.12.2018 referred the matter to POI for the decision within a period of thirty (30) days. POI vide decision dated 05.03.2019 disposed of the matter with the direction to IESCO to implement its first decision otherwise action will be recommended under Clause 11(2) of the Establishment and Powers of Office of Inspector) Order 2005.

4. Being dissatisfied with the above-mentioned decision of POI (hereinafter referred to as the second decision), IESCO filed an appeal before NEPRA under Section 38 (3) of the NEPRA Act, 1997, which was registered as the appeal No.239/2019. The Appellate Board vide decision dated 20.01.2021 (hereinafter referred to as "impugned decision") dismissed the appeal of IESCO and consequently the POI second decision dated 05.03.2019 was upheld.
5. Through the instant review petition, IESCO challenged the aforementioned impugned decision of Appellate Board before NEPRA on the following grounds that (1) an appeal was preferred before the Advisory Board Government of Punjab, Lahore (hereinafter referred to as the Advisory Board) on 17.01.2012 against the first decision dated 30.05.2011 of POI; (2) the Advisory Board vide order dated 25.02.2021 returned the appeal with the direction to approach NEPRA being the appropriate forum; (3) the impugned decision of NEPRA Appellate Board during the pendency of the appeal before the Advisory Board is discriminatory and derogation of Article 4 of the Constitution of Pakistan ; that if the impugned decision is not set aside IESCO will suffer irreparable loss and that the impugned decision may be set aside.



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6. In response to the above review petition, the consumer filed its reply wherein the version of IESCO was rebutted with the plea that the appeal No.239/2019 was rightly dismissed by the Appellate Board vide decision dated 20.01.2021; that the first decision of POI was not implemented by IESCO despite passing of more than nine years; that IESCO remained quiet for a long time without making any written request to the Advisory Board for early fixation of the appeal; that IESCO is not entitled to any relief as claimed in this review petition; that the time-barred review petition is not maintainable based on malafide and concealment of facts and same may be dismissed with cost.
7. After issuing notice, the review petition was heard in NEPRA Head Office Islamabad on 11.08.2021, wherein both the parties were present. Learned counsel for IESCO repeated the same contentions as given in the review petition and stated that an appeal was filed before the Advisory Board against the first decision dated 30.05.2011 of POI, which was returned on 25.02.2021 by the said forum with the direction to approach NEPRA. Learned counsel for IESCO argued that the POI was not required to process the consumer's application regarding non-implementation of POI first decision dated 30.05.2011 as a new billing dispute since the matter had already been disposed of vide POI first decision dated 30.05.2011. As per learned counsel for IESCO, there was no malafide intention of IESCO, hence the review petition be accepted and the dispute of billing be decided on merits. On the contrary, learned counsel for the consumer rebutted the version of learned counsel for IESCO and argued that the impugned decision of the Appellate Board is correct based on merits and the same is liable to be maintained. Learned counsel for the consumer asserted that IESCO has not bothered to pursue the pending appeal before the Advisory Board despite being well conversant with the procedure and the appeal has to be filed before NEPRA in the year 2011 after amendment under Section 38 of the NEPRA Act 1997.



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8. After adducing the arguments of both the parties and perusal of record, we have observed that the application moved by the consumer was regarding the non-implementation of POI's first decision dated 30.05.2011, hence POI was required to take action against IESCO under Clause 11(2) of the Establishment and Powers of Office of Inspector) Order 2005. Therefore, conducting hearings and making a fresh determination on the same issue, which has already been decided in the first decision was not appropriate. Moreover, IESCO produced a letter dated 25.02.2021 of the Advisory Board, which confirmed that the appeal against the first decision dated 30.05.2011 of POI was pending before the Advisory Board.
9. For the reasons given above, the review petition of IESCO is accepted and the second decision of POI and impugned decision of the Appellate Board is set aside.

Abid Hussain
Member/Advisor (CAD)

Maria Rafique
Member/ Legal Advisor

Nadir Ali Khoso
Convener/Senior Advisor (CAD)

Dated: 06.10.2021