



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/048/POI/2021/ 367

April 07, 2022

- | | |
|--|--|
| 1. Wasim Khan,
S/o. Muhammad Rafiq,
R/o. House No. 125-B,
Street No. 19, Sector F-11/2,
Islamabad | 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. Muhammad Aamir,
Advocate,
Kundi & Kundi,
Advocates & Legal Consultants,
29, Street 63, F-10/3, Islamabad |
| 5. Sub Divisional Officer (E),
IESCO Ltd,
F-11 Sub Division,
Plot No. 05, Street No. 5,
Sector G-10/3, Islamabad | 6. POI/Electric Inspector,
Islamabad Region,
XEN Office, Irrigation & Power Department,
Rawal Dam Colony, Park Road,
Islamabad |

Subject: **Appeal Titled Wasim Khan Vs. IESCO Against the Interim Orders Dated 24.02.2021 of the Provincial Office of Inspection to Government of the Punjab Islamabad Region, Islamabad**

Please find enclosed herewith the Order of the Appellate Board dated 31.03.2022, 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. Additional Director (IT) –for uploading the decision on NEPRA website



National Electric Power Regulatory Authority

Before The Appellate Board

In the matter of

Appeal No.048/POI-2021

Wasim Khan, S/o Muhammad Rafiq, R/o House No.125-B,
Street No.19, Sector F-11/2, Islamabad

.....Appellant

Versus

Islamabad Electric Supply Company Limited

.....Respondent

APPEAL U/S 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997

For the Appellant:

Mr. Muhammad Amir Advocate

For the Respondent:

Mr. Faisal Bin Khurshid Advocate

Mr. Noman Sher SDO

DECISION

1. Briefly speaking, the Appellant along with his relatives were residing as tenants in the following premises:

S.No.	Consumer Title	Ref. No.	S/L (kW)	Tariff	Premises Address
1	Shahida Riaz	03-14127-0567400	9	A-1	H.No.373, St. No.33, F-11/2
2	Mst. Iffat Fatima	02-14127-0343600	3.37	A-1	H.No.336, GF, St. No.35, F-11/3
3	Muhammad Feroz Aslam	03-14127-0486800	9.3	A-1	H.No.125-B, St. N0.19, F-11/2

The above premises of the Appellant were inspected by IESCO on 02.09.2020 and allegedly, the Appellant was found stealing electricity directly through bypassing



National Electric Power Regulatory Authority

the meters. IESCO issued notices dated 04.09.2020 to the Appellant regarding the theft of electricity and reported the matter vide two letters dated 03.09.2020 and 16.09.2020 to the Police Station Shalimar, Islamabad for registration of the FIR. Later on, IESCO charged the detection bills to the premises of the Appellant as per the details given below:

S.No.	Consumer Title	Ref. No.	Detection bill (Rs.)	Units	Premises Address
1	Shahida Riaz	03-14127-0567400	513,449/-	21,900	H.No.373, St. No.33, F-11/2
2	Mst. Iffat Fatima	02-14127-0343600	250,175/-	10,950	H.No.336, GF, St. No.35, F-11/3
3	Muhammad Feroz Aslam	03-14127-0486800	513,449/-	21,900	H.No.125-B, St. N0.19, F-11/2

2. Subsequently, the Appellant filed a complaint before the Provincial Office of Inspection, Islamabad Region, Islamabad (the "POI") and challenged the above detection bills. The complaint of the Appellant was disposed of by the POI vide decision dated 24.02.2021 with the following conclusion:

"Both the parties were afforded full opportunity of being heard. Both the parties attended the forum and advanced arguments Mr. Azmat Ali Shah SDO along with Mr. Faisal Bin Khursheed Advocate on behalf of the Respondents and petitioner Mr. Waseem Khan also attended this forum and advanced arguments. The Case was discussed in detail with both parties. All the record available in the file has been minutely perused. This forum examined all the records provided by the Respondents minutely and also considered all the aspects of the case. Arguments advanced by the parties heard. Record/documents presented/ produced by both the parties in support of their contentions has been read over and examined minutely and also considered



National Electric Power Regulatory Authority

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 the respondents is justified and as per law and charging of billing by the IESCO is correct and justified. The respondents are also directed to overhaul the petitioner/complainant's account by adjusting all Credits, Debits, Deferred Amount & Payments already paid by the consumer to avoid further litigation in future."

3. Through the instant appeal, the afore-referred decision of the POI (hereinafter referred to as the impugned decision) has been assailed by the Appellant before the NEPRA. In its appeal, the Appellant objected to the maintainability of the impugned decision on the following grounds, *inter-alia*, (1) he is tenant of the premises having connection No.03-14127-0567400 since January 2020 and his relatives are residing in the premises having connections bearing Ref No.02-14127-0343600 and Ref No.03-14127-0486800; (2) the IESCO inspected the above said premises on 02.09.2020 and removed the metering equipment without any prior notice and permission, which is unlawful and un-constitutional act on the part of IESCO; (3) he approached IESCO for restoration of electric supply from where it was revealed that the electricity of the all premises was disconnected on account of theft of electricity ; (4) IESCO illegally and unlawfully demanded three detection bills total amounting to Rs.1,500,000/- in September 2020; (5) the facts remains that neither any notice was served by the IESCO nor alleged checking was carried out by them; (6) if such activity was done then the same may be recovered from the previous tenants of the premises and the Appellant has nothing to do with any such



National Electric Power Regulatory Authority

illegal and criminal activity; (7) the above detection bills were assailed before the POI on 04.09.2020 but the complaint was decided by the said forum in the absence of the Appellant; (8) the impugned decision is against the fundamental principle of natural justice i.e. no one should be condemned unheard; (9) the impugned decision is totally unlawful, arbitrary based on unreasoned decision and calls for interference by this Authority; (10) the Appellant was unaware about theft of electricity as he was living in the premises since January 2020 and his relatives were living in other premises since August 2020; (11) the impugned decision does not contain legal reasoning, which is therefore erroneous and not sustainable in the eye of law. The Appellant finally prayed for setting aside the impugned decision and for withdrawal of the disputed detection bills

4. Notice for filing reply/para-wise comments to the appeal was issued to the IESCO, which were filed on 11.08.2021. In its reply, the IESCO supported the impugned decision on the plea that the Appellant was found abstracting electricity through the direct supply on 02.09.2020 for which notices dated 04.09.2020 were served to the Appellant and letter was forwarded to the Police for registration of FIR against the Appellant; that three detection bills of 21,900 units, 10,950 units and 21,900 were debited against the connections of the Appellant having Ref Nos.03-14127-0567400, 02-14127-0343600 and 03-14127-0486800 respectively; that the consumption of the Appellant increased drastically after the removal of the discrepancy, therefore the IESCO has privilege to recover the amount of the detection bills from the Appellant; that the Appellant was found using the premises for commercial activity i.e. Boys Hostel, therefore notices dated 02.09.2020 were



National Electric Power Regulatory Authority

issued to him for change of tariff from A-1 to A-2; that the memorandum of appeal is false, misconceived and vexation to the knowledge of the Appellant; that the contention of the Appellant with regard to the impugned decision without hearing him is vehemently denied; that the Appellant has no locus standi to file the instant appeal. IESCO finally prayed for the dismissal of the appeal.

5. After issuing notice, hearing of the appeal was conducted in the NEPRA Head Office, Islamabad on 23.02.2022, which was attended by learned counsel for the Appellant and the IESCO was also represented by a counsel. In response to the question of locus standi, learned counsel for the Appellant explained that the Appellant has signed the lease agreements with the owners of the premises and the Appellant was residing there as a tenant, hence the Appellant be treated as a consumer as per the definition of NEPRA Act 1997. Learned counsel for the Appellant reiterated the arguments of memo of the appeal and contended that the IESCO failed to follow the procedure as laid down in Chapter 9 of the Consumer Service Manual (CSM) as neither the FIR was registered against the Appellant nor the material was taken in possession and no theft established. Learned counsel for the Appellant further contended that the detection bills charged against the connections of the Appellant were not prepared in the prescribed manner as the calculation of the detection bills was made on the basis of higher load, which was neither regularized nor the IESCO sought approval from the competent authority prior charging the detection bills for six months. As per learned counsel for the Appellant, the above detection bills were debited on the basis of A-2 tariff instead of the actual tariff A-1 and without adjustment of already charged units during the



National Electric Power Regulatory Authority

same period. According to the learned counsel for the Appellant, consumption of the premises before and after the dispute does not support the charging of the above detection bills. Learned counsel for the Appellant finally prayed for setting aside the impugned decision and prayed for withdrawal of the disputed detection bills total amounting to Rs.1,500,000/-. On the contrary, learned counsel for the IESCO explained the facts that the premises were being used by the Appellant for commercial activity (boys hostel), and the electricity was being used through bypassing the meters of the disputed connections due to which the supply of their connections was disconnected and metering equipment was removed. Learned counsel for the IESCO further elaborated that letter dated 03.09.2020 was written to the police for registration of FIR against the Appellant and notices dated 04.09.2020 were issued to the Appellant regarding the theft of electricity, which were not replied by him, therefore, four detection bills of 21,900 units and 10,950 units were charged to the Appellant for recovery of the revenue loss sustained due to theft of electricity. As per learned counsel for IESCO, since the Appellant was involved in commercial activity, hence a letter was also written to him for change of tariff from A-1 to A-2 and subsequent billing was charged on the A-2 tariff. Learned counsel for the IESCO submitted that the impugned decision is well reasoned and the same should be maintained. Learned counsel for the IESCO raised the objection on the lease agreement and argued that the stamp papers were taken for undertaking purposes and cannot be used for the lease agreement. Learned counsel for IESCO prayed for dismissal of the appeal being devoid of merits.



National Electric Power Regulatory Authority

6. We have heard the arguments of both parties and examined the record. Our findings are as under:

- i. While addressing the preliminary objection of the IESCO regarding locus standi of the Appellant, it is observed that the Appellant has executed lease agreement dated 13.01.2020 with Mr. Mamoon Karim Kundi, the owner of House No.125-B, Street No.19, Sector F-11/2, Islamabad through his special Attorney Mr. Afnan Karim Kundi. Subsequently, the Appellant signed the lease agreement dated 16.09.2020 with Mrs. Zarmina Shabir owner of House No.336-B, Street No.35, Sector F-11/3, Islamabad for a period of one year i.e.05.08.2020 to 04.08.2021. Similarly, another premises situated at House No.373, Street No.33, Sector F-11/2, Islamabad was leased to the Appellant for a period of one year i.e. 05.08.2020 to 04.08.2021 vide the lease agreement dated 16.09.2020. This whole scenario indicates that the Appellant along with his relatives was residing in the above-said premises as tenants and be treated as the "Consumer" as per the definition given in NEPRA Act 1997. The objection of the IESCO in this regard is not valid and rejected.
- ii. As per the IESCO checking dated 02.09.2020, the Appellant was found stealing electricity through bypassing the meters of the premises. Notices dated 04.09.2020 were issued to the Appellant regarding the theft of electricity and letters dated 03.09.2020 and 16.09.2020 were written to the Police for registration of the FIR. Later on, the IESCO charged the following detection bills to the different connections of the Appellant in September 2020, which were disputed before the POI:



National Electric Power Regulatory Authority

S.No.	Consumer Title	Ref. No.	Detection bill (Rs.)	Units	Premises Address
1	Shahida Riaz	03-14127-0567400	513,449/-	21,900	H.No.373, St. No.33, F-11/2
2	Mst. Iffat Fatima	02-14127-0343600	250,175/-	10,950	H.No.336, GF, St. No.35, F-11/3
3	Muhammad Feroz Aslam	03-14127-0486800	513,449/-	21,900	H.No.125-B, St. N0.19, F-11/2

iii. It is observed that the IESCO levelled the allegation of theft of electricity through bypassing the meters against the Appellant but in this regard did not follow the procedure as laid down in Chapter 9 of the CSM. It is further observed that the above detection bills were debited to the Appellant without adjustment of units already charged during the disputed period March 2020 to August 2020. Moreover, IESCO meter readers did not point out the illegal abstraction of electricity by the Appellant through bypassing the meters during the monthly readings. The Appellant was neither associated during the IESCO checking dated 02.09.2020 nor the connected loads of the premises of the Appellant were verified by the POI. Moreover, IESCO charged the abovementioned detection bills for a period of six months i.e. March 2020 to August 2020 to the Appellant in violation of Clause 9.1c(3) of the CSM. Said clause of the CSM allows IESCO to charge the detection bill maximum for three months to the Appellant being a general supply consumer in the absence of approval of the Chief Executive Officer. In consideration of the above discussion, we hold that the entire proceedings of the IESCO were unilateral and the below-mentioned detection bills charged to the Appellant are unjustified, illegal, and the same should be withdrawn.

S.No.	Consumer Title	Ref. No.	Detection bill (Rs.)	Units	Premises Address
1	Shahida Riaz	03-14127-0567400	513,449/-	21,900	H.No.373, St. No.33, F-11/2



National Electric Power Regulatory Authority

2	Mst. Iffat Fatima	02-14127-0343600	250,175/-	10,950	H.No.336, GF, St. No.35, F-11/3
3	Muhammad Feroz Aslam	03-14127-0486800	513,449/-	21,900	H.No.125-B, St. N0.19, F-11/2

iv. Perusal of record shows that IESCO wrote two letters dated 03.09.2020 and 16.09.2020 to the SHO Police Station, Shalimar Islamabad for registration of the FIR against the Appellant on account of dishonest abstraction of electricity. To verify the allegation of the IESCO, consumption data of the Appellant for the disputed connections is analyzed below:

Consumer: Shahida Riaz Ref No.03-14127-0567400			
Disputed period		Undisputed period	
Month	Units	Month	Units
Mar-20	479	Mar-19	542
Apr-20	210	Apr-19	814
May-20	162	May-19	1071
Jun-20	231	Jun-19	968
Jul-20	640	Jul-19	881
Aug-20	630	Aug-19	1220
Total	2352	Total	5496

Consumer: Iffat Fatima Ref No.02-14124-0343600			
Disputed period		Undisputed period	
Month	Units	Month	Units
Mar-20	24	Mar-19	174
Apr-20	34	Apr-19	114
May-20	37	May-19	90
Jun-20	35	Jun-19	169
Jul-20	182	Jul-19	255
Aug-20	188	Aug-19	245
Total	500	Total	1047

Consumer: Muhammad Feroz Aslam Ref No.03-14127-0486800			
Disputed period		Undisputed period	
Month	Units	Month	Units
Mar-20	305	Mar-19	763
Apr-20	270	Apr-19	1018
May-20	166	May-19	649
Jun-20	172	Jun-19	638
Jul-20	386	Jul-19	817
Aug-20	1250	Aug-19	772
Total	2549	Total	4657

The above comparison of the consumption data of the disputed connections of the Appellant shows that the total units recorded by the meters during the disputed period i.e. March 2020 to August 2020 are much lesser than the total units charged during the corresponding undisputed period before the dispute i.e. March 2019 to August 2019. This establishes that the meters of the Appellant did not record the correct consumption during the disputed period March 2020 to August 2020. The Appellant is liable to be charged the detection bills each



National Electric Power Regulatory Authority

for three months i.e. June 2020 to August 2020 on the basis of sanctioned load of the respective connection as per Clause 9.1c(3) of the CSM and calculation be made as per Annex-VIII of the CSM:

S.No.	Consumer Title and Address	Ref. No.	Total units to be charged = S.L (kW) x LF x No. of Hrs. x No. of Months
1	Shahida Riaz H.No.373, St. No.33, F-11/2	03-14127-0567400	$9 \times 0.2 \times 730 \times 3 = 3,942 \text{ units}$
2	Mst. Iffat Fatima H.No.336, GF, St. No.35, F-11/3	02-14127-0343600	$3.37 \times 0.2 \times 730 \times 3 = 1,477 \text{ units}$
3	Muhammad Feroz Aslam H.No.125-B, St. N0.19, F-11/2	03-14127-0486800	$9.3 \times 0.2 \times 730 \times 3 = 4,073 \text{ units}$

7. Upshot of the above discussion is that:

- Following detection bills charged to the Appellant by the IESCO are unjustified and the same should be withdrawn.

S.No.	Consumer Title	Ref. No.	Detection bill (Rs.)	Units	Premises Address
1	Shahida Riaz	03-14127-0567400	513,449/-	21,900	H.No.373, St. No.33, F-11/2
2	Mst. Iffat Fatima	02-14127-0343600	250,175/-	10,950	H.No.336, GF, St. No.35, F-11/3
3	Muhammad Feroz Aslam	03-14127-0486800	513,449/-	21,900	H.No.125-B, St. N0.19, F-11/2

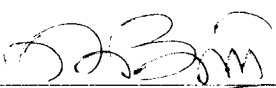
- The Appellant should be charged the revised bills by the IESCO as per the detail given below:


S.No.	Consumer Title and Address	Ref. No.	Total units to be charged
1	Shahida Riaz H.No.373, St. No.33, F-11/2	03-14127-0567400	3,942 units
2	Mst. Iffat Fatima H.No.336, GF, St. No.35, F-11/3	02-14127-0343600	1,477 units
3	Muhammad Feroz Aslam H.No.125-B, St. N0.19, F-11/2	03-14127-0486800	4,073 units



National Electric Power Regulatory Authority

- iii. The billing account of the Appellant be overhauled after making adjustments of payments made against the above-referred detection bills and the regular bills charged for the months June 2020 to August 2020.
8. Foregoing in view, the appeal is partially accepted.


Abid Hussain
Member/Advisor (CAD)


Nadir Ali Khoso
Convener/Senior Advisor (CAD)

Dated: 31.03.2022