



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/132/POI/2021/ 825


August 15, 2022

- | | |
|---|---|
| 1. Liaquat Ali,
S/o. Farzand Ali,
R/o. Bohar Bazar Village,
Daultala, Tehsil Gujar Khan | 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. Sub Divisional Officer (Operation).
IESCO Ltd,
Daultala Sub Division,
Daultala, Tehsil Gujar Khan.
District Rawalpindi |
| 5. POI/Electric Inspector,
Islamabad Region,
XEN Office, Irrigation & Power
Department,
Rawal Dam Colony, Park Road,
Islamabad | |

Subject: **Appeal Titled IESCO Vs. Liaquat Ali Against the Decision Dated 05.10.2020 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 10.08.2022. 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 Appellate Board

In the matter of

Appeal No.132/POI-2021

Islamabad Electric Supply Company Limited

.....Appellant

Versus

Liaquat Ali S/o Farzand Ali, R/o Bohar Bazar Village,
Daultala, Tehsil Gujar Khan

.....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

For the Respondent:

Mr. Liaquat Ali

DECISION

1. Through this decision, an appeal filed by the Islamabad Electric Supply Company Limited (hereinafter referred to as the "Appellant") against the decision dated 05.10.2020 of the Provincial Office of Inspection, Islamabad region, Islamabad (hereinafter referred to as the "POI") is being disposed of.
2. Brief facts leading to the filing of instant appeal are that Mr. Liaquat Ali (hereinafter referred to as the "Respondent") is an industrial consumer of the Appellant bearing RefNo.28-14564-49830900 with a sanctioned load of 20 kW and the applicable





National Electric Power Regulatory Authority

Tariff category is B-1. The surveillance team of the Appellant checked the premises of the Respondent on 16.08.2019 and reportedly, the meter of the Respondent was found installed at a height of 10 feet, running load was noticed as 13 kW and the connected load was observed to the tune of 42.25 kW. Notice dated 23.09.2019 thereof was served to the Respondent wherein he was directed to apply for the installation of the dedicated distribution transformer for his connection due to the above-said discrepancies.

3. Being aggrieved with the abovementioned actions of the Appellant, the Respondent approached POI. In his complaint, the Respondent prayed that his connection is installed for the last 48 years and energized through the public distribution transformer, hence there is no justification of notice of the Appellant for installation of dedicated distribution transformer. The complaint of the Respondent was disposed of by the POI vide the decision dated 05.10.2020 with the following conclusion:

“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 & also considered all the aspects of the case. I have thoroughly examined the consumption pattern and reply of the Respondents & I am of the opinion that the plea of the Respondents regarding use of extra load is unjustified and as per law and charging of billing charged by the respondents is incorrect & unjustified. The load used by the petitioner throughout the year remained within the limits of his sanctioned load and the respondents are directed to withdraw the notice of a new transformer. The respondents are directed to extend the load as per the demand of the petitioner & overhaul the accounts by making all debits and credits by intimating to this



National Electric Power Regulatory Authority

forum. Also, the petitioner is directed to clear all liabilities to avoid future litigation. Disposed of in above terms and findings."

4. Through the instant appeal, the afore-referred decision dated 05.10.2020 of the POI has been impugned by the Appellant in which it is contended that the Surveillance team checked the premises of the Respondent on 16.08.2019 and observed that the billing meter installed at 10 feet height, MDI recorded as 13 kW. The Appellant further contended that the Respondent was directed to regularize the extended load and for application of the dedicated distribution transformer vide notice dated 23.09.2019 against which he filed a complaint before the POI. As per Appellant, the POI flouted the factual bearings of the matter by restraining the Appellants from asking the Respondent regarding the installation of an independent transformer. According to the Appellant, the impugned decision suffers from technical, factual, and legal infirmities, which is unlawful, malafide, arbitrary, and calls for interference by this Authority. The Appellant submitted that the POI erred the factual bearings reported under the surveillance report, which fact was brushed aside vide the impugned decision. The Appellant 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. The Appellant finally prayed for setting aside the impugned decision.

5. Proceedings by the Appellate Board

Upon filing of the instant appeal, a Notice dated 12.01.2022 was sent to the

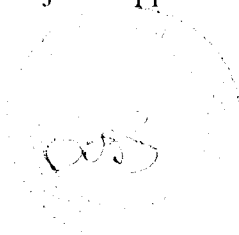


National Electric Power Regulatory Authority

Respondent for filing reply/para-wise comments to the appeal within ten (10) days, which were submitted on 19.01.2022. In his reply, the Respondent raised the preliminary objection regarding limitation and submitted that the appeal filed before the NEPRA is time-barred. On merits, the Respondent elucidated the facts that the connection was installed with sanctioned load=20 kW by the Appellants fifty (50) years ago and it was energized through the 200 kVA common distribution transformer. The Respondent rebutted the stance of the Appellant and stated that the 200 kVA common distribution transformer was damaged by the tractor trolley, which was replaced by the Appellant with two (02) 100 kVA transformers in May 2016, hence he cannot be held responsible for the defectiveness of the 200 kVA transformer. As per Respondent, the honorable Federal Ombudsman decided the case in his favor, hence there is no justification to file the appeal against the issue already decided by the Federal Ombudsman. According to the Respondent, the provisions of the Consumer Service Manual 2021 (the "CSM-2021) for installation of the dedicated transformers are applicable for those connections, which extended the load in the range of 15 kW to 20 kW against the sanctioned load of 8 kW. The Respondent contended that a request was made to POI for checking the connected load of the premises to verify the allegations of the Appellant. The Respondent finally prayed for the dismissal of the appeal.

6. Hearing

Hearing in the matter of the subject Appeal was scheduled for 03.06.2022 at





National Electric Power Regulatory Authority

NEPRA Head Office Islamabad for which notices dated 26.05.2022 were issued to both parties (the Appellant and Respondent). On the date of the hearing, both parties were in attendance. At the outset of hearing, learned counsel for the Appellant raised the preliminary objection regarding the jurisdiction of the POI and averred that the matter pertains to the installation of the dedicated distribution transformer, which does not fall in the domain of the POI. As per learned counsel for the Appellant, the POI is empowered to decide the fate of the dispute related to the metering equipment, billing, and collection of the tariff as per Section 38 of the NEPRA Act, 1997. Learned counsel for the Appellant argued that the jurisdiction of the POI be decided before going into merits. According to the learned counsel for the Appellant, the Respondent is responsible to apply for the dedicated transformer as per the provisions of the CSM-2021, hence the notice served to the Respondent by the Appellant is correct and the impugned decision in this regard is not based on merits. Learned counsel for the Appellant pointed out that the POI directed the consumer to apply for the dedicated transformer in a similar nature case, the copy of the said decision was submitted by him. Learned counsel asserted that the Respondent had illegally extended the load of the premises, hence he should regularize the extended load and apply for the separate distribution transformer. On the contrary, the Respondent appearing in person repudiated the contentions of learned counsel for the Appellant regarding the illegal extension of the load to the tune of 35 kW and averred that his connected load remained within the range of



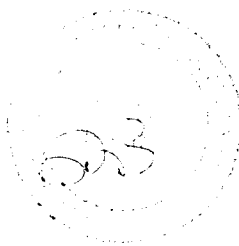
National Electric Power Regulatory Authority

sanctioned load i.e. 20 kW. As per Respondent, notice regarding the installation of a separate transformer was served in the year 2019, whereas the provisions of the CSM-2021 are applicable for the new industrial connections having sanctioned load of 8 kW. The Respondent supported the impugned decision for withdrawal of notice dated 23.09.2019 of the Appellant for the dedicated transformer and prayed for its maintainability.

5. Arguments were heard and the record placed before us was examined. Following are our findings:

5.1. Before going into the merits of the case, the point of limitation raised by the Respondent needs to be addressed. It is observed that the impugned decision was announced by the POI on 05.10.2020, copy of the same was obtained by the Appellant on 13.01.2021 and an appeal was preferred before the NEPRA on 01.02.2021 against the impugned decision dated 05.10.2020. The above whole scenario indicates that the Appellant filed the instant appeal before the NEPRA within thirty (30) days of receipt of the impugned decision under Section 38 (3) of the NEPRA Act 1997. The objection of the Respondent in this regard is incorrect and overruled.

5.2. On merits, The Respondent is running a floor crushing machine and consumer of the Appellant under the Tariff category B-1 having sanctioned load of 20 kW. Surveillance team of the Appellant checked the premises of the Respondent on 16.08.2019 and reportedly the meter was found installed



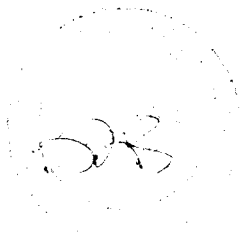


National Electric Power Regulatory Authority

at a height of 10 meters, the running load was noticed as 13 kW and the connected load was extended to the tune of 42.25 kW. The Appellant served a notice dated 23.09.2019 to the Respondent wherein he was directed to apply for the installation of the dedicated distribution transformer for his connection due to the above-said discrepancies.

5.3. Being aggrieved, the Respondent filed a complaint before the POI, which was decided on 05-10-2020 whereby the Appellant was directed to withdraw the notice dated 23.09.2019. The Appellant filed the instant appeal before NEPRA under Section 38(3) of the NEPRA Act, 1997. During the hearing dated 03.06.2022, learned counsel for the Appellant pointed out that the POI has no jurisdiction to direct the Appellant for withdrawal of the above-said notice.

5.4. In order to arrive at a just and informed decision, it is necessary to go through the provisions of law related to the powers of POI for adjudication of disputes. Under section 38(1)(a)(ii) of the NEPRA Act, the POI is empowered to make determinations in respect of disputes over metering, billing and collection of tariff and such powers are conferred on the Electric Inspectors appointed by the Provincial Government under Section 36 of the Electricity Act, 1910 (IX of 1910), exercisable, in addition to their duties under the said Act. In terms of Section 26(6) of the Electricity Act, 1910, the Electric Inspector is empowered to hear and decide the disputes that arise





National Electric Power Regulatory Authority

between a licensee and a consumer as to whether any meter, maximum demand indicator or other measuring apparatus is or is not correct. It is observed from the stated provisions of law that the Electric Inspector enjoys both the powers under the heads of two statutes.

5.5. In view of the above analysis it is clear that the Office of POI can only give its determination regarding metering, billing, collection of tariff and correctness of measuring apparatus, however, it cannot direct the Appellant for withdrawal of notice dated 23.09.2019 with regard to the installation of the dedicated transformer. The POI has no jurisdiction to give its determination in the matter of regularization of load and change of connection from the public distribution transformer to the dedicated distribution transformer. In this case the appropriate forum for redressal of grievance against the action of IESCO was NEPRA under section 39 of the NEPRA Act.

6. In view of the foregoing, the Appeal of the Appellant is accepted and consequently, the impugned decision is set aside.

Syed Zavar Haider
Member

Muhammad Irfan-ul-Haq
Member

Abid Hussain
Convener

Dated: 10/8/2022