



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

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No. NEPRA/Appeal/156/POI/2021/ 747


July 01, 2022

- | | |
|---|---|
| 1. Wajid Rafiq Abbasi,
S/o. Muhammad Rafiq Abbasi,
R/o. Plot No. 5, New Narala Kalan,
IJP Road, Islamabad | 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. Sub Divisional Officer (E),
IESCO Ltd,
Chandni Chowk Sub Division,
Rawalpindi |
| 5. POI/Electric Inspector,
Islamabad Region,
XEN Office, Irrigation & Power
Department,
Rawal Dam Colony, Park Road,
Islamabad | |

Subject: **Appeal Titled IESCO Vs. Wajid Rafiq Abbasi Against the Decision Dated 22.10.2021 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 30.06.2022, 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.156/POI-2021

Islamabad Electric Supply Company LimitedAppellant
Versus

Wajid Rafiq Abbasi S/o Muhammad Rafiq Abbasi,
R/o. Plot No.5, New Narala Kalan, IJP Road, IslamabadRespondent

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

For the Appellant:

Mr. Khalid Zaman Advocate
Mr. Ghulam Murtaza Add. XEN
Mr. Haseebullah Court Clerk

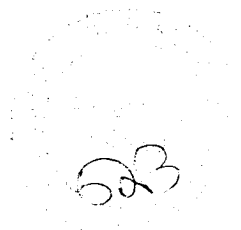
For the Respondent:

Nemo

DECISION

1. Brief facts leading to the filing of instant appeal are that the Respondent is a commercial consumer of the Islamabad Electric Supply Company Limited (hereinafter referred to as the "IESCO") bearing Ref No.27-14313-4854800 with a sanctioned load of 269kW and the applicable Tariff category is A-2(c). The billing meter of the Respondent was found 33% slow due to the yellow phase being dead during the Metering and Testing (M&T) IESCO checking dated 09.02.2021.

Notice dated 12.02.2021 was served to the Respondent regarding 33% slowness of





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the meter and a detection bill of Rs.681,819/- for 21,435 units for a period of three months i.e. November 2020 to January 2021 was charged by the IESCO to the Respondent at the rate of 33% slowness of the billing meter.

2. Being aggrieved, the Respondent assailed the above detection bill before the Provincial Office of Inspection, Islamabad region, Islamabad (hereinafter referred to as the "POI"). The complaint of the Respondent was disposed of by the POI vide the decision dated 22.10.2021, wherein the detection bill of Rs.681,819/- for 21,435 units for three months from November 2020 to January 2021 charged to the Respondent was cancelled. However, the Appellant was directed to charge the revised detection bill for two (2) months November 2020 and December 2020 to the Respondent due to the 33% slowness of the meter.
3. Subject appeal has been filed against the afore-referred decision dated 22.10.2021 of the POI by the IESCO before the NEPRA. In its appeal, the Appellant contended that the billing meter of the Respondent was found 33% slow by the Appellant on 09.02.2021, for which notice dated 12.02.2021 was served to the Respondent. Appellant further contended that the detection bill of Rs.681,819/- for 21,435 units for the period November 2020 to January 2021 three (03) months was charged to the Respondent at the rate of 33% slowness of the billing meter. In its appeal, the Appellant took the ground that under Clause 9.2.3 (c) of the Consumer Service Manual (CSM), the Respondent may be charged the detection bill for three (03) months in the case of tampered meter, which can be extended to six (06) months

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after soliciting the approval from Chief Executive Officer. According to the Appellant, the POI erred while holding that Clause 4.4(e) of the CSM provides that the detection bill be charged maximum of two (02) months in case of a defective meter, which is against the provisions of the CSM-2020. The Appellant submitted that the POI failed to appreciate the legal as well as factual aspects of the case, hence the impugned decision is liable to be set aside in the interest of justice and fair play.

4. Proceedings by the Appellate Board

Upon filing of the instant appeal, a Notice dated 12.01.2022 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days. However, no reply/para-wise comments were received from the Respondent.

5. Hearing

5.1 Hearing in the matter of the subject Appeal was fixed for 03.06.2022 at Islamabad and accordingly the notices dated 26.05.2022 were sent to the parties (i.e. the Appellant and the Respondent) to attend the hearing. As per schedule, the hearing of the appeal was conducted at the NEPRA Head Office, Islamabad on 03.06.2022, in which learned counsel of the Appellant along with IESCO officials was present for the Appellant while no one represented the Respondent.

5.2 During hearing, the learned counsel for the IESCO reiterated the same version as contained in the memo of the appeal and contended that 33% slowness was reported in the billing meter of the Respondent due to a defective Current Transformer (CT)

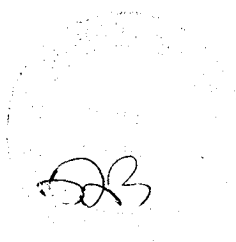


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on 09.02.2021, therefore the detection bill of Rs.681,819/- for 21,435 units for three months period i.e. November 2020 to January 2021 three (03) months was charged to the Respondent at the rate of 33% slowness of the billing meter. Learned counsel for the Appellant averred that the dip in consumption data during the disputed period November 2020 to January 2021 proves 33% slowness in the billing meter, hence the above detection bill is justified and payable by the Respondent. Learned counsel for the Appellant stressed that the Respondent deliberately malfunctioned the meter, hence he was responsible to pay the CT replacement cost and the above detection bill as per Clause 9.2.3(c) of the revised CSM. Learned counsel for the Appellant opposed the impugned decision for cancellation of the above detection bill and prayed that the same may be allowed for three (03) months as debited by the Appellant.

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

6.1 As per the record presented by the Appellant IESCO, the meter of the Respondent was checked by M&T team of the Appellant on 09.02.2021 whereby the meter was found slow by 33%. The Appellant served a notice dated 12.02.2021 to the Respondent for alleged dishonest abstraction of consumption of energy requiring the Respondent to explain its position within seven (07) days. As such the alleged slowness was discovered in the month of February 2021, the matter shall be dealt under the Consumer Service Manual-2021 (the "CSM-2021") implemented in the month of January 2021.





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6.2 In its Appeal before the Appellate Board, the IESCO has pleaded its case to justify the detection bill of Rs.681,819/- issued to the Respondent by invoking Clause 9.2.3(C) of the CSM-2021 asserting that the Respondent was involved in illegal abstraction of electricity. It is observed that the Clause 9.2.3 of the CSM-2021 deals with issuance of detection bill on account of illegal abstraction of the electricity. However, the stage of issuance of detection bill comes subsequent to satisfying the requirements of Clause 9.2.2 of CSM-2021 stipulating the Procedure for Establishing Illegal Abstraction. The said clause of the CSM-2021 is reproduced below:

“9.2.2 PROCEDURE FOR ESTABLISHING ILLEGAL ABSTRACTION:

Upon knowledge of any of the items in 9.2.1, the concerned office of IESCO will act as follows:

- (a) Secure metering installation without removing it in the presence of the consumer or his representative.*
- (b) Install check meter at the premises and declare it as a billing meter.*
- (c) IESCO may take photos/record video as proof of theft of electricity for production before the competent forum.*
- (d) Once confirmed that illegal abstraction is being done, the consumer shall be served with a notice by the SDO/AM(0) informing him/her of the allegations and giving him/her seven days for furnishing a reply.*
- (e) The consumer's reply to the notice shall be examined by the XEN/DM (0). If the reply is not satisfactory or if no reply is received or if the allegations as leveled are admitted, the SDO/AM (0) with the approval of the XEN/DM (0) will immediately serve a detection bill to the consumer for the energy loss.”*

6.3. As per the record presented by the Appellant, the meter of the Respondent was checked by M&T team of the Appellant on 09.02.2021 whereby the meter was allegedly found slow by 33%. Immediate upon such finding of its M&T team, the Appellant IESCO served a Notice dated 12.02.2021 to



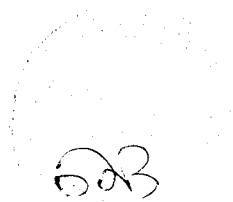
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the Respondent for alleged dishonest abstraction of energy. In the said Notice, the Appellant did not mention the reason for the alleged slowness of the meter leading to its conclusion that the Respondent was involved in illegal abstraction of the electricity. Subsequently, the Appellant issued a detection bill amounting to Rs.681,819/- against the Respondent.

6.4 Under the scheme of Clause 9.2.2 of CSM-2021, before serving a notice of illegal abstraction of electricity on consumer, the Appellant was required to follow the procedure stipulated in clauses 9.2.2 (a), (b) and (c) to confirm the illegal abstraction. However, there has been no proof on record that the Appellant fulfilled the said requirements before serving notice of illegal abstraction. Having failed to follow the procedure laid down in the law to establish illegal abstraction of electricity, which was binding upon it before accusing the Appellant of tampering with metering installations, the Notice dated 12.02.2021 issued by the Appellant to the Respondent was unjustified and its claim of electricity theft by the Respondent and issuance of detection bill thereof holds no basis.

6.5 Notwithstanding and without prejudice to the above conclusion regarding Appellant's claim about illegal abstraction of electricity, the matter is examined from the perspective of slowness of metering installation. The Clause 4.3.3 of CSM being relevant in the matter is reproduced below:

"4.3.3 If at any time IESCO, doubts the accuracy of any metering installation, IESCO may





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after informing the consumer:

- (a) Fix another duly calibrated and tested metering installation (check meter) in series with the impugned metering installation to determine the difference in consumption or maximum demand recorded by the check meter and that recorded by the impugned metering installation during a fixed period.*
- (b) Where it is not possible for IESCO to install check meter/metering installation of appropriate capacity (due to non-availability of such equipment or otherwise) in series with the impugned metering installation, to check the accuracy of the impugned metering installation, IESCO shall, after informing (in writing) the consumer, test the accuracy of the impugned metering installation at site by means of Rotary Sub-Standard or digital power analyzer or meter testing equipment.*
- (c) If the impugned metering installation should prove to be incorrect during the above checking(s), IESCO shall install a "correct meter" immediately or within two billing cycles if meters are not available.*
 - (i) In case slowness is established, IESCO shall enhance multiplying factor for charging actual consumption till replacement of the defective metering installation.*
 - (ii) Further, charging of a bill for the quantum of energy lost if any, because of malfunctioning of metering installation shall not be more than two previous billing cycles.*
 - (iii) In case fastness is established, IESCO shall change/reduce multiplying factor for charging actual consumption till replacement of the defective metering installation. IESCO shall provide due credit for excessive units up to two previous billing cycles."*

6.6 In the instant case, the Appellant discovered the alleged slowness of meter on 09.02.2021. Under the above provision of CSM-2021, immediate upon alleged discovery of slowness, the Appellant was required to install a duly calibrated check meter in series with the impugned metering installation to determine the difference in consumption or maximum demand recorded by the check meter and that recorded by the impugned metering installation during a fixed period. However, as per record produced by the Appellant, it was not before 09.02.2021 that a check meter was installed by the Appellant upon direction of the POI. Again this is a violation of the procedure given in the CSM-2021 which shows Appellant's disregard to the law binding upon it.



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6.7 As per the petition of the Respondent to POI dated 24.02.2021 upon receipt of detection bill, he requested the POI to undergo an inspection for this case until then he must be exempted from the submission of electricity bill. The Clause 4.3.5 (b) of the CSM-2021 requires that "Electric Inspector/POI" shall carry out checking of the accuracy of the metering installation within one month of receipt of such request."

6.8 There is no evidence on record that an inspection of metering installation was carried out by the POI as required under the CSM-2021 to determine the slowness of the meter, which is a failure on his part to comply with the applicable law.

6.9 Notwithstanding all above, it is observed that as per Appellant's communication No. CHK 2057-58 dated 04.05.2021, upon instructions of the POI, a Check meter was installed to check the accuracy of the impugned meter of the Respondent on 16.07.2021. As per the said report, the readings of check meter and the old meter for the period 16.07.2021 to 02.08.2021 showed a slowness of impugned meter to the tune of 38.8%. As per record produced before the Appellate Board, the Respondent did not dispute the above report and apparently based on the said report, the POI decided to allow charging bill for the quantum of lost energy @ 33% slowness for two previous billing cycles.

6.10 Upon filing of the instant appeal by the Appellant, the Respondent was provided with opportunity to file the written reply/para-wise comments on the appeal as well as appear before the Appellate Board to present his point of view. However, the Respondent neither submitted the written reply nor appeared for hearing scheduled

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by the Appellate Board. Therefore, the Appellate Board is constrained to decide the case on the basis of available record.

7. In view of foregoing, whereas the claim of the Appellant about illegal abstraction of electricity by the Respondent is unjustified; the Respondent may be liable to be charged on account of slowness of meter confirmed through installing check meter whose report has, prima-facie, not been disputed / agitated by the Respondent.
8. The POI, in his decision has decided to allow charging for recovery against lost energy for the months of November and December while referring to Clause 4.4(e) of CSM. However, for charging on account of meter slowness, the Clause 4.3.3(c) of the CSM is relevant which states that:

If the impugned metering installation should prove to be incorrect during the above checking(s), IESCO shall install a "correct meter" immediately or within two billing cycles if meters are not available.

(i) In case slowness is established, IESCO shall enhance multiplying factor for charging actual consumption till the replacement of the defective metering installation.

*(ii) Further charging of a bill for the quantum of energy lost if any, because of malfunctioning of metering installation shall not be more than **two previous** billing cycles. [Emphasis Added]*

Since the slowness was discovered in the month of February, therefore, under above provision of CSM, the Respondent is liable to be charged for the detection bill for previous two months of December 2020 and January 2021 @ 33% slowness. Calculation in this regard is done below:



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Period: December 2020 and January 2021

Month	Off-peak units	Peak units	Total units already charged
December 2020	14720	2880	17600
January 2021	4160	1120	5280
Total	18880	4000	22,880

Units to be charged = $\frac{\text{Units already charged}}{(1-33\% \text{ slowness})}$	
Off peak units	= $\frac{18,880}{(1-0.33)} = \mathbf{28,179 \text{ units}}$
Peak units	= $\frac{4000}{(1-0.33)} = \mathbf{5,970 \text{ units}}$
Total	34,149 units

Units	Off-peak	Peak	Total
Total units to be charged	28,179	5,970	34,149
Total units already charged	18,880	4,000	22,880
Net units to be charged	9,300	1,970	11,270

- i. The Respondent is liable to be charged for the net 11,270 (off-peak=9,300 + peak=1,970) units for December 2020 and January 2021 at the rate of 33% slowness of the meter. The impugned decision is liable to be modified to this extent.
- ii. Here it seems necessary to highlight that the restriction of maximum two months recovery allowed under Clause 4.3.3(c)(ii) of CSM-2021, needs to be viewed in its spirit which requires the IESCO to remain vigilant about the accuracy of metering installations and immediate upon doubt about the accuracy of metering installation, take necessary action as stipulated under the law to confirm



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slowness so that the loss, beyond previous two months, that is unrecoverable could be avoided.

iii. Therefore, the Appellant, being a DISCO need to follow the applicable law including, but not limited to the CSM-2021 in letter and spirit to serve the consumer with its best and to avoid unnecessary loss as well as disputes arising out of procedural anomalies.

9. Summing up the foregoing discussion, it is concluded that the detection bill of Rs.681,819/- for 21,435 units for the period November 2020 to January 2021 three (03) months is illegal, unjustified being contrary to Clause 4.4.3(c)(ii) of the CSM-2021 and the same is declared as null and void. Under the said Clause 4.4.3(c)(ii) of the CSM-2021, the Respondent may be charged the bill for net 11,270 (off-peak=9,300+peak=1,970) units for December 2020 and January 2021 in respect of the quantum of energy lost because of malfunctioning of metering installation at the rate of 33% slowness of the billing meter. The billing account of the Respondent may be overhauled, accordingly.

10. The appeal is disposed of in the above terms.

Syed Zavar Haider
Member

Muhammad Irfan-ul-Haq
Member

Abid Hussain
Convener

Dated: 30.06.2022