



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

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No. NEPRA/Appeal/008/2022/ 670

November 20, 2023

- | | |
|--------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------|
| 1. Ch. Shahid Mahmood,
S/o. Ch. Muhammad Sadiq,
R/o. House No. E-49/2,
Mohallah Satellite Town,
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 (NBP),
F-8 Markaz, Islamabad | 4. Sub Divisional Officer (Operation),
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. Ch. Shahid Mahmood Against the Decision Dated 19.11.2021 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 20.11.2023 (05 pages), regarding the subject matter, for information and necessary action accordingly.

Encl: As Above


(Ikram Shakeel)
Deputy Director (AB)

Forwarded for information please.

1. Director (IT) –for uploading the decision on NEPRA website



National Electric Power Regulatory Authority

Before The Appellate Board

In the matter of

Appeal No. 008/POI-2022

Islamabad Electric Supply Company Limited

.....Appellant

Versus

Ch. Shahid Mahmood S/o. Ch. Muhammad Sadiq,
R/o. House No. E-49/2, Mohallah Satellite Town, Rawalpindi

.....Respondent

APPEAL UNDER SECTION 38(3) OF THE REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997

For the Appellant:

Mr. Faisal Khursheed Advocate
Mr. Munawar Ali Add. XEN
Mr. Haseeb Ullah SDO

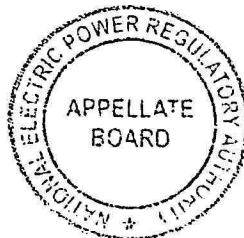
For the Respondent:

Ch. Shahid Mehmood

DECISION

1. As per fact of the case, the Respondent namely, Ch. Shahid Mahmood is a commercial consumer of the Islamabad Electric Supply Company Limited (hereinafter referred to as the "Appellant") bearing old Ref No.27-14313-0078622 (new Ref No.27-14313-4852600) with sanctioned load of 114 kW and the applicable tariff category is A-2C. The billing meter of the Respondent became defective hence it was replaced with a new meter by the Appellant vide the meter change order (the "MCO") dated 27.03.2013. Subsequently, the Audit Department of the Appellant vide Audit Note No.120 dated 26.09.2014 pointed out that the impugned meter of the Respondent became defective with upset date and time due to which the Respondent was less billed in terms of peak segment during the period from July 2012 to 27.03.2013. Later on, the Respondent received a bill of Rs.116,077/- in March 2021, which contained the current bill of Rs.1,340/- and a detection bill of Rs.114,561/- debited on the recommendation of the Audit Department.

Appeal No.008/POI-2022



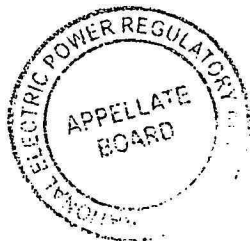
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2. Being aggrieved with the above actions of the Appellant, the Respondent filed a complaint before the Provincial Office of Inspection Islamabad Region, Islamabad (the "POI") and disputed the aforesaid detection bill. The complaint of the Respondent was disposed of by the POI vide the decision dated 19.11.2021, wherein the detection bill of Rs.114,561/- debited by the Appellant on the basis of Audit Note No.120 dated 26.09.2014 was declared null and void.
3. Subject appeal has been filed against the afore-referred decision of the POI (hereinafter referred to as the "impugned decision") by the Appellant before the NEPRA. In the appeal, the Appellant opposed the impugned decision *inter alia*, on the following grounds that the impugned meter of the Respondent became defective with upset date and time and it was replaced with a new meter vide MCO dated 27.03.2013; that the Audit department vide audit note No.120 dated 26.09.2014 recommended to revise the consumption for the period from July 2012 to 27.03.2013 as per OP=20 Hr.+P=4 Hr. ratio; that the Appellant debited the detection bill of Rs.114,561/- to the Respondent, which was cancelled by the POI; that the impugned decision suffers from serious technical, factual, and legal infirmities; that the impugned decision is unlawful, malafide, arbitrary, capricious, unreasonable, non-speaking/unreasoned and calls for the interference by this honorable Authority; that the defunct meter has ceased to register consumption due to upset date and time by virtue whatsoever is consumed by the Respondent legitimately; that the Audit report has legal strength, which was mechanically brushed aside by the POI; and that the impugned decision is liable to be set aside.

4. Proceedings by the Appellate Board

- 4.1 Upon the filing of the instant appeal, a Notice dated 28.01.2022 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days, which were filed on 22.09.2022. In the reply, the Respondent contended that the premises was being used for CNG station, and due to load shedding, the CNG station was closed in December 2014. The Respondent further contended that the Appellant debited a detection bill of Rs.114,561/- in March 2021 on the recommendation of the Audit Department. As per Respondent, the impugned meter was active till February 2013 as evident from the contents of the appeal and it was replaced with a new meter in March 2013 due to defectiveness. According to the Respondent, neither any notice was served by the Appellant nor alleged checking was carried out in his presence, therefore, there is no justification to debit any detection bill on the observation of the Audit Department, this fact was





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also endorsed by the XEN of the Appellant vide letter dated 17.08.2015. The Respondent finally prayed for the dismissal of the appeal.

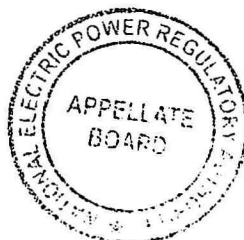
5. Hearing:

- 5.1 Hearings of the subject appeal were held at NEPRA Head Office Islamabad on 02.09.2022, 13.01.2023, and 29.03.2023 but adjourned on the request of either the Appellant or the Respondent. Finally, the hearing was conducted at NEPRA Head Office Islamabad on 30.08.2023, which was attended by both parties. Learned counsel for the Appellant contended that the Audit Department pointed out that the impugned meter of the Respondent became defective with upset date and time due to which actual consumption was not charged during the disputed period from July 2012 to 27.03.2013. Learned counsel for the Appellant further contended that the detection bill of Rs.114,561/- was debited on the observation of the Audit Department, which was set aside by the POI without perusal of the consumption pattern. Learned counsel for the Appellant termed the above detection bill as justified and payable by the Respondent.
- 5.2 The Respondent appearing in person denied the assertions of counsel for the Appellant and stated that neither any site verification was carried out nor the Audit Department included the Respondent during the audit proceedings, therefore charging the detection bill of Rs.114,561/- on account of unilateral audit proceedings is not justified. He submitted that the superior courts declared that the audit proceeding is an internal matter between DISCO and the audit department and the consumer cannot be held responsible for payment of any detection bill on account of audit observation. The Respondent supported the impugned decision and prayed that the appeal be dismissed being devoid of merits.

6. Arguments were heard and the record was examined. Following are our findings:

- 6.1 Detection bill of Rs.114,561/- for the period July 2012 to 27.03.2013 charged to the Respondent based on Audit Note No.120 dated 26.09.2014

The billing meter of the Respondent became defective, hence it was replaced with a new meter by the Appellant vide the MCO dated 27.03.2013. Subsequently, the Audit Department vide Audit Note No.120 dated 26.09.2014 pointed out that the Respondent was less billed in terms of peak segment during the period from July 2012 to 27.03.2013 due to the upset date and time of the impugned meter. The Respondent received a bill of Rs.116,077/- in March 2021, which contained



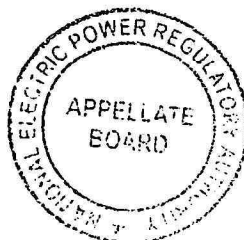
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the current bill of Rs.1,340 units and a detection bill of Rs.114,561/- debited on the recommendation of the audit department.

- 6.2 To verify the contention of the Appellant regarding the defective meter, the billing statement was examined, which shows that the impugned billing meter remained active till January 2013 and became defective in February 2013. If presumed the impugned meter was defective since July 2012 as to why the Appellant did not replace the same within two billing cycles as per Clause 4.4(e) of the Consumer Service Manual 2010 (the "CSM-2010"). This shows gross negligence on the part of the Appellant and the Respondent cannot be held accountable for payment of any bill in the absence of verifiable evidence. The Appellant even did not adhere to the procedure as laid down in Chapter 4 of the CSM-2010 in the case of a defective meter.
- 6.3 It is further observed that the Appellant debited the above detection bill pertaining to the period from July 2012 to 27.03.2013 to the Respondent in March 2021 i.e. after eight years, which is violation of the clarification of NEPRA Revised CSM-2021 communicated vide letter No. NEPRA/DG(CAD)/TCD-10/17187-13 dated 26.03.2021. As per the above-said clarification, the recovery of the difference bill be made within one year of the discrepancy noticed and maximum for six billing cycles.
- 6.4 Even otherwise the arrears pertaining to the period from July 2012 to 27.03.2013 raised in the electricity bill of March 2021 on the basis of Audit observation are not tenable in the eyes of law. The Audit observation is an internal matter between the Appellant IESCO and the Audit Department and the Consumer cannot be held responsible for the payment of any detection bill based on the Audit Para. The honorable Islamabad High Court in its judgment in the "Water and Power Development Authority, etc v. Umaid Khan" (1988 CLC 501) held that *no amount could be recovered from the consumer based on the audit report as the audit affair is between the WAPDA and its audit department and no audit report could in any manner make consumer liable for any amount and the same could not bring about any agreement between the WAPDA and the consumer making consumer liable based on the so-called audit report*. The courts in similar cases relied on the same principle in cases reported cited as 2014 MLD 1253 and 2008 YLR 308. In view of the foregoing discussion, we hold that the detection bill of Rs.114,561/- for the period





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July 2012 to 27.03.2013 charged to the Respondent based on Audit Note No.120 dated 26.09.2014 is illegal, unjustified and the same is cancelled.

7. Foregoing in view, the appeal is dismissed.

Abid Hussain
Member

Naweed Illahi Sheikh
Convener

Muhammad Irfan-ul-Haq
Member

Dated: 20-11-2023

