



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

NEPRA Office , Ataturk 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/063/2023/ *608*

July 24, 2024

- | | |
|--|--|
| 1. M/s. Mishal Fabrics,
New Name M/s. AIMS Hosiery Limited,
Through its authorized representative,
Mr. Niaz Ahmed, Situated at 22-KM,
Ferozpur Road, Rohi Nala, Dhulu Kalan,
Lahore | 2. Chief Executive Officer,
LESCO Ltd,
22-A, Queens Road,
Lahore |
| 3. Saeed Ahmed Bhatti,
Advocate High Court,
66-Khyber Block, Allama Iqbal Town,
Lahore
Cell No. 0300-4350899 | 4. A. D. Bhatti,
Advocate High Court,
First Floor, Rehmat Tower,
13-Fane Road, Lahore
Cell No. 0300-9431653 |
| 5. Assistant Manager (Operation),
LESCO Ltd,
Sufi Abad Sub Division,
Lahore | 6. POI/Electric Inspector,
Lahore Region-II,
Energy Department, Govt. of Punjab,
342-B, Near Allah Hoo Chowk,
Johar Town, Lahore
Phone No. 042-99333968 |

Subject: **Appeal No.063/2023 (LESCO Vs. M/s. Mishal Fabrics) Against the Decision Dated 31.05.2023 of the Provincial Office of Inspection to Government of the Punjab Lahore Region-II, Lahore**

Please find enclosed herewith the decision of the Appellate Board dated 24.07.2024 (05 pages), regarding the subject matter, for information and necessary action accordingly.

Encl: **As Above**

(Ikram Shakeel)
Deputy Director
Appellate Board

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.063/POI-2023

Lahore Electric Supply Company Limited

.....Appellant

Versus

M/s. Mashal Fabrics (Hosiery Limited) through Niaz Ahmed,
Situated at 22-KM, Ferozpur Road, Rohi Nala, Dhulu Kalan, LahoreRespondent

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

For the Appellant:

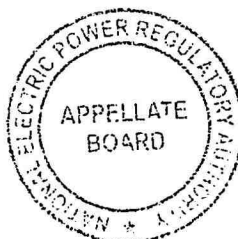
Mr. Saeed Ahmed Bhatti Advocate
Mr. Mohsan Irfan SDO

For the Respondent:

Mr. A.D Bhatti Advocate

DECISION

1. As per the facts of the case, M/s. Mashal Fabrics (hereinafter referred to as the "Respondent") is an industrial consumer of Lahore Electric Supply Company Limited (hereinafter referred to as the "Appellant") bearing Ref No.24-11532-1004100-U having sanctioned load of 407 kW and the applicable tariff category is B-2(b). During M&T checking dated 18.01.2023 of the Appellant, the blue phase of both billing and backup meters was found dead stop. Notice dated 18.01.2023 was issued to the Respondent regarding the above discrepancy. Therefore, a detection bill amounting to Rs.12,637,633/- against 508,884 units+952 kW MDI for four (04) months i.e. September 2022 to December 2022 was debited to the Respondent along with the bill for January 2023 with enhanced MF=240 due to 33% slowness of the meter.
2. Being aggrieved, the Respondent filed a complaint before the Provincial Office of Inspection, Lahore Region-II, Lahore (hereinafter referred to as the "POI") on 16.02.2023 and challenged the above detection bill. During joint checking of POI on 07.03.2023, the impugned billing was found running 33% slow due to one dead phase, joint checking report was signed by both parties without raising any objection. The complaint of the Respondent was disposed



11-
60



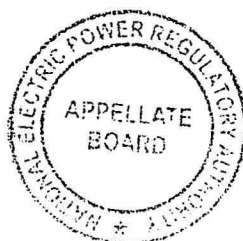
National Electric Power Regulatory Authority

of by the POI vide decision dated 31.05.2023, wherein it was held that the detection bill of Rs.12,637,633/- against 508,884 units+952 kW MDI for four (04) months i.e. September 2022 to December 2022 is void, unjustified and of no legal effect and the Appellant is allowed to charge revised bills w.e.f November 2022 and onwards till the replacement of the impugned meter as per consumption of corresponding month of the previous year or average consumption of last eleven months, whichever is higher.

3. Being dissatisfied, the Appellant has filed the instant appeal before NEPRA and assailed the decision dated 31.05.2023 of the POI (hereinafter referred to as the "impugned decision"). In its appeal, the Appellant opposed the maintainability of the impugned decision, *inter-alia*, on the following grounds that the impugned decision is against the law and facts of the case; that the POI misconceived and misconstrued the real facts of the case and erred in declaring the impugned detection bill as null and void; that Clause 4.3.3c(ii) of the CSM-2021 could not be made applicable in the instant case; that the POI miserably failed to analyze the consumption data in true perspective; that the Respondent has no locus standi to file the instant application before the POI as Muhammad Hussain is registered consumer in the record of the Appellant; that the POI has failed to appreciate that the complaint could not be entertained as no notice as required u/s 26(6) of Electricity Act 1910 was ever served upon the Appellants before filing the same and that the impugned decision is liable to be set aside.
4. Notice dated 20.07.2023 of the appeal was issued to the Respondent for filing reply/para-wise comment, which were filed on 23.08.2023. In the reply, the Respondent repudiated the version of the Appellant regarding charging the impugned detection bill, defended the impugned decision and prayed for upholding the same.

5. Hearing

- 5.1 Hearing of the appeal was conducted at NEPRA Regional Office Lahore on 01.03.2024, wherein learned counsels appeared for both the Appellant and the Respondent. Learned counsel for the Appellant contended that the blue phase of the billing meter of the Respondent was found defective on 18.01.2023, therefore a detection bill of Rs.12,637,633/- for four months was debited to the Respondent, and the MF was raised from 160 to 240 w.e.f January 2023 and onwards to account for 33% slowness of the meter. Learned counsel for the Appellant argued that the POI did not consider the real aspects of the case and erroneously declared the above detection bill as null and void and revised the bills w.e.f November 2022 and onward on DEF-EST code despite 33% slowness established in the joint checking of the lower forum. As per learned counsel for the Appellant, the honorable Supreme Court of Pakistan vide order dated 17.05.2023 in the C.P. No. 691/2020 remanded back the similar nature of the dispute to



11. Q



National Electric Power Regulatory Authority

NEPRA for determination of the period of slowness/defectiveness afresh. According to learned counsel for the Appellant, the Appellate Tribunal (NEPRA) vide order dated 12.12.2023 even remanded back the similar nature of disputes to NEPRA, which are to be decided after revisiting Clause 4.3.3c(ii) of the CSM-2021. Learned counsel for the Appellant prayed that the impugned decision is unjustified and liable to be struck down.

5.2 On the contrary, learned counsel for the Respondent repudiated the version of the Appellant and argued that the impugned detection bill of Rs.12,637,633/- against 508,884 units+952 kW MDI was debited to the Respondent in violation of provisions of the CSM-2021. As per learned counsel for the Respondent, Clause 4.3.3 of the CSM-2021 allows the Appellant to debit the detection bill maximum for two months in case of slow metering equipment/defective CT but in the instant case, the Appellant charged the impugned bill for four months, which is inconsistent with foregoing clause of the CSM-2021. Learned counsel for the Respondent prayed for dismissal of the appeal with special cost.

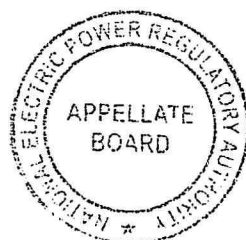
6. Having heard the arguments and record perused. Following are our observations:

6.1 Preliminary objection regarding the time limit for POI to decide the complaint:

As per the record, the Respondent filed his complaint before the POI on 16.02.2023 under Section 38 of the NEPRA Act. POI pronounced its decision on 31.05.20123 after the expiry of 90 days from the date of receipt of the complaint. The Appellant has objected that the POI was bound to decide the matter within 90 days under Section 26(6) of the Electricity Act, 1910. In this regard, it is observed that the forum of POI has been established under Section 38 of the NEPRA Act which does not put a restriction of 90 days on POI to decide complaints. Section 38 of the NEPRA Act overrides provisions of the Electricity Act, 1910. Reliance in this regard is placed on the judgments of the honorable Lahore High Court Lahore reported in *PLJ 2017 Lahore 627* and *PLJ 2017 Lahore 309*. Keeping in view the overriding effect of the NEPRA Act being later in time, and the above-referred decisions of the honorable High Court, hence the objection of the Appellant is rejected.

6.2 Objection regarding prior notice before filing the complaint before the POI:

As regards another objection of the Appellant for not issuing notice as per the Electricity Act, 1910 by the Respondent before filing a complaint to the POI, it is elucidated that the matter was adjudicated by the POI under Section 38 of the NEPRA Act, 1997 and as per procedure laid down in Punjab (Establishment and Powers of Office of Inspection) Order, 2005, which do not require for service of any notice before approaching the POI. The above objection of the Appellant is not valid and, therefore overruled.



Handwritten signature or initials.



National Electric Power Regulatory Authority

6.3 Detection bill of Rs.12,637,633/- for 508,884 units+952 kW MDI for four (04) months:

As per the available record, the yellow phase of the billing meter of the Respondent was found defective during checking dated 05.04.2024, therefore, a detection bill amounting to Rs.12,637,633/- against 508,884 units+952 kW MDI for four (04) months i.e. September 2022 to December 2022 was debited to the Respondent, which was assailed by him before the POI.

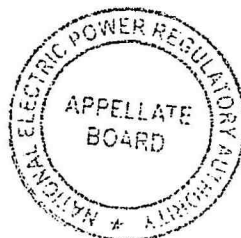
6.4 During the hearing, the Appellant pointed out that the honorable Supreme Court of Pakistan vide order dated 17.05.2023 remanded back the matter to NEPRA to revisit clause 4.4(e) of the CSM-2010 (existing clause 4.3.3 of the CSM-2021), hence the decision in the subject appeal be rendered after redetermination of the period of slowness by the Authority.

6.5 It is clarified that after detailed deliberation with the stakeholders i.e. distribution companies and consumers, the Authority vide order dated 13.06.2024 retained the period of supplementary/detection bill for two billing cycles in case of the slowness of the metering equipment/defective CTs as mentioned in clause 4.4(e) of CSM- 2010 (existing clause 4.3.3 of CSM-2021), the operative portion of which is reproduced below:

"For the reasons stated above, we reject the proposal of the distribution companies and retain the period of the supplementary bills for two (02) billing cycles in the case of the slowness of the metering installation/defective CTs as mentioned in clause 4.4(e) of CSM-2010 (existing clause 4.3 of CSM-2021). In a vigilant system, slowness of the metering installation should be detected timely, hence the distribution companies must bring efficiency in their working and replace the slow meters/defective CTs within the stipulated period as provided in clause 4.3 of the CSM-2021 in true letter and spirit. The distribution companies should ensure the charging of supplementary bills maximum for two billing cycles. If in the cases where the slowness of the metering installation is not pointed out timely and the metering installation is not replaced within maximum period of two (02) billing cycles, the competent authority of the relevant distribution company shall take disciplinary action against the concerned officials and fix the responsibility for negligence in such cases."

6.6 In light of the foregoing order of the Authority, we are of the considered view that the charging of the detection bill beyond two billing cycles is inconsistent with the foregoing clause of the CSM-2021. Therefore, the charging of the detection bill of Rs.12,637,633/- against 508,884 units+952 kW MDI for four (04) months i.e. September 2022 to December 2022 to the Respondent is violative of the ibid clause of the CSM-2021 and the same is cancelled.

6.7 33% slowness in the impugned metering equipment of the Respondent was observed on 18.01.2023 and the same was established during the POI joint checking dated 07.03.2023. The same fact was also checked through analysis of consumption data in the below table:



N. 063



National Electric Power Regulatory Authority

Period before dispute		Disputed period	
Month	Units	Month	Units
Sep-21	383360	Sep-22	312960
Oct-21	226080	Oct-22	257920
Nov-21	380000	Nov-22	266880
Dec-21	400480	Dec-22	180160

As evident from the above, actual consumption could not be recorded during the disputed period due to 33% slowness of the meter, hence it would be fair and appropriate to charge the revised supplementary bill for two billing cycles i.e. November 2022 and December 2022 after adding 33% slowness of the meter, according to clause 4.3.3c(ii) of the CSM-2021. The impugned decision is liable to be modified to this extent.

6.8 Moreover, the bills with enhanced MF=240 debited w.e.f January 2023 and onwards till the replacement of the impugned meter are justified as being in line with Clause 4.3.3c(i) of the CSM-2021.

7. In view of what has been stated above, it is concluded as under:


7.1 the detection bill of Rs.12,637,633/- against 508,884 units+952 kW MDI for four (04) months i.e. September 2022 to December 2022 charged to the Respondent is violative of Clause 4.3.3c(ii) of the CSM-2021 and the same is cancelled.

7.2 The Respondent may be charged the revised supplementary bill for two billing cycles i.e. November 2022 and December 2022 @ 33% slowness of the meter, under Clause 4.3.3c(ii) of the CSM-2021.

7.3 Moreover, the bills with enhanced MF=240 debited w.e.f January 2023 and onwards till the replacement of the impugned meter are justified as being in line with Clause 4.3.3c(i) of the CSM-2021.


7.4 The billing account of the Respondent may be overhauled, accordingly.

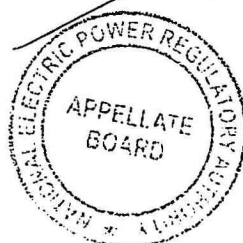
8. Foregoing in view, the appeal is dismissed.



Abid Hussain
Member/Advisor (CAD)

Dated: 24-07-2024

Appeal No.063/POI-2023


Naweed Illahi Sheikh
Convener/DG (CAD)




Muhammad Irfan-ul-Haq
Member/ALA (Lic.)

Page 5 of 5