



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

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No. NEPRA/Appeal/078/POI/2019/ 1041


December 28, 2021

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|---|--|
| 1. Muhammad Ali,
S/o. Malik Waryam,
Prop: M/s. Faridia Cold Storage,
Chak No. 56/GB, Tehsil & District Sahiwal | 2. Chief Executive Officer,
MEPCO Ltd,
MEPCO Complex, Khanewal Road,
Multan |
| 3. Abdul Hamid,
Advocate High Court,
2-A, Rai Iqbal Block,
District Courts, Sahiwal | 4. Malik Waheed Anjum,
Advocate High Court,
Muhammad Umer Riaz Law Associates,
6-Begum Road, Mozang, Lahore |
| 5. Sub Divisional Officer (Op),
MEPCO Ltd,
Kot Khadim Ali Sub Division,
Sahiwal | 6. POI/Electric Inspector,
Multan Region,
249-G, Shah Ruken-e-Alam Colony,
Phase II, Multan |

Subject: Appeal Titled MEPCO Vs. Muhammad Ali Against the Decision Dated 12.09.2018 Provincial Office of Inspection to Government of the Punjab Multan Region, Multan

Please find enclosed herewith the decision of the Appellate Board dated 08.12.2021, 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.

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



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Before Appellate Board

In the matter of

Appeal No. 078/POI-2019

Multan Electric Power Company Limited

.....Appellant

Versus

Muhammad Ali S/o Malik Waryam, Prop: M/s. Faridia Cold Storage,
Chak No.56/GB, Tehsil & District Sahiwal

.....Respondent

APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 12.09.2018 PASSED BY PROVINCIAL OFFICE OF INSPECTION, MULTAN REGION, MULTAN

For the Appellant:

Mr. Abdul Hamid Advocate
Mr. Musawar Ali XEN
Mr. M. Nouman Sarwar SDO

For the Respondent:

Mr. Muhammad Waheed Anjum

DECISION

1. Brief facts of the case are that the Respondent is an industrial consumer (cold storage) of the Multan Electric Power Company (MEPCO) bearing Ref No.27-15514-1539800 having a sanctioned load of 160 kW under the B-2(b) tariff. The billing meter of the Respondent was checked by the Metering and Testing (M&T) MEPCO on 13.03.2013 and reportedly, it was found 65.7% slow. Notice dated 20.03.2013 was issued to the Respondent and a detection bill amounting to Rs.889,473/- for the cost of total 84,669 (off-peak=74,987+peak=9,682) units was debited to the Respondent, which contained the two periods (1) from August 2012 to September 2012 two (2) months charged at the rate of 33% slowness of the meter and (2) from October 2012 to March 2013 five





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(5) months at the rate of 65.7% slowness of the meter. The Multiplication Factor (MF) of the Respondent was raised from 80 to 233.34 due to 65.7% slowness of the meter by the MEPCO w.e.f April 2013 and onwards till its replacement with a new meter vide the Meter Change Order (MCO) dated 06.06.2013.

2. Being aggrieved, the Respondent initially approached the Civil Court, Sahiwal, and assailed the above billing charged by the MEPCO. The Honorable Civil Judge, Sahiwal vide order dated 29.11.2017 directed the Respondent to approach the Provincial Office of Inspection, Multan Region, Multan (the POI) for redressal of the grievance. Subsequently, the Respondent filed a complaint before the POI on 27.02.2018 and disputed the arrears of Rs.153,256/-, which was disposed of by the POI vide its decision dated 12.09.2018 (impugned decision) in which the detection bill of Rs.889,473/- for the cost of total 84,669 (off-peak=74,987 + peak=9,682) units containing the two periods (i) from August 2012 to September 2012 two (2) months at the rate of 33% slowness of the meter and (ii) from October 2012 to March 2013 five (5) months at the rate of 65.7% slowness of the meter was declared as null and void. As per the impugned decision, the MEPCO was directed to charge the bills with enhanced MF=120 due to the 33% slowness of the meter for two (2) months i.e. December 2012 and January 2013 and the bills with enhanced MF=233.34 due to the 65.7% slowness of the meter for two (2) months only i.e. February 2013 and March 2013. The MEPCO was further directed to overhaul the billing account of the Respondent accordingly.
3. Appeal in hand has been filed against the impugned decision before the NEPRA in which the MEPCO explained the following facts; (1) The billing meter of the Respondent was found 65.7% slow during the M&T checking dated 13.03.2013 for





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which notice dated 20.03.2013 was issued to the Respondent and a detection bill of Rs.889,473/- for the cost of 84,669 (off-peak=74,987 + peak=9,682) units was debited to the Respondent containing the two periods (i) from August 2012 to September 2012 two (2) months at the rate of 33% slowness of the meter and (ii) from October 2012 to March 2013 five (5) months at the rate of 65.7% slowness of the meter; (2) MF of the Respondent was raised from 80 to 233.34 due to 65.7% slowness of the meter by the MEPCO w.e.f April 2013 and onwards; (3) the defective meter of the Respondent was replaced with a new meter vide the MCO dated 06.06.2013; (4) the impugned decision is against the law and facts of the case; (5) the findings of the POI are based on surmises and conjectures; (6) the POI could not consider the facts of the controversy and had not properly exercised the jurisdiction; and the impugned decision is liable to be set aside.

4. Notice of the appeal was issued to the Respondent for filing reply/para-wise comments, which were submitted on 13.05.2019. In his reply, the Respondent opposed the maintainability of the appeal, inter alia, on the following grounds; (1) the appeal filed before the NEPRA is time barred being filed after 83 days from the date of receipt of the impugned decision; (2) the appeal was not filed by the Chief Executive Officer MEPCO and the MEPCO officers are unauthorized to file the same; (3) the detection bill of Rs.889,473/- for the cost of 84,669 (off-peak=74,987 + peak=9,682) units for the periods (i) from August 2012 to September 2012 two (2) months at the rate of 33% slowness of the meter and (ii) from October 2012 to March 2013 five (5) months at the rate of 65.7% slowness of the meter was debited due to 65.7% slowness as observed on 13.03.2013; (4) MF of the Respondent was raised from 80 to 233.34 due to 65.7% slowness of the meter by MEPCO w.e.f April 2013 and onwards till its replacement with a new meter vide the Meter Change Order (MCO) dated 06.06.2013;





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(5) an amount of Rs.335,232/- was deposited against the above disputed bills in order to avoid the disconnection of electric supply; (6) the check meter was installed in series with the disputed billing meter but no comparison was made to verify 65.7% slowness, which is violation of Clause 4.4 of the Consumer Service Manual (CSM); (7) the impugned decision has been passed after considering all the pleadings, facts and controversies in the case; and (8) the appeal is liable to be dismissed.

5. Hearing of the appeal was held at the NEPRA Regional Office Multan on 25.10.2021 which was attended by both parties. Learned counsel for MEPCO argued that 65.7% slowness was observed in the billing meter of the Respondent during the MEPCO checking dated 13.03.2013, hence the detection bill of Rs.889,473/- for the cost of 84,669 (off-peak=74,987 + peak=9,682) units was debited to the Respondent, which included two periods (i) from August 2012 to September 2012 two (2) months at the rate of 33% slowness of the meter and (ii) from October 2012 to March 2013 five (5) months at the rate of 65.7% slowness of the meter and further bills with enhanced MF=233.34 due to 65.7% slowness of the meter were charged by the MEPCO w.e.f April 2013 and onwards till its replacement with a new meter vide the MCO dated 06.06.2013. Learned counsel for the MEPCO further contended that the above bills were initially agitated before the Civil Court Sahiwal, which vide order dated 29.11.2017 directed the Respondent to file a complaint before the POI within fifteen (15) days but the Respondent approached the POI on 27.02.2018. As per learned counsel for the MEPCO, the above detection bill was debited to the Respondent as per the consumption history, which was deposited by him. According to the learned counsel for the MEPCO, the above detection bill is justified and the impugned decision for declaring the same as null and void is unjustified and liable to be set aside. On the contrary, learned counsel appearing for the Respondent reiterated the same





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objection as given in reply/parawise comments to the appeal and argued that the appeal was neither filed through an authorized person nor within thirty (30) days of the receipt of the impugned decision. Learned counsel for the Respondent averred that copy of the impugned decision dated 12.09.2018 was received by the MEPCO on 09.10.2018 and the appeal was filed on 12.02.2019 after a delay of 83 days, hence the same is liable to be dismissed on this ground alone. In response, learned counsel for the MEPCO informed that the appeal was filed by the SDO MEPCO well within time and the SDO MEPCO is authorized to file the appeal as per the BoD Resolution, hence both the objections of the learned counsel for the Respondent are not sustainable. Learned counsel for the Respondent opposed the charging of the above detection bill and submitted that neither prior notice was served in this regard nor 33% slowness was observed in the billing meter of the Respondent. As per learned counsel for the MEPCO, the payment was made against the above detection bill under duress to avoid the disconnection of supply. Learned counsel for the Respondent defended the impugned decision and prayed for upholding the same.

6. Arguments heard, the record examined and our observations are as under:
 - i. With regard to the preliminary objection of limitation raised by the Respondent, it is observed that the impugned decision was announced by the POI on 12.09.2018, copy of the same was received by the MEPCO on 09.10.2018 against which the MEPCO filed an appeal before the NEPRA on 11.10.2018 within thirty (30) days of receipt of the impugned decision as envisaged in Section 38(3) of the NEPRA Act, 1997. The objection of the Respondent regarding the limitation is not valid and dismissed.
 - ii. The Respondent raised another objection regarding filing the instant appeal



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through the unauthorized person i.e. SDO instead of Chief Executive Officer MEPCO. In this regard, MEPCO BoD Resolution dated 14.01.2017 was perused wherein the MEPCO Board of Directors during its meeting held on 14.01.2017 vide agenda Item No.11-I have decided as follows:

“The Board resolved that All Chief Engineers, HR & Admin Director, Director Commercial, All Managers/Directors, PD (GSC), PD (Const.), All Suprentineding Engineers, All Executive Engineers/XENs & all Deputy Managers/Deputy Directors are hereby authorized to sign complaints, written statements, replies, verifications, report and parawise comments, rejoinders, all applications, all criminal miscellaneous, petitions, all miscellaneous petitions, all writ Petitions, replications, all appeals, Intra Court Appeals, concise statements, all petitions, Review Petitions, Appeals, CPLAs and Affidavits, etc on behalf of MEPCO.”

As evident from the above, the MEPCO BoD Resolution dated 14.01.2017 has authorized the Officers up to the Deputy Director/XEN MEPCO to issue the Power of Attorney/to plead the case before any forum including the NEPRA, whereas the instant appeal was initially filed by the MEPCO through an unauthorized person i.e. SDO MEPCO. The said observation was raised by the NEPRA on the appeal filed by the MEPCO, which was addressed by the MEPCO with filing the same along with fresh Power of Attorney by the Superintending Engineer MEPCO (OP) Circle Sahiwal vide letter dated 29.10.2018 being an authorized person. This objection of the Respondent, therefore, carries no weight, and the same is rejected.

iii. As far as the merits of the case are concerned, 65.7% slowness was observed in the billing meter of the Respondent during the MEPCO checking dated 13.03.2013, hence the detection bill of Rs.889,473/- for the cost of 84,669 (off-peak=74,987 + peak=9,682) units was debited to the Respondent, which included two periods (i)



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from August 2012 to September 2012 two (2) months at the rate of 33% slowness of the meter and (ii) from October 2012 to March 2013 five (5) months at the rate of 65.7% slowness of the meter and further bills with enhanced MF=233.34 due to 65.7% slowness of the meter were charged by the MEPCO w.e.f April 2013 and onwards. The Respondent initially challenged the above billing before the Honorable Civil Court Sahiwal vide a Civil Suit, which was disposed of by the Honorable Civil Court Sahiwal vide order dated 29.11.2017 with the direction to the Respondent to approach the POI being a competent forum. The Respondent subsequently filed a complaint before the POI on 27.02.2018 and agitated the above bills charged by the MEPCO due to the 65.7% slowness of the meter.

iv. According to Clause 4.4 of the CSM, the Respondent may be charged the detection bill maximum for two (2) months in case of slow meter but in the instant case, the MEPCO has charged the slowness for eight (8) months i.e. August 2012 to March 2013, which is violative of aforesaid Clause of the CSM. As such the finding of the POI for cancellation of the detection bill of Rs.889,473/- for the cost of 84,669 (off-peak=74,987 + peak=9,682) units containing the two periods (i) from August 2012 to September 2012 two (2) months at the rate of 33% slowness of the meter and (ii) from October 2012 to March 2013 five (5) months at the rate of 65.7% slowness of the meter is correct and the same is liable to be maintained to this extent.

v. Similarly, the determination of the POI for the revision of the bills with enhanced MF=120 due to 33% slowness of the meter for two (2) months i.e. December 2012 and January 2013, and the bills with enhanced MF=233.34 due to 65.7% slowness of the meter for two (2) months only i.e. February 2013 and March 2013 is





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unjustified and the same is liable to be set aside to this extent.

vi. Since 65.7% slowness was observed by the MEPCO on 13.03.2013, therefore the Respondent is liable to be charged the detection bill for two (2) months i.e. January 2013 and February 2013 and the bills with enhanced MF=233.4 w.e.f March 2013 and onwards till the replacement of the slow meter on 06.06.2013 as per Clause 4.4 of the CSM. The impugned decision is liable to be modified to this extent.

7. Summing up the foregoing discussion, it is concluded that:

- i. the detection bill of Rs.889,473/- for the cost of 84,669 (off-peak=74,987 + peak=9,682) units containing the two periods (i) from August 2012 to September 2012 two (2) months at the rate of 33% slowness of the meter and (ii) from October 2012 to March 2013 five (5) months at the rate of 65.7% slowness of the meter is unjustified and the same is cancelled. The impugned decision is maintained to this extent.
- ii. The impugned decision to the extent of revision of the bills with enhanced MF=120 due to 33% slowness of the meter for two (2) months i.e. December 2012 and January 2013 and the bills with enhanced MF=233.34 due to 65.7% slowness of the meter for two (2) months only i.e. February 2013 and March 2013 is not correct and withdrawn to this extent.
- iii. The Respondent should be charged the detection bill for two (2) months i.e. January 2013 and February 2013 and the bills with enhanced MF=233.4 w.e.f March 2013 and onwards till the replacement of the slow meter due to the 65.7% slowness of the meter as per Clause 4.4 of the CSM.





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- iv. The billing account of the Respondent be overhauled after adjusting the payment made by the Respondent against the above bills.
8. The appeal is disposed of in the above terms.

Abid Hussain
Member/Advisor (CAD)

Nadir Ali Khoso
Convener/Senior Advisor (CAD)

Dated: 08.12.2021

