



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

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No. NEPRA/Appeal/287/POI/2019/ 167

March 04, 2021

- | | |
|---|---|
| 1. Fazal Abbas
S/o. Ghulam Hussain,
Munir Ahmed Khan Sehar,
Representative, R/o. Chak No. 123/TDA,
Tehsil & District Layyah | 2. Chief Executive Officer,
MEPCO Ltd,
MEPCO Complex, Khanewal Road,
Multan |
| 3. Sardar Mazhar Abbas Mahar
Advocate High Court,
45-Zikriya Block, District Courts,
Multan | 4. Executive Engineer (Operation)
MEPCO Ltd,
Layyah Division, Layyah |
| 5. Sub Divisional Officer (Op),
MEPCO Ltd,
1 st Sub Division,
Layyah | 6. POI/Electric Inspector
Multan Region,
249-G, Shah Ruken-e-Alam Colony,
Phase II, Multan |

Subject: **Appeal Titled MEPCO Vs. Fazal Abbas Against the Decision Dated 19.07.2019**
Provincial Office of Inspection to Government of the Punjab Multan Region,
Multan

Please find enclosed herewith the decision of the Appellate Board dated 03.03.2021, 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



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No.287/POI-2019

Multan Electric Power Company Limited

.....Appellant

Versus

Fazal Abbas S/o Ghulam Hussain, Munir Ahmed Khan Sehar,
R/o Chak No.123/TDA, Tehsil & District Layyah

.....Respondent

APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION, TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 19.07.2019 PASSED BY PROVINCIAL OFFICE OF INSPECTION MULTAN REGION MULTAN

For the appellant:

Sardar Mazhar Abbas Advocate

For the respondent:

Nemo

DECISION

1. As per facts of the case, the respondent is an industrial consumer of MEPCO bearing Ref No.28-15731-0075706 having sanctioned load of 19 kW under the tariff B-1b. The billing meter of the respondent became defective in November 2016 and it was replaced with a new meter by MEPCO in March 2017. Subsequently, Audit Department vide Audit Note No.57 dated 19.07.2018 observed the less charging of consumption during the period November 2016 to February 2017 and recommended to debit 8,880 units (off peak=7,400, peak=1,480) for the period November 2016 to February 2017 to the respondent on the basis of consumption of November 2015 to February 2016. As such,

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MEPCO charged a detection bill amounting to Rs.162,659/- for 8,880 units (off peak=7,400, peak=1,480) for the period November 2016 to February 2017 (4 months) to the respondent.

2. Being disagreed with the actions of MEPCO, the respondent filed an application before the Provincial Office of Inspection (POI) and challenged the above detection bill. POI vide decision dated 19.07.2019 declared the detection bill of Rs.162,659/- for 8,880 units (off peak=7,400, peak=1,480) for the period November 2016 to February 2017 as null and void and MEPCO was directed to charge the bills for November 2016 and December 2016 on DEF-EST code as per clause 4.4 of Consumer Service Manual (CSM).
3. Through the instant appeal, MEPCO has assailed the above-mentioned decision (hereinafter referred to as the impugned decision) before NEPRA, wherein it is contended that the Audit party observed the nil consumption charged to the respondent and recommended to recover the bills for the period November 2016 to February 2017, hence the detection bill of Rs.162,659/- for 8,880 units (off peak=7,400, peak=1,480) for the period November 2016 to February 2017 charged to the respondent is justified and payable by him. As per MEPCO, POI has failed to see the case in letter, spirit, the policy formulated in the CSM and passed the impugned decision on surmises and conjectures. According to MEPCO, the matter exclusively falls within the domain of the Civil Court and the POI has no lawful authority to decide the same. MEPCO submitted that the POI has not applied his judicious mind and rendered the impugned decision contrary to the facts and law. MEPCO finally prayed for setting aside the impugned decision.



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4. Notice of the appeal was issued to the respondent for filing reply/para-wise comments, which however were not filed.
5. Notice was issued and hearing of the appeal was conducted in NEPRA Regional Office Multan on 15.02.2021, which was attended only by the learned counsel for MEPCO and no one represented the respondent. Learned counsel for MEPCO reiterated the arguments of the appeal and argued that the detection bill of Rs.162,659/- for 8,880 units (off peak=7,400, peak=1,480) for the period November 2016 to February 2017 was charged to the respondent as per Audit para. As per learned counsel for MEPCO, the consumption data proves that the above detection bill is correct and the entire period of the same may be allowed instead of two months.
6. We have heard the arguments of MEPCO and perused the available record. Our observations are as under:
 - i. MEPCO raised the preliminary objection that the instant matter falls within the domain of Civil Court and the POI lacks jurisdiction to adjudicate the same. It is noted that the matter pertains to the billing due to a defective meter and the POI is empowered to entertain such disputes pursuant to Section 38 of the NEPRA Act, 1997. Moreover, the honorable Supreme Court of Pakistan vide judgment reported in PLD 2012 SC 371 authorized POI to adjudicate the disputes of such nature. Hence objection of MEPCO in this regard is overruled.
 - ii. MEPCO debited a detection bill of Rs.162,659/- for 8,880 units (off peak=7,400,



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peak=1,480) for the period November 2016 to February 2017 to the respondent as per Audit para No.57 dated 19.07.2018, which was disputed by him before POI.

- iii. It is noticed that the respondent was neither associated in the audit proceedings nor prior notice about the recovery of the detection bill of Rs.162,659/- for 8,880 units (off peak=7,400, peak=1,480) for the period November 2016 to February 2017 was issued by MEPCO, hence there is no justification to charge any detection bill based on audit para. Reliance is placed on Lahore High Court Judgement dated 25.09.2007, reported in 2008 YLR 308, which is reproduced below:

“WAPDA through chairman –Petitioner versus Fazal Karim respondent.

Electricity Act (IX of 1910)—

---Ss.24 &26—Demand of amount from the consumer on basis of Audit report/objection without issuing a show-cause notice to him or joining him with proceedings to justify Audit report—Validity—Audit report would neither be binding on consumer nor could he be held responsible for the fault of department.”

In view of the above, we agree with the determination of POI that the detection bill of Rs.162,659/- for 8,880 units (off peak=7,400, peak=1,480) for the period November 2016 to February 2017 is unjustified and should be withdrawn.

- iv. Since the billing meter of the respondent became defective in November 2016, hence the respondent should be charged the bills for November 2016 and December 2016 by MEPCO on DEF-EST code in pursuance to clause 4.4(e) of CSM which is also the determination of POI.



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v. MEPCO should overhaul the billing account of the respondent, accordingly.

7. Foregoing in view, the appeal is dismissed.

Muhammad Qamar-uz-Zaman
Member/SA (Finance)

Nadir Ali Khoso
Convener/DG (M&E)

Dated: 03.03.2021