



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

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No. NEPRA/Appeal/024/&052/POI/2020/ 4//5

April 18, 2022

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| 1. Shahid Pervaiz,
S/o. Ghulam Rasool,
(Through Syed Mujtaba Zaghum Shamsi,
Advocate High Court), C/o. Executive
Lodges, R/o. House No. 485,
Ghaziabad Chowk. Multan | 2. Chief Executive Officer,
MEPCO Ltd,
MEPCO Complex, Khanewal Road,
Multan |
| 3. Malik Muhammad Muzaffar Athangal,
Advocate High Court,
Seat No. 18-A, District Courts,
Multan | 4. Executive Engineer (Operation),
MEPCO Ltd,
B. Z (Musa Park) Division,
Multan |
| 5. Sub Divisional Officer (Op),
MEPCO Ltd,
Karam Daad Sub Division,
District Muzaffargarh | 6. POI/Electric Inspector,
Multan Region,
249-G, Shah Ruken-e-Alam Colony,
Phase II, Multan |

Subject: **Appeal Titled MEPCO Vs. Shahid Pervaiz & Shahid Pervaiz Vs. MEPCO
Against the Decision Dated 22.12.2019 Provincial Office of Inspection to
Government of the Punjab Multan Region, Multan**

Please find enclosed herewith the decision of the Appellate Board dated 13.04.2022, 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 The Appellate Board

In the matter of

Appeal No.024/POI-2020

Multan Electric Power Company Limited

.....Appellant

Versus

Shahid Pervaiz S/o Ghulam Rasool Through
Syed Mujtaba Zaghum Shamsi Advocate High Court,
C/o Executive Lodges, R/o House No.485, Ghaziabad Chowk, Multan.....Respondent

&

Appeal No. 052/POI-2020

Shahid Pervaiz S/o Ghulam Rasool Through
Syed Mujtaba Zaghum Shamsi Advocate High Court,
C/o Executive Lodges, R/o House No.485, Ghaziabad Chowk, Multan.....Appellant

Versus

Multan Electric Power Company Limited

.....Respondent

APPEALS UNDER SECTION 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 22.12.2019 PASSED BY THE PROVINCIAL OFFICE OF INSPECTION MULTAN REGION MULTAN

For MEPCO:

Mr. Muhammad Salman Saeed SDO

For Consumer:

Syed Mujtaba Shamsi Advocate

DECISION

1. As per the facts of the case, Multan Electric Power Company Limited (hereinafter referred to as 'the MEPCO') is a licensee of the National Electric Power Regulatory



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Authority (hereinafter referred to as 'the NEPRA') for the distribution of electricity in the territory specified as per terms and conditions of the license and Mr. Shahid Pervaiz is its domestic Consumer (hereinafter referred to as 'the Consumer') having five connections as per the detail given below:

Connection No.	Account	Titled	San. Load	Tariff
First	01-15171-5011700	Shahid Pervaiz	5 kW	A-1
Second	01-15171-5011200	Shahid Pervaiz	5 kW	A-1
Third	01-15171-5011300	Shahid Pervaiz	5 kW	A-1
Fourth	01-15171-5011500	Shahid Pervaiz	5 kW	A-1
Fifth	01-15171-5011600	Shahid Pervaiz	5 kW	A-1

Main backup meter No.070407 was installed in series with the five billing meters of the Consumer by the MEPCO on 29.10.2010. Subsequently, Metering and Testing (M&T) MEPCO checked the metering equipment of the Consumer on 13.03.2012 and found that the main backup meter recorded total 341,960 units during the period 29.10.2010 to 09.03.2012, whereas the Consumer was charged total 71,360 units against five connections, hence the difference of 270,600 units was chargeable for the period October 2010 to March 2012 (18 months). Subsequently, MEPCO issued notice dated 19.08.2013 to the Consumer regarding the difference of 270,600 units pending against the five connections and charged a detection bill (the first detection bill) of 270,600 units for the period October 2010 to March 2012 (18 months) against five connections, each for 54,120 units. Later on, the MEPCO raided the premises of the Consumer along with FIA on 27.08.2013, wherein allegedly the Consumer was found stealing electricity by tampering the meters of five connections. MEPCO registered the FIRs bearing Nos.150/2013, 151/2013 & 158/2013 against the MEPCO employees and the Consumer with FIA Multan. Another detection bill (the second detection bill) for



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total 415,009 units for the period April 2012 to August 2013 (17 months) was charged against five connections of the consumer based on the connected load of 158 kW as per the detail given below:

Connection	Units	Amount (Rs.)
First	68001	1,572,802/-
Second	29189	1,126,297/-
Third	74393	1,647,993/-
Fourth	160344	2,659,130/-
Fifth	83082	1,690,725/-
Total	415,009	-

2. Being aggrieved with the above actions of the MEPCO, the representative for the Consumer initially filed a civil suit before the Civil Judge Multan against the above detection bills. The Honorable Civil Judge vide interim order dated 16.02.2015 directed the MEPCO to restore the electric supply of the Consumer subject to the payment of 40% of the disputed bills. Hence, one point supply with 68 kW load was given to the premises of the Consumer w.e.f 28.04.2015. Later on, Mr. Shaukat Ali the representative for the Consumer made an out of court settlement for the arrears of Rs.6,758,387/- in thirty-four (34) installments on the condition of withdrawal of all cases from the court of law and made a payment of Rs.3,186,976/- against the disputed amount till October 2019. Afterward, the Honorable Civil Judge Multan vide order dated 07.11.2018 disposed of the civil suit as withdrawn by the representative for the Consumer. Thereafter, the Consumer filed a complaint before the NEPRA on 26.11.2018 and challenged the detection bills total amounting to Rs.11,173,835/-. Additional Director General (CAD) NEPRA vide letter dated 04.12.2018 referred the matter to the Provincial Office of Inspection, Multan Region, Multan (hereinafter



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referred to as 'the POI') for the decision. The complaint of the Consumer was disposed of by the POI vide decision dated 12.12.2019 (hereinafter referred to as 'the impugned decision'), wherein both the detection bills i.e. the first detection bill of 270,600 units for the period October 2010 to March 2012 (18 months) charged due to the difference of units already charged and the reading of the main backup meter and the second detection bill for total 415,009 units for the period April 2012 to August 2013 (17 months) charged against five connections on the basis of connected load 158 kW were cancelled. As per the impugned decision, the MEPCO was directed to issue a revised detection bill for three months @ 26,280 units/month for the period June 2013 to August 2013 against four connections to the Consumer excluding the third connection bearing Ref No. 01-15171-5011300.

3. Being dissatisfied with the impugned decision, both parties filed cross-appeals. As the facts and subject matter of the appeals are same, both have been clubbed and are being disposed of through a single/consolidated decision.
4. In its appeal, MEPCO contended that the first detection bill of 270,600 units for the period October 2010 to March 2012 (18 months) was debited against five connections being the difference of readings between the units already charged as per billing meters and the reading of the main backup meter. MEPCO further contended that the premises of the Consumer was checked by the M&T MEPCO along with the FIA team on 28.08.2013 and the Consumer was found stealing electricity through the tampered meters of the five connections, therefore, the tampered meters were removed, handed over to FIA and FIR No. 150/2013 was filed against the Consumer with FIA. As per



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MEPCO, data of the tampered billing meters could not be retrieved due to the software error, therefore the consumption data of five connections for the last three years was analyzed and the second detection bill for total 415,009 units was charged to the Consumer for the period April 2012 to August 2013 (17 months) against five connections on the basis of connected load 158 kW. According to MEPCO, the Consumer initially filed a civil suit before the Civil Judge Multan against the above detection bills and the Honorable Civil Judge vide interim order dated 16.02.2015 directed the MEPCO to restore the electric supply of the Consumer subject to the payment of 40% of the disputed bills, hence one point supply with 68 kW load was given to the premises of the Consumer. MEPCO submitted that Mr. Shaukat Ali the representative for the Consumer made an out of court settlement and agreed to pay the arrears of Rs.6,758,387/- in thirty-four (34) installments on the condition of withdrawal of all cases from the court of law and made a payment of Rs.3,186,976/- against the disputed amount till October 2019. MEPCO opposed the impugned decision on the following grounds that the POI did not consider the above factual circumstances and allowed the application of the Consumer without jurisdiction: that the matter exclusively falls within the domain of the Civil Court and the POI has no lawful authority to decide the matters that the honorable Supreme Court of Pakistan vide various judgments held that the order passed has no legal effect. MEPCO finally prayed that the impugned decision be struck down. On the contrary, the Consumer opposed the impugned decision *inter alia*, on the following grounds that the POI allowed the detections bills for three months though the theft of electricity was not established as the metering equipment during the two checking dated 01.08.2013 and



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03.08.2013 was found working accurately; that the POI passed the impugned decision without appreciating the facts that neither the MEPCO submitted reply nor attended the hearing to plead the case; that the POI did not visit the FIA office for checking the metering equipment even the fee for checking the meter was paid by him; that the premises is being used for residential purpose since long but the POI ignored the changed of tariff by the MEPCO from domestic to commercial; that the POI did not notice the fabricated reports submitted by the MEPCO; that the impugned decision for revision of the detection bill @ 120 kW load is not correct as the MEPCO itself provided single connection of 68 kW load; that the POI erroneously based its determination on the consumption of the year 2016; that the POI failed to decide the matter within 120 days; that the POI did not decide the fate of disputed bill of Rs.2,500,000/- . The Consumer prayed for setting aside the impugned decision.

5. Notice of the appeals was sent to both parties for reply/para-wise comments, which however were not filed.
6. Hearing of both appeals was conducted at the NEPRA Regional Office Multan on 21.03.2022, which was attended by both parties. The SDO MEPCO reiterated the same contentions as given in memo of the Appeal No.024/2020 and contended that the metering equipment of the Consumer was checked by the M&T MEPCO on 13.03.2012, wherein the main backup meter recorded total 341,960 units during the period 29.10.2010 to 09.03.2012, whereas the Consumer was charged 71,360 units as per billing meters, hence 270,600 units were found pending for the period October 2010 to March 2012 (18 months). SDO MEPCO further contended that notice dated



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19.08.2013 was issued to the Consumer regarding the difference of 270,600 units pending against five connections and a detection bill of 270,600 units for the period October 2010 to March 2012 (18 months) was debited against five connections, each for 54,120 units. He averred that the MEPCO raided the premises of the Consumer along with FIA on 27.08.2013, wherein the Consumer was found stealing electricity through tampered meters, therefore the FIRs bearing Nos.150/2013 & 158/2013 were registered against the MEPCO employees, and the Consumer with FIA Multan. According to the SDO MEPCO, five more detection bills were charged to the Consumer for the period April 2012 to August 2013 (17 months) against five connections on the basis of connected load 158 kW as per the detail given below:

Connection	Units	Amount (Rs.)
First	68001	1,572,802/-
Second	29189	1,126,297/-
Third	74393	1,647,993/-
Fourth	160344	2,659,130/-
Fifth	83082	1,690,725/-
Total	415,009	-

SDO MEPCO submitted that the Consumer signed an affidavit for payment of the disputed detection bills and he paid the entire amount, hence it is a closed transaction and cannot be challenged at any forum. SDO MEPCO finally prayed that the appeal may be accepted and the entire bills be allowed. On the contrary, learned counsel for the Consumer denied the allegation of theft leveled by the MEPCO and argued that during two checkings dated 02.08.2013 and 15.08.2013, the disputed meters of the five connections of the Consumer were found working within BSS limits. As per



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learned counsel for the Consumer, premises was raided by the M&T MEPCO along with the FIA team on 28.08.2013, who levelled baseless allegation that the Consumer was stealing electricity through the tampered meters, whereas he was residing in the United Kingdom since 24.01.2013. Learned counsel for the Consumer stated that MEPCO charged two detection bills i.e. first detection bill of 270,600 units for the period October 2010 to March 2012 (18 months) and second detection bill for total 415,009 units for the period April 2012 to August 2013 (17 months) charged against five connections on the basis of connected load 158 kW. Learned counsel for the Consumer submitted that the Consumer returned to Pakistan in the year 2018 and joined the investigation and was declared innocent. According to the Consumer, the above detection bills were charged on account of theft of electricity but MEPCO could not prove the same, hence there is no justification to revise the detection bill for three months. The learned counsel for the Consumer further submitted that no affidavit was submitted by the Consumer and the above detection bills were paid by him under duress to prevent MEPCO from disconnection the electric supply. Learned counsel for the Consumer prayed that the entire bill be withdrawn being illegal, and unjustified.

4. Arguments of both parties were heard and the record was examined. Following has been observed:

- i. MEPCO raised the preliminary objection that the instant matter falls within the domain of the Civil Court and the POI has no jurisdiction to adjudicate the same matter. It is noted that the matter pertains to the billing due to defective meters. therefore the POI is empowered to entertain such disputes pursuant to Section 38



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of the NEPRA Act, 1997. Moreover, the honorable Supreme Court of Pakistan vide judgment reported in PLD 2012 SC 371 authorized the POI to adjudicate disputes of such nature. Hence objection of MEPCO in this regard is overruled.

- ii. The Consumer pointed out that the impugned decision was pronounced by the POI after 120 days from the date of receipt of the complaint, hence the impugned decision became invalid. It is clarified that Article 9 of the Punjab (Establishment and Powers of Office of Inspection) Order, 2005 is of directory nature and not of mandatory nature, which provides the restriction of 120 days to decide the matter but no consequences in case of failure in decision within prescribed limits are mentioned. Hence the objection of the Consumer is rejected being invalid.
- iii. The representative for the Consumer initially filed a civil suit before the Civil Judge Multan against the two detection bills i.e. the first detection bill of 270,600 units for the period October 2010 to March 2012 (18 months) and the second detection bill for total 415,009 units for the period April 2012 to August 2013 (17 months) charged against five connections on the basis of connected load 158 kW. The Honorable Civil Judge Multan vide order dated 07.11.2018 disposed of the civil suit as withdrawn by the representative for the Consumer. Thereafter Consumer filed a complaint before the NEPRA on 26.11.2018 and challenged the arrears total amounting to Rs.11,173,835/- containing the above detection bills. Additional Director General (CAD) NEPRA vide letter dated 04.12.2018 referred the matter to the POI for the decision. The Consumer filed a complaint before the POI on 02.11.2019 and challenged both the above detection bills.



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- iv. MEPCO claimed that Mr. Shaukat Ali the representative for the Consumer made an out of court settlement for payment of the arrears of Rs.6,758,387/- in thirty-four (34) installments on the condition of withdrawal of all cases from the court of law and made a payment of Rs.3,186,976/- against the disputed amount till October 2019. However no documentary evidence i.e. Settlement deed, paid bills, etc. in this regard was produced by MEPCO to substantiate its claim. Hence the contention of MEPCO in this regard is rejected being devoid of force.
- v. For the sake of convenience, both the above detection bills are being analyzed separately in the below paras.

The first detection bill for total 270,600 units for the period October 2010 to March 2013 (18 months)

Main backup meter No.070407 was installed in series with the five billing meters of the Consumer by the MEPCO on 29.10.2010 and remained installed till 09.03.2012. Subsequently, M&T MEPCO checked the metering equipment of the Consumer on 13.03.2012 and found that the main backup meter recorded total 341,960 units during the period 29.10.2010 to 09.03.2012, whereas the Consumer was charged 71,360 units, hence MEPCO charged first detection bill of 270,600 units for the period October 2010 to March 2012 (18 months) against five connections being the difference of units already charged and the reading noted on the main backup meter, 54,120 units for each connection. It is noted that the main backup meter remained at the site for eighteen months i.e. October 2010 to March 2012 but no discrepancy whatsoever was noted by the MEPCO meter readers during the monthly reading before the checking dated 13.03.2012.



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Moreover, the billing meters of the five connections and main backup meters were not checked by the POI to verify their accuracy and the difference in readings. It is noticeable that the first detection bill was debited to the Consumer after more than one and half years in September 2013 which raised the question as to why MEPCO did not raise the above-said detection bill timely. MEPCO even did not associate the Consumer during the checking of the metering equipment. MEPCO did not provide a comparative statement of the consumption of both the billing and main backup meters. Under the circumstances mentioned above, the first detection bill of 270,600 units for the period October 2010 to March 2012 (18 months) debited on account of the difference of units already charged and the reading of the main backup meters is declared as unjustified and the same should be withdrawn, which concurs with the impugned decision.

- vi. The second detection bill for total 415,009 units for the period April 2012 to August 2013 (17 months) charged against five connections

The premises of the Consumer was checked by the M&T MEPCO along with the FIA team on 27.08.2013 and the Consumer was allegedly found stealing electricity through the tampered meter, therefore, the second detection bill for total 415,009 units for the period April 2012 to August 2013 (17 months) was charged against five connections on the basis of connected load 158 kW.

According to Clause 9.1c(3) of the CSM, the Consumer being a general supply Consumer i.e. A-1 may be charged the detection bill maximum for three months in case of theft of electricity committed through the tampered meters, if the approval for charging the detection bill beyond three billing cycles was not obtained from



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the Chief Executive Officer MEPCO being the competent authority. Therefore charging the second detection bill for seventeen (17) months i.e. April 2012 to August 2013 is inconsistent with the foregoing Clause of the CSM. Moreover, the second detection bill was charged on the basis of accumulated load i.e. 158 kW but neither the same was verified by the POI nor was regularized by the MEPCO. It is further noted that charging the second detection bill based on connected load i.e. 158 kW is not compatible with the future undisputed consumption. Hence we are of the view that the second detection bill for total 415,009 units for the period April 2012 to August 2013 (17 months) was charged by the MEPCO against five connections on the basis of connected load 158 kW is unjustified and the same is liable to be cancelled. The impugned decision is liable to be maintained to this extent.

Similarly, the determination of POI for revision of the detection bill for three months i.e. June 2013 to August 2013 on the basis of connected load=120 kW is neither compatible with the sanctioned load of 68 kW nor the correct load factor as per CSM was applied in the calculation of the revised detection bill. Therefore we are convinced with the arguments of the Consumer and hold that the impugned decision to the extent of charging the revised detection bill @ 26,280 units/month for three months is incorrect and liable to be set aside.

Since the discrepancy in the metering equipment was observed by the MEPCO on 27.08.2013 for which MEPCO had taken legal action against the MEPCO officials and the Consumer. This whole scenario indicates that there was unfair use of



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electricity in the disputed months, hence the Consumer is liable to be charged the detection bill maximum for three months i.e. June 2013 to August 2013 as per Clause 9.1c(3) of the CSM and the basis of charging the detection bill be made on the approved load i.e. 68 kW and the applicable load factor is 25%. Calculation of the detection bill be made as per the formula given in Annex-VIII of the CSM in below table:

Units/month to be assessed	= Sanctioned load (kW) x Load Factor x No. of Hours/month 68 x 0.25 x 730 = 12,410 units
Total units to be charged for all five connections	= Units/month assessed x No. of Months x No. of connections = 12,410 x 3 = 37,230 units

The Consumer is liable to be charged the second detection bill for total 37,230 units for the period June 2013 to August 2013 (three months) against the five connections. The impugned decision is liable to be modified to this extent.

5. Summing up the aforesaid discussion, we have concluded as under:

- i. The impugned decision for cancellation of the first detection bill of 270,600 units for the period October 2010 to March 2012 (18 months) debited on account of the difference of units already charged and the reading of the main backup meter and second detection bill for total 415,009 units for the period April 2012 to August 2013 (17 months) charged by the MEPCO against five connections on the basis of connected load 158 kW is correct and the same should be maintained to this extent.
- ii. The Consumer should be charged the detection bill for total 37,230 units for the



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period June 2013 to August 2013 against the five connections.

iii. The billing account of the Consumer should be overhauled in accordance with the above conclusion and the payment already made against the above-disputed bills and the bills for the period June 2013 to August 2013 be adjusted, accordingly.

6. Both the appeals are disposed of in the above terms.

Abid Hussain
Member/Advisor (CAD)

Nadir Ali Khoso
Convener/Senior Advisor (CAD)

Dated: 13.04.2022