



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

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No. NEPRA/Appeal/037/POI/2021/ 4/9

April 18, 2022

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| 1. Muhammad Azeem Jabbar,
S/o. Ch. Abdul Jabbar,
(Through Abdul Jabbar,
S/o. Nazeer Ahmed, Real Father),
Prop: Multan Home Tex Industries,
Plot No. 17-B, Export Zone, 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. Sub Divisional Officer (Op),
MEPCO Ltd,
Gulberg Sub Division,
Multan |
| 5. POI/Electric Inspector,
Multan Region,
249-G, Shah Ruken-e-Alam Colony,
Phase II, Multan | |

Subject: Appeal Titled MEPCO Vs. Muhammad Azeem Jabbar Against the Decision Dated 24.12.2020 Provincial Office of Inspection to Government of the Punjab Multan Region, Multan

Please find enclosed herewith the decision of the Appellate Board dated 12.04.2022, 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.037/POI-2021

Multan Electric Power Company Limited

.....Appellant

Versus

Muhammad Jabbar S/o Ch. Abdul Jabbar Through Abdul Jabbar
S/o Nazeeer Ahmed Real Father), Prop: Multan Home Tax Industries,
Plot No.17-B, Export Zone, Multan

.....Respondent

APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 24.12.2020 PASSED BY THE PROVINCIAL OFFICE OF INSPECTION MULTAN REGION, MULTAN

For the Appellant:

Mr. Malik Muzafar Advocate
Mr. Muhammad Imran SDO

For the Respondent:

Mr. Azeem Jabbar

DECISION

1. As per facts of the case, the Respondent is a commercial consumer of the Multan Electric Power Company Limited (the "MEPCO") having Ref No.28-15194-1147801 with sanctioned load of 19 kW under the A-2(c) tariff category. The connection of the Respondent was sanctioned and installed on 31.12.2012 and the billing was done by the MEPCO as per the A-2(c) tariff category. Subsequently, the Respondent filed a complaint dated 10.06.2020 before the Provincial Office of Inspection, Multan Region, Multan (the 'POI') and complained that he was being billed under the A-2(c) tariff, whereas the B-1(b) tariff is applicable since the date of installation of the connection i.e.31.12.2012



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to date. The POI visited the premises of the Respondent on 27.11.2020 in presence of both parties and confirmed that the electricity was being used for industrial purpose i.e. power looms and 20 No. sewing machines were installed for manufacturing kitchen towels. The POI joint checking report dated 27.11.2020 was signed by both parties without raising any objection. The matter was disposed of by the POI vide decision dated 24.12.2020, wherein the bills charged by the MEPCO under A-2(c) w.e.f the date of connection i.e. 31.12.2012 till date were cancelled and the MEPCO was directed to afford the credit of difference of tariff from A-2(c) to B-1(b) to the Respondent.

2. Being aggrieved with the decision dated 24.12.2020 of the POI (hereinafter referred to as the 'impugned decision'), the MEPCO has filed instant appeal before the NEPRA. In its appeal, the MEPCO contended that the connection of the Respondent was installed on 31.12.2012 under the A-2(c) tariff category with sanctioned load of 19 kW and the commercial tariff is not changeable with industrial as per the NEPRA letter No. NEPRA/SA(CA)/TCD-10/17390-400 dated 09.11.2018. MEPCO further contended that the POI did not consider the facts of the case and misconceived the policy formulated in the Consumer Service Manual (CSM). As per MEPCO, the Respondent submitted an undertaking dated 16.04.2012 for application of commercial tariff but after more than eight (8) years, he filed the complaint before the POI, which is badly time-barred. According to MEPCO, the POI has no lawful jurisdiction to decide the present case and the same may be termed void according to the various judgments of the Supreme Court of Pakistan. MEPCO submitted that the POI without going into the merits of the case passed the impugned decision, which is not sustainable in the eye of law.

3. Notice of the appeal was sent to the Respondent for filing reply/para-wise comments,



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which were filed on 03.05.2021. In his reply, the Respondent rebutted the version of MEPCO on the following basis that there is no binding upon MEPCO for shifting of commercial tariff to industrial tariff as per the NEPRA letter No. NEPRA/ SA(CA)/TCD-10/17390-400 dated 09.11.2018; that Clause 7.4 and 7.6 of the CSM, 2020 allows MEPCO for change of commercial tariff into industrial tariff and credit of tariff differential to the Respondent; that the connection is in the name of Multan Home Tax, which reflects that the Home Textile were being manufactured in the premises; that the POI during joint inspection verified the use of connection for industrial purpose. hence the industrial tariff is applicable for the disputed billing; that the impugned decision for revision of the billing as per industrial B-1(b) tariff since the date of connection is in line with CSM, 2020; that there is no limit for filing a petition before the POI; that the POI is legally empowered to decide the metering, billing, and collection of tariff disputes under Section 38 of the NEPRA Act 1997. The Respondent finally prayed for upholding the impugned decision.

4. Hearing of the appeal was held at the NEPRA Regional Office Multan on 21.03.2022 in which both parties were present. Learned counsel for MEPCO reiterated the same arguments as given in memo of the appeal and averred that the Respondent applied for commercial connection i.e. A-2(c) in the year 2012, which was installed on 31.12.2012 since then the billing done by the MEPCO on commercial tariff A-2(c) was paid by the Respondent without raising any objection. He stated that the Respondent filed a time-barred complaint before the POI after a lapse of eight years against the wrong application of the tariff. SDO MEPCO admitted that the premises is being used for industrial purpose i.e. power looms and MEPCO can consider the change of tariff from A-2(c) to B-1(b) on



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the application of the Respondent. On the contrary, the representative for the Respondent repudiated the version of MEPCO and argued that the application for the new connection was filled by the MEPCO staff after verification of the site and the MEPCO is responsible for the correct application of tariff since the date of installation of connection. The Respondent supported the impugned decision for revision of the bills as per tariff B-1(b) and prayed for upholding the same.

5. Arguments were heard and the record was perused, it is observed as under:

- i. As regards the preliminary objection of the MEPCO regarding the jurisdiction of the POI, it is noted that the matter pertains to the metering, billing, and collection of tariff disputes, and the POI is empowered to entertain such disputes under Section 38 of the NEPRA Act, 1997. Hence objection of MEPCO in this regard is overruled.
- ii. MEPCO raised another objection regarding the time-barred claim of the Respondent before the POI. It is observed that the Respondent assailed the billing for the period 31.12.2012 and onwards before the POI vide an application dated 10.06.2020 on the plea that the connection of the premises was being used for industrial purpose but the MEPCO charged the billing during the above said period as per commercial tariff instead of industrial tariff. The POI during joint inspection dated 27.11.2020 verified that the electricity was being used for industrial purpose i.e. power looms and 20 No. sewing machines for manufacturing of kitchen towels, checking report dated 27.11.2020 of the POI was signed by both the parties without raising any objection. POI directed MEPCO to revise the bills of the Respondent from the date of connection i.e. 31.12.2012 till date on the industrial tariff i.e. B-1(b) and to afford the credit of



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tariff differential from A-2(c) to B-1(b) to the Respondent. This whole scenario indicates that the relief granted by the POI to the Respondent is beyond three years from the date of complaint i.e. 10.06.2020, which is not consistent with Article 181 of the Limitation Act, 1908. In this regard, reliance is placed on the Lahore High Court, judgment dated 30.11.2015 in respect of writ petition No.17314-2015 in the case “Muhammad Hanif v/s NEPRA and others”, wherein it was held as under:

“The petitioner at the most can invoke Article 181 of The Limitation Act, 1908 which is the residuary provision and caters the issue of limitation where no period of limitation is provided elsewhere in the Schedule of The Limitation Act, 1908 or under Section 48 of The Code of Civil Procedure (V of 1908). Article 181 of The Limitation Act, 1908 prescribes three years for filing an application that applies when the right to apply accrues as prescribed in Article 181 of Limitation Act, 1908.”

Foregoing in view, we are convinced with the arguments of MEPCO that the impugned decision for revision of the bills from the date of connection i.e. 31.12.2012 till the impugned decision dated 24.12.2020 is barred by time. Therefore the impugned decision is liable to be set aside.

- iii. Since the wrong application of tariff was established during the POI joint checking dated 27.11.2020, the Respondent is liable to be afforded credit of amount for the last three years from the complaint dated 10.06.2020 i.e. June 2017 to June 2020 as per the Limitation Act, 1908 due to the tariff differential from commercial i.e. A-2(c) to industrial i.e. B-1(b). Moreover, the bills w.e.f. July 2020 and onwards be revised as per applicable tariff category i.e. B-1(b). In this regard, the Respondent is directed to complete the departmental formalities for the conversion of tariff from A-2(c) to B-1(b).



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6. Summing up the foregoing discussion, it is concluded that the bills w.e.f June 2017 and onwards be revised as per applicable tariff category i.e. B-1(b) and the Respondent should be afforded a credit of tariff differential from commercial i.e. A-2(c) to industrial i.e. B-1(b) in the future bills. The billing account of the Respondent may be overhauled accordingly.
7. The appeal is disposed of in the above terms.

A handwritten signature in black ink, appearing to read "Abid Hussain", is positioned above the name.

Abid Hussain
Member/Advisor (CAD)

A handwritten signature in black ink, appearing to read "Nadir Ali Khoso", is positioned above the name.

Nadir Ali Khoso
Convener/Senior Advisor (CAD)

Dated: 12.04.2022