



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

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No. NEPRA/AB/Appeal/023/2023/521

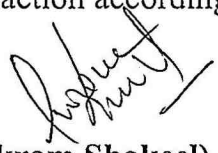
September 14, 2023

- |                                                                                                                                                |                                                                                                                                             |
|------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Malik Muhammad Jamal,<br>S/o. Haji Abdul Hakim,<br>Prop: Rice Factory,<br>Located at Mouza Lohari,<br>Galey Wala, Tehsil & District Lodhran | 2. Chief Executive Officer,<br>MEPCO Ltd,<br>MEPCO Complex, Khanewal Road,<br>Multan                                                        |
| 3. Muhammad Arshad Mughal,<br>Advocate High Court,<br>06 Justice Tariq Mehmood Block,<br>District Courts, Multan                               | 4. Executive Engineer (Operation),<br>MEPCO Ltd,<br>Lodhran Division,<br>Lodhran                                                            |
| 5. Sub Divisional Officer (Operation),<br>MEPCO Ltd,<br>Jallah Sub Division,<br>Jallah                                                         | 6. POI/Electric Inspector,<br>Multan Region, Energy Department,<br>Govt. of Punjab, 249-G,<br>Shah Rukan-e-Alam Colony,<br>Phase-II, Multan |

Subject: **Appeal Titled MEPCO Vs. Malik Muhammad Jamal Against the Decision Dated 09.01.2023 of the Provincial Office of Inspection to Government of the Punjab Multan Region, Multan**

Please find enclosed herewith the decision of the Appellate Board dated 14.09.2023 (06 pages), regarding the subject matter, for information and necessary action accordingly.

Encl: **As Above**

  
(Ikram Shakeel)  
Deputy Director (AB)

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.023/POI-2023

Multan Electric Power Company Limited

.....Appellant

Versus

Malik Muhammad Jamal S/o. Haji Abdul Karim,  
Prop: Rice Factory located at Mouza Lohari,  
Galey wala, Tehsil & District Lodhran

.....Respondent

### APPEAL U/S 38(3) OF REGULATION OF GENERATION, TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997

For the Appellant:

Mr. Muhammad Arshad Mughal Advocate

For the Respondent:

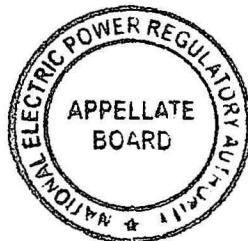
Malik Muhammad Jamal

### DECISION

1. Through this decision, the instant appeal filed by the Multan Electric Power Company Limited (hereinafter referred to as the “Appellant”) against the decision dated 09.01.2023 of the Provincial Office of Inspection, Multan Region, Multan (hereinafter referred to as the “POI”) is being disposed of.
2. Briefly speaking, Malik Muhammad Jamal (the “Respondent”) is an industrial consumer of the Appellant bearing Ref No.27-15428-0925506-R with sanctioned load of 77 kW and the applicable Tariff category is B-2(b). The metering equipment of the Respondent was checked by the M&T team of the Appellant on 26.10.2021, wherein both the AMR billing and backup meters were found 33% slow due to one

Appeal No.023/POI-2023

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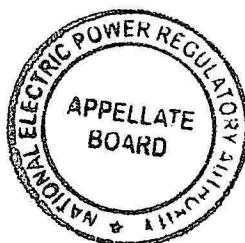
Signature



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dead phase. Therefore, a detection bill of Rs.331,127/- against 10,846 units for the period from 31.12.2020 to September 2021 was charged to the Respondent @ 33% slowness of the meter. The multiplication Factor (the "MF") of the Respondent was raised from 40 to 59.4 w.e.f October 2021 and onwards to account for 33% slowness of the impugned meter.

3. Being aggrieved, the Respondent filed a complaint before the POI and challenged the above detection bill. The complaint of the Respondent was disposed of by the POI vide the decision dated 09.01.2023, wherein the detection bill of Rs.331,127/- against 10,846 units for the period from 31.12.2020 to September 2021 was cancelled and the Appellant was allowed to charge the revised bill maximum for two months i.e. August 2021 and September 2021 @ 33% slowness of the meter.
4. Through the instant appeal, the afore-referred decision dated 09.01.2023 of the POI has been impugned by the Appellant before the NEPRA wherein it is contended that the billing meter of the Respondent was found 33% slow during checking dated 26.10.2021, as such the detection bill of Rs.331,127/- against 10,846 units for the period from 31.12.2020 to September 2021 was debited to the Respondent. The Appellant further contended that the POI failed to observe the case in its letter and spirit and the policy formulated in the Consumer Service Manual (the "CSM"). As per the Appellant, the POI failed to decide the matter within 90 days, which is a violation of Section 26(6) of the Electricity Act, 1910. According to the Appellant, factual controversies are involved in this case and could only be resolved through the evidence, as such the matter exclusively falls within the domain of the Civil Court. The Appellant prayed for setting aside the impugned decision.



Signature



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### 5. Proceedings by the Appellate Board

Upon the filing of the instant appeal, a notice dated 06.03.2023 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days, which however were not filed.

### 6. Hearing

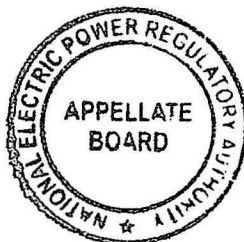
6.1 Hearing of the appeal was conducted at NEPRA Regional Office Multan on 23.06.2023, which was attended by both parties. Learned counsel for the Appellant reiterated the same version as contained in the memo of the appeal and contended that the AMR billing meter of the Respondent was found running 33% slow during checking dated 26.10.2021 and the said slowness of the AMR meter is w.e.f 31.12.2020 and onwards. Learned counsel for the Appellant further contended that the detection bill of Rs.331,127/- against 10,846 units for the period from 31.12.2020 to September 2021 charged @ 33% slowness of the meter be allowed in the best interest of justice. The Appellant prayed for setting aside the impugned decision.

6.2 The Respondent appearing in person rebutted the stance of the Appellant regarding charging the above detection bill, supported the impugned decision, and prayed for upholding the same.

7. Arguments were heard and the record was perused. Following are our observations;

#### 7.1 Objection of the Appellant regarding the jurisdiction of POI:

The Appellant 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 a slow meter, therefore





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the POI is empowered to entertain such disputes under Section 38 of the NEPRA Act, 1997. In this regard, the following judgment of the honorable Supreme Court of Pakistan reported in PLD 2012 SC 371 is relevant to cite:

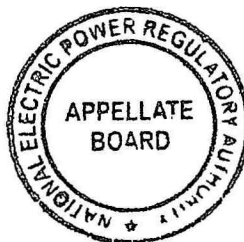
**"P L D 2012 Supreme Court 371**

*"In case, the theft alleged is by means other than the tampering or manipulation of the metering equipment, etc., the matter would fall exclusively under Section 26-A of the Act, the Electricity Act, outside the scope of powers of the Electric Inspector. Since the Electric Inspector possesses special expertise in examining the working of the metering equipment and other related apparatus, it makes sense that any issue regarding their working, functioning, or correctness, whether or not deliberately caused, be examined by him. It may be added that Section 26-A is an enabling provision empowering the licensee to charge the consumer for dishonest extraction or consumption of electricity. It does not provide any procedure for resolving any dispute between the consumer and the licensee on a charge of theft. It should be, therefore be read in conjunction with the other relevant provisions including section 26(6) of the Act. "*

In view of the above, the objection of the Appellant in this regard is overruled.

**7.2 Objection regarding the time limit for POI for deciding the complaint:**

As per the record, the Respondent filed a complaint before the POI on 17.06.2022 under Section 38 of the NEPRA Act. POI pronounced its decision on 19.01.2023 i.e. after 207 days of receipt of the first 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





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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 Respondent is rejected.

**7.3 Detection bill of Rs.331,127/- against 10,846 units for nine months for the period from 31.12.2020 to September 2021 charged to the Respondent**

Reportedly, the impugned AMR meter of the Respondent was found 33% slow during checking dated 26.10.2021, therefore, a detection bill of Rs.331,127/- against 10,846 units for nine months for the period from 31.12.2020 to September 2021 was debited to the Respondent, which was challenged by him before the POI. 33% slowness of the impugned billing meter was allowed by the POI, however, the period for slowness was reduced by the said forum from nine months to two months against which the Appellant filed the instant appeal before the NEPRA.

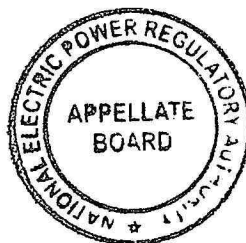
**7.4 Since the dispute of billing due to the slowness of the meter pertains to the year 2021,**

Clause 4.3.3.c (ii) of the CSM-2021 is relevant, which is reproduced below:

"Clause 4.3.3(c)(ii) of the CSM-2021;

Further, charging of a bill for the quantum of energy lost if any, because of malfunctioning of metering installation shall not be more than two previous billing cycles."

**7.5 In the instant case, the Appellant debited 33% slowness of the impugned AMR meter for nine months for the period from 31.12.2020 to September 2021, which is violative of the ibid clause of the CSM-2021. Hence the determination of the POI for cancellation of the detection bill of Rs.331,127/- against 10,846 units for ten months**



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for the period from 31.12.2020 to September 2021 is correct and maintained to this extent,

7.6 Similarly, the finding of the POI for the revision of the bill for two months i.e. August 2021 and September 2021 @ 33% slowness of the meter is consistent with the foregoing clause of the CSM-2021 and the same is upheld to this extent.

8. Foregoing in view, the appeal is dismissed and consequently, the impugned decision is maintained.

Abid Hussain  
Member

Muhammad Irfan-ul-Haq  
Member

Naweed Illahi Sheikh  
Convener

Dated: 14-09-2023

