



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

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No. NEPRA/AB/Appeal/100/2022/55/

September 19, 2023

- | | |
|--|---|
| 1. Mst. Ghazala Parveen,
W/o. Shaukat Hussain,
Through Muhammad Riaz Bashir,
R/o. House No. 1243, Qasim Road,
Multan Cantt | 2. Chief Executive Officer,
MEPCO Ltd,
MEPCO Complex, Khanewal Road,
Multan |
| 3. Muhammad Arshad Mughal,
Advocate High Court,
06-Justice Tariq Mehmood Block,
District Courts, Multan | 4. Executive Engineer (Operation),
MEPCO Ltd,
Cantt Division,
Multan |
| 5. Sub Divisional Officer (Operation),
MEPCO Ltd,
Cantt Sub Division,
Multan | 6. POI/Electric Inspector,
Multan Region, Energy Department,
Govt. of Punjab, 249-G,
Shah Rukan-e-Alam Colony,
Phase-II, Multan |

Subject: **Appeal Titled MEPCO Vs. Mst. Ghazala Parveen Against the Decision Dated 24.06.2022 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 19.09.2023 (07 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 Appellate Board

In the matter of

Appeal No.100/POI-2022

Multan Electric Power Company Limited

.....Appellant

Versus

Mst. Ghazala Parveen w/o. Shaukat Hussain,
Through Muhammad Riaz Bashir, R/o. House No.1243,
Qasim Road, Multan Cantt

.....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
Mr. Mutahir Afzal SDO

For the Respondent:

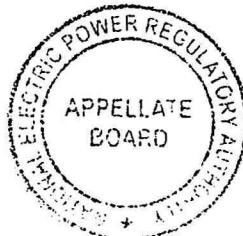
Mr. Riaz Bashir

DECISION

1. Through this decision, the appeal filed by the Multan Electric Power Company Limited (hereinafter referred to as the "Appellant") against the decision dated 24.06.2022 of the Provincial Office of Inspection, Multan Region, Multan (hereinafter referred to as the "POI") is being disposed of.
2. Brief facts of the case are that Mst. Ghazala Parveen (hereinafter referred to as the "Respondent") is a domestic consumer of the Appellant bearing Ref No.04-15111-0451402 with a sanctioned load of 2 kW and the applicable Tariff category is A-1(a). The premises of the Respondent was checked by the Metering and

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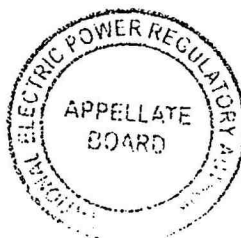
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Testing (M&T) team of the Appellant on 15.10.2020 and reportedly, the billing meter of the Respondent was found tampered (reversed) for dishonest abstraction of electricity. Notice dated 15.10.2020 was issued to the Respondent regarding theft of electricity and FIR No.928/20 dated 19.10.2020 was registered with the police against the Respondent. Thereafter, a detection bill amounting to Rs.97,881/- against 3,438 units for four months for the period from May 2020 to August 2020 was charged by the Appellant to the Respondent on the basis of 30% load factor of the connected load i.e. 5 kW and added to the bill for October 2020

3. Being aggrieved, the Respondent challenged the above detection bill before the Provincial Office of Inspection, Multan Region, Multan (hereinafter referred to as the "POI") vide complaint dated 23.11.2020, which was disposed of by the POI vide the decision dated 24.06.2022 (hereinafter referred to as the "impugned decision"), wherein the detection bill of Rs.97,881/- against 3,438 units for four months for the period from May 2020 to August 2020 was declared null and void. As per the POI decision, the Appellant was allowed to recover the detection bill of net 1,129 units for three months i.e. August 2020 to October 2020 as per consumption of July 2019.
4. Subject appeal challenged the impugned decision before NEPRA, wherein it is contended that the billing meter of the Respondent was found tampered during the M&T checking dated 15.10.2020 for the dishonest abstraction of electricity, therefore a detection bill of Rs.97,881/- against 3,438 units for four months for the period from May 2020 to August 2020 was charged to the Respondent. As per



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the Appellant, 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.

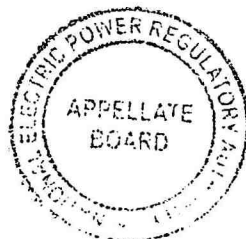
5. Proceedings by the Appellate Board

Upon filing of the instant appeal, a Notice dated 26.09.2022 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days, which however were not submitted.

6. Hearing

6.1 Hearing of the Appeal was conducted on 23.06.2023 at NEPRA Regional Office Multan in which learned counsel along with other officials were present on behalf of the Appellant and a representative appeared for the Respondent. During the hearing, learned counsel for the Appellant reiterated the same version as contained in memo of the appeal.

6.2 The representative for the Respondent averred that the disputed detection bill of Rs.97,881/- against 3,438 units for four months for the period from May 2020 to August 2020 was already paid by the Respondent, who and her husband died and the property has been sold out. As per the representative for the Respondent, consumption dropped during the disputed period due to a defective meter.



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7. Arguments heard and the record 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 tampered meter, therefore 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:

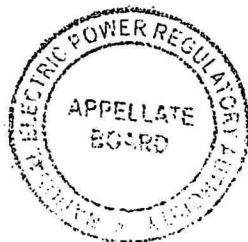
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"In case, the theft alleged is by means other than the tampering or manipulation of the metering equipment, etc., the matter would fall exclusively under Section 26-A of the Act, the Electricity Act, outside the scope of powers of the Electric Inspector. 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 to decide the complaint:

As per the record, the Respondent filed a complaint before the POI on 23.11.2020 under Section 38 of the NEPRA Act. POI pronounced its decision on 24.06.2022 after 90 days of receipt of the 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



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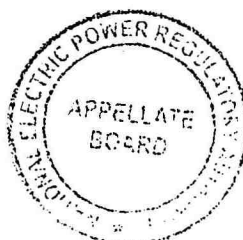
established under Section 38 of the NEPRA Act which does not put a restriction of 90 days on POI to decide complaints. Section 38 of the NEPRA Act overrides provisions of the Electricity Act, 1910. Reliance in this regard is placed on the judgments of the honorable Lahore High Court Lahore reported in *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, the objection of the Respondent is rejected.

7.3 Detection bill of Rs.97,881/- against 3,438 units for four months for the period from May 2020 to August 2020

In its appeal, the Appellant has claimed that the Respondent was involved in the dishonest abstraction of electricity through tampering with the meter. FIR was also registered against the Respondent due to the theft of electricity. The detection bill of Rs.97,881/- against 3,438 units for four months for the period from May 2020 to August 2020 was debited to the Respondent, which was challenged before the POI.

7.4 It is observed that the above detection bill was charged beyond three billing cycles to the Respondent, however, no approval of the Chief Executive Officer was solicited as required according to Clause 9.1c(3) of the CSM-2010. It is further observed that the above detection bill was charged based on 30% load factor, which is even higher than the applicable limit of load factor as per WAPDA Circular No.426 dated 03.03.2003. The discrepancy of the tampered (reversed) meter was noticed in October 2020, however, the Appellant skipped two months i.e. September 2020 and October 2020 while debiting the impugned detection bill.

In view of the foregoing discussion, it is concluded that the detection bill of



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Rs.97,881/- against 3,438 units for four months for the period from May 2020 to August 2020 charged to the Respondent is illegal, unjustified and the same is liable to be cancelled.

7.5 Similarly, the determination of the POI for revision of the detection bill for three months i.e. August 2020 to October 2020 as per consumption of July 2019 is inconsistent with the provisions of the CSM-2010 and the same is liable to be withdrawn to this extent.

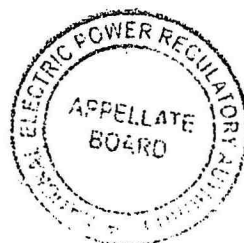
7.6 According to Clause 9.1c(3) of the CSM-2010, the Respondent is liable to be charged the detection bill for three months i.e. August 2020 to October 2020 and the calculation of the above detection bill be made based on 20% load factor of the connected load i.e. 5 kW as per above-referred WAPDA Circular for the load factor in the below table:

Period: August 2020 to October 2020 (3 months)

- Total units to be charged = Connected Load x LF x No. of Hrs. x No. of Months
= 5 x 0.2 x 730 x 3 = 2,190 units
- Total units already charged = 460+405+265 = 1,130 units
- Net units to be charged = **1,060 units**

Thus the Respondent is liable to be charged the revised detection bill of 1,160 units for three months for the period from August 2020 to October 2020.

8. Summing up the foregoing discussion, it is concluded as under:



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8.1 The detection bill of Rs.97,881/- against 3,438 units for four months for the period from May 2020 to August 2020 charged to the Respondent is unjustified and the same is cancelled.

8.2 The Respondent may be charged the revised detection bill of 1,060 units for three months for the period from August 2020 to October 2020.

8.3 The billing account of the Respondent be overhauled after the adjustment of payment made against the above detection bill.

9. The impugned decision is modified in the above terms.

Abid Hussain
Member

Muhammad Irfan-ul-Haq
Member

Naweed Illahi Sheikh
Convener

Dated: 19-09-2023

