



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

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No. NEPRA/AB/Appeal/117/2020/ 434

August 10, 2023

1. Khan Muhammad,
S/o. Namdar,
Prop: Tube-Well located at Chak No.
21/S-P, Tehsil & District Pakpattan
2. Chief Executive Officer,
MEPCO Ltd,
MEPCO Complex, Khanewal Road,
Multan
3. Mian Muhammad Javaid,
Advocate Supreme Court,
4-Link Farid Kot Road,
Lahore
4. Sub Divisional Officer,
MEPCO Ltd,
Bunga Hayat Sub Division,
Pakpattan
5. 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. Khan Muhammad Against the Decision Dated 13.11.2019 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 10.08.2023, 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.117/POI-2020

Multan Electric Power Company LimitedAppellant

Versus

Khan Muhammad S/o. Namdar, Prop: Tube Well
located at Chak No.21/S-P, Tehsil & District PakpattanRespondent

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

For the Appellant:

Mr. M. Amir SDO

For the Respondent:

Mr. Khursheed Ahmed

DECISION

1. Brief facts leading to the filing of instant appeal are that Mr. Khan Muhammad (hereinafter referred to as the "Respondent") is an agricultural consumer of Multan Electric Power Company Limited (hereinafter referred to as the "Appellant") bearing Ref No.29-15526-1175504 with a sanctioned load of 15 kW and the applicable Tariff category is D-2(b). The first meter of the Respondent became defective with upset date and time, hence estimated billing was done by MEPCO during the months i.e. February 2015, July 2016, and October 2016. In addition, the Appellant debited a detection bill of 2,190 units to the Respondent in September 2016. Subsequently, MEPCO afforded a credit of total of Rs.211,996/- to the Respondent as per the detail given in below table.

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M. Amir



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Month	Amount (Rs.) credited
June 2016	53,804/-
August 2016	66,095/-
October 2016	92,907/-

Later on, the first meter was replaced with a new meter (the "second meter") vide the Meter Change Order (MCO) dated 22.08.2017. The second meter of the Respondent also became defective, hence estimated bills were charged for the period from August 2017 to November 2017. The Appellant replaced the second meter with a new meter in December 2017.

2. Being aggrieved, the Respondent initially filed a civil suit before the Civil Court against the charging of excessive billing, which was subsequently withdrawn by him due to lack of jurisdiction. Thereafter, the Respondent filed a complaint before the NEPRA, which was forwarded to the Provincial Office of Inspection, Multan Region, Multan (hereinafter referred to as the "POI") vide letter dated 16.01.2019. Afterward, the Respondent filed a complaint before the POI on 27.05.2019 and challenged the arrears of Rs.400,000/- which included the bills of February 2015, July 2016, October 2016, August 2017 to November 2017, detection bill of 2,190 units debited in September 2016. The complaint of the Respondent was decided by the POI vide the decision dated 13.11.2019, wherein the Appellant was directed to (i) credit 9,720 units charged excessively in February 2015, (ii) to withdraw the detection bill of 2,190 units debited in September 2016; (iii) to revise the bills of August 2017 and November 2017 as per consumption of August 2016 and November 2016. The Appellant was further directed to overhaul the billing account of the Respondent.

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3. Subject appeal has been filed against the afore-referred decision dated 13.11.2019 of the POI (hereinafter referred to as the "impugned decision") by the Appellant before the NEPRA. In its Appeal, the Appellant opposed the impugned decision *inter alia*, on the following grounds; (i) the POI did not apply his independent and judicious mind while passing the impugned decision; (ii) the POI has not thrashed out the consisting reasons of the Appellant in the matter and passed the illegal order; (iii) the impugned decision is passed after lapse of 90 days; and the same is liable to be set aside.

4. Proceedings by the Appellate Board

Upon filing of the instant appeal, Notice dated 13.11.2020 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days. The Respondent however did not submit the reply.

5. Hearing

5.1. Hearings in the matter of the subject Appeal were fixed for 26.10.2021, 09.12.2021, 21.03.2022, and 22.08.2022 at NEPRA Regional Office Multan, which however were adjourned on the request of either the Appellant or the Respondent. Finally, the appeal was heard at the NEPRA Regional Office Multan on 25.05.2023 in which both parties were in attendance. The representative for the Appellant reiterated the same version as contained in memo of the appeal and contended that total credit of Rs.211,996/- was afforded to the Respondent during the months i.e. June 2016, August 2016 and October 2016 against the excessive billing done during the months i.e. February 2015, July 2016 and October 2016. The representative for Appeal No.117/POI-2020





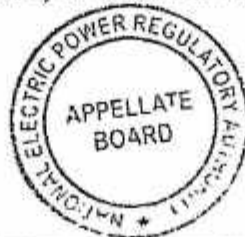
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the Appellant further contended that the impugned decision with regard to the withdrawal of 9,720 units for February 2015 has already been implemented. As per the Appellant, the second meter of the Respondent became defective in August 2017, hence the billing was carried out on the DEF-EST code till its replacement in December 2017, hence the impugned decision to withdraw 7,631 units charged in August 2017 and November 2017 is incorrect and liable to be set aside. As per the Appellant, the civil suit filed by the Respondent was dismissed by the honorable court vide order dated 23.08.2018 against which no appeal was filed by him before the District Judge, hence the order dated 23.08.2018 of the Civil Court has attained finality, and the relief allowed by the POI is not sustainable in the eyes of law. The Appellant finally prayed for acceptance of the appeal in the interest of justice. The Respondent appearing in person repudiated the version of the Appellant and stated that the impugned decision of the POI is not implemented by the Appellant in true spirit. He supported the impugned decision and prayed for upholding the same.

6. Arguments heard and the record perused. Following are our observations:

6.1 Objection regarding the time limit for POI

As per the record, the Respondent filed his complaint before the POI on 27.05.2019 under Section 38 of the NEPRA Act. POI pronounced its decision on 13.11.2019 i.e. after 171 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 NEPRA 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 on the Electricity Act, 1910, and the above-referred decisions of the honorable High Court, the objection of the Appellant is dismissed.

6.2 Complaint of the Respondent before the POI:

The Respondent filed a complaint before the POI on 27.05.2019 and challenged the arrears of Rs.400,000/- which include the following irregular bills:

- Bill of 9,720 units debited in February 2015
- Bill of 11,944 units debited in July 2016
- Bill of 3,303 units debited in October 2016
- Detection bill of 2,190 units debited in September 2016.
- Bills for the period from August 2017 to November 2017

6.3 The Appellants are of the view that the Respondent was already given relief by affording credit of total of Rs.211,996/-. To verify their contention, the billing account of the Respondent was examined, which confirms the contention of the Appellant regarding the credit of Rs.211,996/- as per the detail given below:

Month	Amount (Rs.) credited
June 2016	53,804/-
August 2016	66,095/-
October 2016	92,907/-





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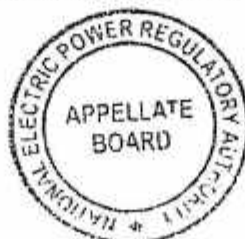
In view of the above, the billing dispute regarding excessive billing is settled till October 2016, hence the impugned decision for withdrawal of the bill of February 2015 and the detection bill of 2,190 units for September 2016 is unjustified and liable to be struck down to this extent.

6.4 As regards the bills from August 2017 to November 2017 are concerned, it is an admitted fact that the second meter remained defective in August 2017, therefore the Appellant is liable to debit the revised bills from August 2017 to November 2017 on DEF-EST code as per Clause 4.4(e) of the Consumer Service Manual 2010 (the "CSM-2010"). The impugned decision is liable to be modified to this extent.

6.5 As far as the impugned decision for withdrawal of late payment surcharges (LPS) w.e.f July 2016 and onwards is concerned, it is observed that the Respondent defaulted in making payment of bills since the year 2012, hence the arrears including the disputed bills increased over time. We are of the opinion that LPS levied against the irregular bills of February 2015, July 2016, September 2016, October 2016, and August 2017 to November 2017 is liable to be withdrawn. However, LPS levied due to non-payment of regular monthly bills is recoverable from the Respondent. The impugned decision is liable to be modified to this extent.

7. Summing up the aforesaid discussion, it is concluded as under:

7.1 The impugned decision for withdrawal of the bill of 9,720 units charged by the Appellant in February 2015 and the detection bill of 2,190 units debited in September 2016 is incorrect and cancelled to this extent.





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- 7.2 The bills for the period from August 2017 to November 2017 are cancelled being unjustified and inconsistent with Clause 4.4(e) of the CSM-2010.
- 7.3 The Respondent may be charged the revised bills for the period from August 2017 to November 2017 on DEF-EST code due to defective second meter.
- 7.4 The impugned decision for cancellation of LPS w.e.f July 2016 and onwards is not based on facts and is set aside to this extent.
- 7.5 The Appellants are under obligation to recover the LPS levied due to non-payment of regular bills w.e.f July 2016 and onwards.
- 7.6 The billing account of the Respondent may be overhauled after adjusting payments made against the disputed bills.
8. The appeal is disposed of in the above terms.

Abid Hussain
Member

Naweed Wahid Sheikh
Convener

Muhammad Irfan-ul-Haq
Member

Dated: 10-08-2023

