



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

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No. NEPRA/AB/Appeal/143/2021/502

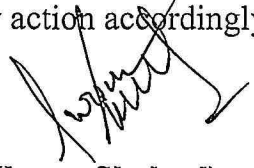
August 31, 2023

1. Sohail Zaman Shah Khagga,
Through Muhammad Hanif,
S/o. Muhammad Shareef,
R/o. Chak No. 54/10-R,
Tehsil & District Khanewal
2. Chief Executive Officer,
MEPCO Ltd,
MEPCO Complex, Khanewal Road,
Multan
3. Executive Engineer (Op),
MEPCO Ltd,
Khanewal Division,
Khanewal
4. Sub Divisional Officer (Operation),
MEPCO Ltd,
Civil Line Sub Division,
Khanewal
5. Malik Muhammad Muzaffar Athangal,
Advocate High Court,
Seat No. 18-A, District Courts,
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. Sohail Zaman Shah Khagga Against the Decision Dated 03.06.2021 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 30.08.2023 (09 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.143/POI-2021

Multan Electric Power Company Limited

.....Appellant

Versus

Sohail Zaman Shah Khagga, Through Muhammad Hanif,
S/o Muhammad Shareef, R/o. Chak No.54/10-R,
Tehsil & District Khanewal

.....Respondent

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

For the Appellant:

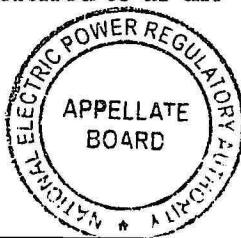
Malik Muhammad Muzaffar Athangal Advocate

For the Respondent:

Nemo

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 03.06.2021 of the Provincial Office of Inspection, Multan Region, Multan (hereinafter referred to as the "POI") is being disposed of.
2. Briefly speaking, Mr. Sohail Zaman Shah Khagga (hereinafter referred to as the "Respondent") is an agricultural consumer of the Appellant bearing Ref No.29-15913-1367200 with sanctioned load of 19 kW and the applicable Tariff category is D-2(b). The Respondent approached the Provincial Office of Inspection Multan Region Multan (hereinafter referred to as the "POI") and challenged the following





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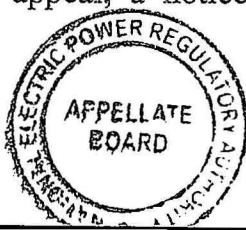
detection bills charged by the Appellant.

- i. First detection bill of Rs.192,475/- against 17,401 units was charged on the basis of Audit Note No.251 dated 05.06.2017.
 - ii. Second detection bill of Rs.142,270/- for 20,545 units was charged as per Audit Note No.198 dated 16.06.2016.
 - iii. Third detection bill of Rs.127,067/- was charged in August 2017.
 - iv. Fourth detection bill of Rs.28,538/- for 2,580 was charged in March 2018.
3. The complaint of the Respondent was disposed of by the POI vide the decision dated 03.06.2021, wherein the detection bills charged during the period May 2017 to March 2018 along with late payment surcharges (LPS) were cancelled. The POI directed the Appellant to overhaul the billing account of the Respondent.
4. Through the instant appeal, the afore-referred decision dated 03.06.2021 of the POI has been impugned by the Appellant before the NEPRA. In its appeal, the Appellant objected to the maintainability of the impugned decision, *inter alia*, on the main grounds, (1) the POI lack of jurisdiction to entertain the same matter according to Section 26(6) of the Electricity Act, 1910; (2) the complaint of the Respondent is barred by time as it was filed in the year 2020 against the bills for the period from May 2017 to March 2018; (3) the POI without going into merits, documentary evidence and facts of the case accepted the plea of the Respondent; (4) the impugned decision suffers from serious misreading and non-reading of record and has been passed on surmises and conjectures, hence the same is liable to be set aside.

5. Proceedings by the Appellate Board

5.1 Upon filing of the instant appeal, a notice dated 09.12.2021 was sent to the

Appeal No.143/POI-2021





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Respondent for filing reply/para-wise comments to the appeal within ten (10) days, which however were not submitted.

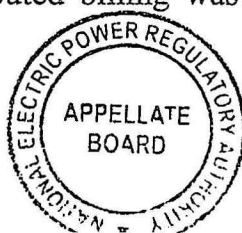
6. Hearing

Hearings of the appeal were conducted at NEPRA Regional Office Multan on 03.02.2022, 21.03.2022, and 22.08.2022, which however were adjourned due to non-appearance of the Respondent. Finally, hearing of the Appeal was conducted at NEPRA Regional Office Multan on 25.05.2023, which was attended by counsel for the Appellant and no one appeared for the Respondent. Learned counsel for the Appellant raised the preliminary objection regarding the time-barred complaint and contended that the complaint of the Respondent was filed before the POI in the year 2020 against the detection bills of the years 2017 and 2018. He prayed that the claim of the Respondent is barred by the time being filed after three years as per Article 181 of the Limitation Act, 1908 and it is liable to be dismissed. Learned counsel for the Appellant further stated that the detection bills were charged to the Respondent on the basis of audit notes, which are justified and payable by him. In this regard, counsel for the Appellant was directed to provide the documentary evidence in support of its contention, which were subsequently submitted by him.

7. Arguments were heard and the record was examined. Following are our observations:

7.1 Jurisdiction of the POI u/s 38 of the NEPRA Act:

As regard the preliminary objection of the Appellant for the jurisdiction of the POI, it is observed that the disputed billing was done by the Appellant in case of a





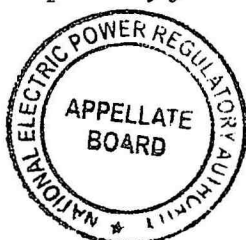
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defective meter and the basis of the detection bill was made on the audit recommendation. Thus, the case pertains to the billing due to a defective meter and the POI has been empowered to adjudicate such matters under Section 38 of the NEPRA Act. In this context, the honorable Supreme Court of Pakistan in the case reported as PLD 2012 SC 371 held that the POI has exclusive jurisdiction to entertain the complaints of billing, where, the metering equipment is involved and the Civil Court has the jurisdiction in case of bypassing the meter. Thus the objection of the Appellant has no force and the same is rejected.

7.2 Objection of the Appellant regarding time-barred complaint before the POI:

The Respondent filed a complaint before the POI in the year 2020 against the detection bills debited by the Appellant in the year 2017-2018. Thus, the Respondent availed the remedy by filing the complaint before the POI within three years as envisaged in Article 181 of the Limitation Act, 1908. Further, Reliance in this regard is placed on the judgment reported as 2016 CLC 377, the operative portion of which is reproduced below:

“13. For the foregoing reasons, we are of the view that Section 14 of the Limitation Act is applicable to the proceedings under the Representation of the People Act in respect of an appeal provided under Section 67(3) and the time spent in the apex Court will have to be excluded for the reasons stated above about the due diligence. If we exclude the time, there can be no doubt that the appeals are within the period of 30 days prescribed by the Act. The objection raised by the respondents is thus overruled and the office is directed to fix these appeals separately for regular hearing on a convenient date.”





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Therefore the objection of the Appellant in this regard bears no force and is overruled.

7.3 Following detection bills charged by the Appellant to the Respondent will be addressed in the below-mentioned paragraphs:

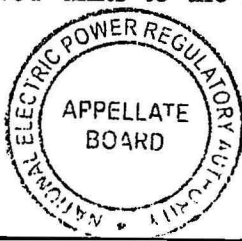
- First detection bill of Rs.192,475/- against 17,401 units was charged on the basis of Audit Note No.251 dated 05.06.2017.
- Second detection bill of Rs.142,270/- for 20,545 units was charged as per Audit Note No.198 dated 16.06.2016.
- Third detection bill of Rs.127,067/- was charged in August 2017.
- Fourth detection bill of Rs.28,538/- for 2,580 was charged in March 2018.

7.4 First detection bill of Rs.192,475/- against 17,401 units charged on the basis of Audit Note No.251 dated 05.06.2017

The Appellant charged the first detection bill of Rs.192,475/- to the Respondent with the plea that less consumption was charged during the period from December 2016 to February 2017 due to a defective meter. In this regard, the billing statement as provided by the Appellant was examined in the below table;

| Undisputed period | | Disputed period | |
|-------------------|-------|-----------------|-------|
| Month | Units | Month | Units |
| Dec-15 | 2174 | Dec-16 | 1759 |
| Jan-16 | 6210 | Jan-17 | 2710 |
| Feb-16 | 6822 | Feb-17 | 3096 |
| Total | 15206 | Total | 7565 |

The above table though shows that less consumption was recorded by the meter during the disputed period but charging of such consumption in terms of the first detection bill in addition to normal bills during these disputed months is illegal and unjustified. Moreover, the Audit department vide the above-referred audit note recommended charging 17,401 units to the Respondent for this month, but the





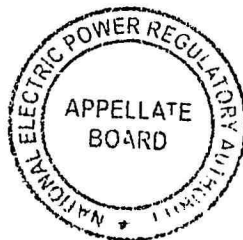
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Appellant neither provided any justification for charging the first detection bill of 17,401 units nor associated the Respondent during the audit proceedings. Even otherwise, the Audit observation is an internal matter between the DISCO and the Audit Department and the Consumer cannot be held responsible for the payment of any detection bill based on the Audit Para.

7.5 The honorable Lahore High Court in its judgment in the “Water and Power Development Authority, etc v. Umaid Khan” (1988 CLC 501) held that *no amount could be recovered from the consumer on the basis of the audit report as the audit affair is between the WAPDA and its audit department and no audit report could in any manner make consumer liable for any amount and the same could not bring about any agreement between the WAPDA and the consumer making consumer liable on the basis of so-called audit report.* The courts in similar cases relied on the same principle in cases reported cited as 2014 MLD 1253 and 2008 YLR 308.

7.6 Thus, we are of the firm view that the first detection bill of Rs.192,475/- charged to the Respondent based on Audit Note No.251 dated 05.06.2017 is illegal and unjustified and the same is cancelled. The impugned decision is liable to be maintained to this extent.

7.7 The Respondent is liable to be charged the revised bills for December 2016 to February 2017 as per consumption of corresponding months of the previous year or average consumption of the last eleven months, whichever is higher as per Clause 4.4(e) of the CSM-2010. The impugned decision is liable to be modified to this extent.





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7.8 Second detection bill of Rs.142,270/- for 20,545 units charged as per Audit Note No.198 dated 16.06.2016

The Appellant charged the second detection bill of Rs.142,270/- to the Respondent on the recommendation of the audit department. It is observed that the Appellant showed a credit of 20,545 units to the billing account of the Respondent in November 2015 but no amount was adjusted in this regard. Again, the Appellant credited an amount of Rs.239,956/- against 20,545 units to the billing account of the Respondent in

December 2015. For the sake of convenience, the billing statement of the Appellant is placed below:

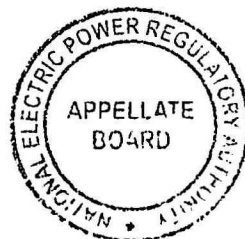
Account No. 29159131367200 Sub batch No. 0 Tariff Code 50 Load(KW) 19.00 Con Status ACTIVE

Old A/c No. 29151431367200 C.Ref Month 07-2015 Con Date Billing Month 05-2021 MTR No 11111211

Name SUHAIL ZAMAN KHAN SHHAH KHAGA

| Billing Month | Adj-Note Number | Adjustment Date | Posted with | Amount Adjusted(Rs.) | | | | | | | | Total |
|---------------|-----------------|-----------------|-------------|----------------------|-------------|-----------|------|------------|-------|-------|------|-------------|
| | | | | Units Adjusted | Others | ED | IT | GST | E-TAX | F-TAX | PTV | |
| Mar - 2015 | B995 | 00-03-0000 | BILLING | 0.00 | 1,193.76 | 0.00 | 0.00 | 182.00 | 0.00 | 0.00 | 0.00 | 1,375.76 |
| Feb - 2016 | B995 | 00-03-0000 | BILLING | 0.00 | 1,193.76 | 0.00 | 0.00 | 182.00 | 0.00 | 0.00 | 0.00 | 1,375.76 |
| Jan - 2016 | B995 | 00-03-0000 | BILLING | 0.00 | 1,193.76 | 0.00 | 0.00 | 182.00 | 0.00 | 0.00 | 0.00 | 1,375.76 |
| Dec - 2015 | B995 | 00-03-0000 | BILLING | 0.00 | 1,193.76 | 0.00 | 0.00 | 182.00 | 0.00 | 0.00 | 0.00 | 1,375.76 |
| Dec - 2015 | B995 | 30-03-0000 | BILLING | 0.00 | 1,193.76 | 0.00 | 0.00 | 182.00 | 0.00 | 0.00 | 0.00 | 1,375.76 |
| Dec - 2015 | B995 | 30-11-2015 | BILLING | 0.00 | -9,548.00 | 0.00 | 3.00 | 0.00 | 0.00 | 3.00 | 0.00 | -9,548.00 |
| Dec - 2015 | C856 | 30-11-2015 | BILLING | -20,545.00 | -203,274.00 | -2,010.43 | 0.00 | -34,572.00 | 0.00 | 0.00 | 0.00 | -239,955.43 |
| Nov - 2015 | C856 | 30-11-2015 | BILLING | -20,545.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 3.00 | 0.00 | 0.00 |
| Nov - 2015 | B995 | 00-03-0000 | BILLING | 0.00 | 1,193.76 | 0.00 | 0.00 | 182.00 | 0.00 | 0.00 | 0.00 | 1,375.76 |
| Oct - 2015 | B995 | 00-03-0000 | BILLING | 0.00 | 1,193.76 | 0.00 | 0.00 | 182.00 | 0.00 | 0.00 | 0.00 | 1,375.76 |
| Sep - 2015 | B995 | 00-03-0000 | BILLING | 0.00 | 0.00 | 0.00 | 0.00 | -10,947.00 | 0.00 | 0.00 | 0.00 | -10,947.00 |
| Jun - 2015 | B999 | 31-05-2015 | CP-88S | 0.00 | 0.00 | 0.00 | 0.00 | -1,948.00 | 0.00 | 0.00 | 0.00 | -1,948.00 |
| May - 2015 | B999 | 31-05-2015 | CP-88S | 0.00 | 0.00 | 0.00 | 0.00 | -21,608.00 | 0.00 | 0.00 | 0.00 | -21,608.00 |
| Apr - 2015 | B999 | 31-03-2015 | CP-88S | 0.00 | 0.00 | 0.00 | 0.00 | -2,589.00 | 0.00 | 0.00 | 0.00 | -2,589.00 |
| Mar - 2015 | B999 | 31-03-2015 | CP-88S | 0.00 | 0.00 | 0.00 | 0.00 | -345.00 | 0.00 | 0.00 | 0.00 | -345.00 |
| Feb - 2015 | B124 | 24-02-2015 | BOTH | 0.00 | -3,767.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | -3,767.00 |
| Feb - 2015 | B999 | 28-02-2015 | BOTH | 0.00 | 0.00 | 0.00 | 0.00 | -348.00 | 0.00 | 0.00 | 0.00 | -348.00 |
| Jan - 2015 | B999 | 31-01-2015 | CP-88S | 0.00 | 0.00 | 0.00 | 0.00 | -12,139.00 | 0.00 | 0.00 | 0.00 | -12,139.00 |
| Jan - 2015 | B999 | 31-01-2015 | CP-88S | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | -45,021.00 |

In view of the above, the observation of the audit department regarding double credit of the abovementioned amount is not correct. Moreover, the audit observation cannot be made the basis for the recovery of any detection bill from the Respondent. Reliance in this regard is placed on the various cases reported in 2014 MLD 1253





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titled M/s. Mehmood Textile Mills v/s MEPCO and 2008 YLR 308 titled WAPDA v/s Fazal Karim. Therefore we are inclined to agree with the determination of POI that the second detection bill of Rs.142,270/- for 20,545 units charged as per Audit Note No.198 dated 16.06.2016 has no legal and technical basis and the same is declared null and void.

7.9 Third detection bill of Rs.127,067/- charged in August 2017

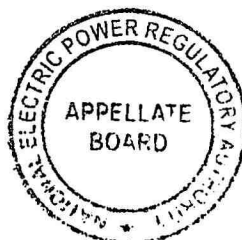
It is observed that the Appellant debited third detection bill of Rs.127,067/- to the billing account of the Respondent in August 2017, however, the Appellant neither could provide any record i.e. checking report, notice, and the detection proforma nor could justify the charging of the third detection bill before the POI as well as before NEPRA. Under these circumstances, we are constrained to believe that the third detection bill of Rs.127,067/- charged in August 2017 is illegal, unjustified, and violative of the provision of the CSM-2010, hence the same is withdrawn.

7.10 Fourth detection bill of Rs.28,538/- for 2,580 charged in March 2018

The Appellant charged the fourth detection bill of Rs.28,538/- for 2,580 units to the Respondent on account of illegal extension of load, however, the Appellant did not point out such discrepancy during monthly readings. Moreover, the Appellant failed to provide any document which could justify their version regarding charging the fourth detection bill of Rs.28,538/- for 2,580 charged in March 2018. Hence the impugned decision for cancellation of the fourth detection bill of Rs.28,538/- for 2,580 charged in March 2018 is correct and the same is maintained to this extent.

8. In view of what has been stated above, it is concluded that;

8.1 The following four detection bills charged by the Appellant to the Respondent are cancelled being unjustified.





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- First detection bill of Rs.192,475/- against 17,401 units was charged on the basis of Audit Note No.251 dated 05.06.2017.
- Second detection bill of Rs.142,270/- for 20,545 units was charged as per Audit Note No.198 dated 16.06.2016.
- Third detection bill of Rs.127,067/- was charged in August 2017.
- Fourth detection bill of Rs.28,538/- for 2,580 was charged in March 2018.

8.2 The Respondent may be charged the revised bills for December 2016 to February 2017 on the DEF-EST code as per Clause 4.4(e) of the CSM-2010.

8.3 The billing account of the Respondent may be overhauled after adjusting payments made against the above-disputed bills.

9. The appeal is disposed of in the above terms.

Abid Hussain
Member

Muhammad Irfan-ul-Haq
Member

Naweed Illahi Sheikh
Convener

Dated: 30-08-2023

