



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

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No. NEPRA/AB/Appeal/144/2021/5/5


September 14, 2023

1. Abdul Malik,  
S/o. Faiz Muhammad,  
Through Shaukat Ullah Khan Guliyani,  
Advocate High Court,  
R/o. Shadan Lund, District Courts,  
Tehsil & District Dera Ghazi Khan
2. Chief Executive Officer,  
MEPCO Ltd,  
MEPCO Complex, Khanewal Road,  
Multan
3. Sardar Mazhar Abbas Mahar,  
Advocate High Court,  
45-Zakiriya Block, District Courts,  
Multan
4. Executive Engineer (Operation),  
MEPCO Ltd,  
Taunsa Division,  
Taunsa Sharif
5. Sub Divisional Officer (Operation),  
MEPCO Ltd,  
Shadan Lund Sub Division,  
Shadan Lund
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. Abdul Malik Against the Decision Dated 21.10.2021 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 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 Appellate Board

In the matter of

## Appeal No.144/POI-2021

Multan Electric Power Company Limited

.....Appellant

Versus

Abdul Malik S/o. Faiz Muhammad, Through Shaukat Ullah Khan

Guliyani, Advocate High Court, R/o. DShadan Lund,

District Court Tehsil & District Dera Ghazi Khan

.....Respondent

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

### For the Appellant:

Sardar Mazhar Abbas Advocate

Mr. Muhammad Iqbal SDO

### For the Respondent:

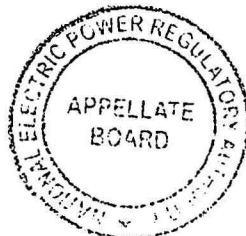
Mr. Muhammad Malik

## 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 21.10.2021 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 Mr. Abdul Malik (hereinafter referred to as the "Respondent") is a domestic consumer of the Appellant bearing Ref No.05-15264 -0502006-R with sanctioned load of 1 kW and the applicable Tariff category is A-1(a). The premises of the Respondent was checked by the Metering and Testing

Appeal No.144/POI-2021

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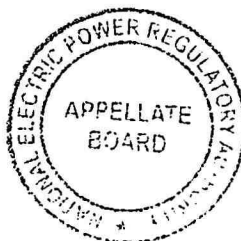
Mr.  
Qa



## National Electric Power Regulatory Authority

(M&T) team of the Appellant on 08.02.2019 and reportedly, the billing meter of the Respondent was found tampered for dishonest abstraction of electricity. The Appellant registered FIR No.276/2019 dated 08.02.2019 with the police against the Respondent on account of the theft of electricity. Thereafter, a detection bill amounting to Rs.72,338/- against 3,824 units for six months for the period from August 2018 to January 2019 was charged by the Appellant to the Respondent on the basis of connected load and added to the bill for September 2019.

3. Being aggrieved, the Respondent initially filed civil suit before the Civil Court Dera Ghazi Khan on 27.09.2019 and challenged the above detection bill. Subsequently, the Additional District Judge D.G. Khan vide order dated 24.01.2020 referred the matter to the Provincial Office of Inspection, Multan Region, Multan (hereinafter referred to as the "POI"). Accordingly, the Respondent challenged the above detection bill before the POI on 31.01.2020. The matter was disposed of by the POI vide the decision dated 21.10.2021, wherein the detection bill of Rs.72,338/- against 3,824 units for six months for the period from August 2018 to January 2019 was declared null and void.
4. Subject appeal has been filed against the afore-referred decision dated 21.10.2021 of the POI (hereinafter referred to as the "impugned decision") by the Appellant before the NEPRA, wherein it is contended that the billing meter of the Respondent was found tampered during the M&T checking dated 08.02.2019 for the dishonest abstraction of electricity, therefore FIR No. 276/2019 dated 08.02.2019 was registered against him and a detection bill of Rs.72,338/- against



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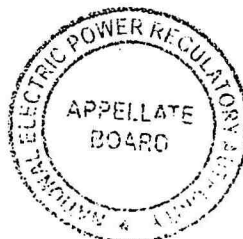
3,824 units for six months for the period from August 2018 to January 2019 was charged to the Respondent. As per the Appellant, the POI has failed to observe the case in letter and spirit and policy formulated in the Consumer Service Manual (the “CSM”) and passed the impugned order on surmises and conjectures. According to the Appellant, factual controversies involved in the case, which can only be adjudicated by the Civil Court, and the POI has no lawful jurisdiction to decide the matter. The Appellant submitted that the POI without going into the merits of the case and without applying conscientious mind passed the impugned order, which is not sustainable in the eye of the law. The Appellant prayed that the impugned decision is liable to be set aside.

### 5. Proceedings by the Appellate Board

Upon filing of the instant appeal, a Notice dated 26.01.2022 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 Hearings in the matter of the subject Appeal were initially fixed for 03.02.2022 and 22.08.2022, which however were adjourned on the request of the Appellant. Finally, 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 the Respondent appeared in person. During the hearing, learned counsel for the Appellant reiterated the same version as contained in memo of the appeal and contended that the billing meter of the





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Respondent was checked by the M&T team on 08.02.2019, wherein it was declared tampered for committing theft of electricity.

6.2 The Respondent repudiated the contentions of counsel for the Appellant regarding the theft of electricity and averred that no discrepancy in the impugned meter was pointed out by the Appellant during the monthly readings. The Respondent stated that the Appellant failed to produce the impugned metering equipment before the POI for checking, hence their allegation for theft of electricity is not correct and the impugned detection bill was rightly cancelled by the POI. He prayed that the impugned decision be upheld and the appeal be dismissed being devoid of merits. The Appellant was directed to confirm the availability of a gas connection at the premises and submit the report to the NEPRA within seven days.

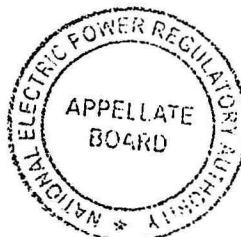
7. Arguments heard and the record perused. Following are our observations:

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:

"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.*



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*Since the Electric Inspector possesses special expertise in examining the working of the metering equipment and other relater 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.

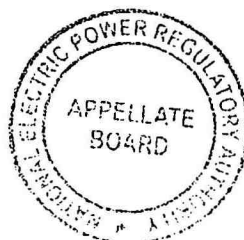
**7.2 Detection bill of Rs.72,338/- against 3,824 units for six months for the period from August 2018 to January 2019**

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.

7.3 The Appellant failed to produce the impugned billing meter before the POI for verification of alleged tampering, to further ascertain the version of the Appellant, consumption data is analyzed in the below table:

Period before dispute		Disputed Period	
Month	Units	Month	Units
Aug-17	45	Aug-18	45
Sep-17	6	Sep-18	76
Oct-17	41	Oct-18	115
Nov-17	23	Nov-18	81
Dec-17	27	Dec-18	29
Jan-18	3	Jan-19	30
Average	24	Average	63

The above consumption pattern even does not support the version of the Appellant regarding the theft of electricity through tampering with the impugned meter. The Appellant even neither provide the gas bills nor confirm the availability of the gas



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connection at the premises to substantiate their claim that the premises was under the use of the Respondent during the dispute period.

7.4 In view of the foregoing discussion, we hold that charging of the detection bill of Rs.72,338/- against 3,824 units for six months for the period from August 2018 to January 2019 to the Respondent is unjustified and the same is rightly cancelled by the POI.

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

8. Foregoing in view, the appeal is dismissed.

Abid Hussain,  
Member

Muhammad Irfan-ul-Haq  
Member

Naweed Illahi Sheikh  
Convener

Dated: 14-09-2023

