



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

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No. NEPRA/AB/Appeal/157/2021/ 5/6

September 14, 2023

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| 1. Abdul Wahab,
Electrical Engineer,
Board of Management (BOM),
Multan Industrial Estate (MIE),
Multan | 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,
City Division, Multan |
| 5. Sub Divisional Officer (Operation),
MEPCO Ltd,
Garden Town 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. Abdul Wahab Against the Decision Dated 18.10.2021 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 (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 Appellate Board

In the matter of

Appeal No.157/POI-2021

Multan Electric Power Company Limited

.....Appellant

Versus

Abdul Wahab Electrical Engineer, Board of Management,
Multan Industrial Estate (MIE), Multan

.....Respondent

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

For the Appellant:

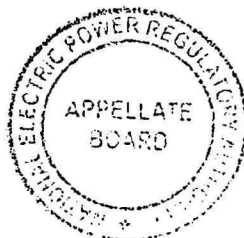
Sardar Mazhar Abbas Advocate
Mr. Muhammad Imran Addl. XEN

For the Respondent:

Mr. Abdul Wahab

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 18.10.2021 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 Wahab (hereinafter referred to as the "Respondent") is an industrial consumer of the Appellant bearing Ref No.27-15138-0091600-U with sanctioned load of 278 kW and the applicable Tariff category is B-2(b). The premises of the Respondent was checked by the Appellant



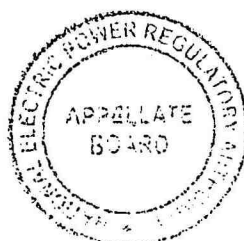
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on 23.10.2019 and allegedly, the Respondent was using electricity directly to run the two motors for disposal of the water. Resultantly, a detection bill amounting to Rs.1,215,951/- against 58,025 units+112 kW MDI for October 2019 was charged by the Appellant to the Respondent based on the connected load and added to the bill for February 2020, which was paid by the Respondent on 18.03.2020. However, the Respondent wrote four letters dated 17.03.2020, 19.03.2020, 16.09.2020, and 06.11.2020 to the Appellant to enquire the justification of the above detection bill, which however remained unanswered.

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") on 31.01.2020. The complaint was disposed of by the POI vide the decision dated 18.10.2021 (hereinafter referred to as the "impugned decision") wherein the detection bill of Rs.1,215,951/- against 58,025 units +112 kW MDI for October 2019 was declared null and void.
4. The subject appeal has been filed against the impugned decision before NEPRA wherein it was contended that the premises of the Respondent was checked on 23.10.2019 and discovered using electricity directly from the transformer; resultantly, a detection bill of Rs.1,215,951/- against 58,025 units+112 kW MDI for October 2019 was charged to the Respondent. As per the Appellant, the POI has failed to observe the provisions of 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



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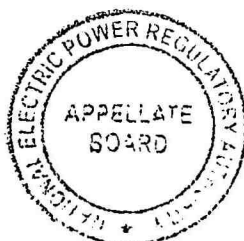


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adjudicated by the Civil Court, and the POI has no lawful jurisdiction to decide the matter. The Appellant submitted that the POI without going into the merits of the case and without applying conscientious mind passed the impugned order, which is 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 12.01.2022 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days, which were filed on 31.01.2022. In the reply, the Respondent denied the allegation of direct theft of electricity levelled by the Appellant and submitted that the detection bill of Rs.1,215,951/- against 58,025 units+112 kW MDI for October 2019 was debited based on false and fabricated unilateral checking. The Respondent further submitted that the two motors were being supplied through meter installed at the site and if direct theft of electricity was being committed why the Appellant did not proceed as per Chapter 9 of the Consumer Service Manual 2010 (the "CSM-2010"). As per Respondent, the Appellant was required to disconnect the electricity of the premises, removed the material evidence and hand it over to the Police and file FIR with the police to establish direct theft of electricity but in the present case, the Appellant failed to follow the procedure as laid down in Chapter 9 of the CSM-2010. According to the Respondent, the plea of the Appellant for admittance of theft of electricity has no force as the bogus signatures and stamp of the official of the Respondent on the detection proforma



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were affixed and the POI has rightly concluded the matter relating to the statement of Mr. Muhammad Abbas Bhatti, Senior Sub Engineer WASA (North Zone) Multan. The Respondent stated that POI has lawful authority to adjudicate the instant matter being a billing dispute under Section 38 of the NEPRA Act. The Respondent further objected to the maintainability of the appeal and contended that the appeal file before the NEPRA is barred by time and the same is liable to be rejected and the impugned decision be maintained.

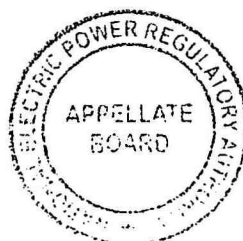
6. Hearing

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 either the Appellant or the Respondent. 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, the parties reiterated arguments contained in their respective written pleadings.

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

7.1 Limitation for filing Appeal before the NEPRA:

Before going into the merits of the case, the preliminary objection of the Respondent regarding limitation needs to be addressed. It is observed that the copy of the impugned decision was obtained by the Appellant on 01.11.2021 and the appeal was filed before the NEPRA on 29.11.2021 within the prescribed time limit of 30 days. As per sub-section (3) of Section 38 of the NEPRA Act, any



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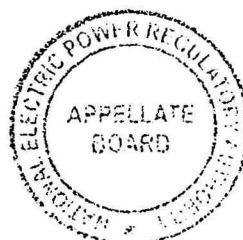
person aggrieved by the decision of the POI may prefer an appeal to NEPRA within thirty days of receipt of the order. Further, it is supplemented with Regulation 4 of the NEPRA (Procedure for filing Appeals) Regulations, 2012 (the "Appeal Procedure Regulations") which also states that the Appeal is required to be filed within 30 days of the receipt of the impugned decision of POI by the Appellant, however, a margin of 7 days' is provided in case of submission through registered post, and 3 days in case of submission of appeal through courier is given in the Appeal Procedure Regulations. Thus, the appeal was filed before the NEPRA within the prescribed time limit as envisaged in Section 38(3) of the NEPRA Act. Hence the objection of the Respondent is rejected being devoid of force.

7.2 Objection of the Appellant regarding the jurisdiction of POI:

The Appellant has claimed that the Respondent was involved in the direct theft of electricity and raised the objection that the POI has no jurisdiction to adjudicate the instant matter. Since the dispute regarding the billing pertains to the year 2019, hence the case will be dealt with under Consumer Service Manual 2010 (the "CSM-2010"). Clause 9.1 of the CSM-2010 specifies the instances of direct theft of electricity by Registered/Un-registered consumers as well as the procedure to be adopted by the concerned distribution company to deal with such cases; the same is reproduced below for the sake of convenience:

"9.1 DIRECT THEFT OF ELECTRICITY BY REGISTERED/UN- REGISTERED CONSUMERS OF K-ELECTRIC.

9.1.1 If a premises/person is found to be hooked directly with the K-Electric's supply line by bypassing the metering equipment or if the



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consumer is using electricity direct from the K-Electric supply line and/or the person living on the premises is not a consumer of the K-Electric; then the K-Electric shall inert alia, process the case of THEFT of electricity. For all such cases, the K-Electric shall register FIR with the Police. The FIR is to be registered by a responsible officer of the K-Electric, not below the rank of Sub Divisional Officer.

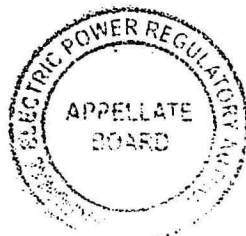
9.1.2 All theft cases of direct hooking would be dealt by K-Electric strictly in accordance with relevant sections of the Pakistan Penal Code, 1860 (Act XLV of 1860) and the Code of Criminal Procedure, 1898 (Act V of 1898). The disconnection of electricity shall be carried out immediately under the supervision of the Sub Divisional Officer of the area or any other authorized Officer of the K-Electric. The removed material shall be preserved as proof of theft and the same shall be handed over to the police authorities while reporting to the Police.

9.1.3 The K-Electric shall be authorized to recover its loss by raising a detection bill as per its own procedure."

7.3 In the instant case, the Appellant claimed that the electricity was being used directly by the Respondent. Therefore, having found the alleged theft by the Respondent, the Appellant was required to take the following actions in accordance with Clause 9.1 of the CSM-2010:

- i. Register FIR against the Respondent by an officer, not below the rank of SDO.
- ii. Disconnection of electricity under the supervision of the SDO of the area.
- iii. Preserve the removed material as proof of theft and hand it over to the Police while reporting the crime to the Police.
- iv. Raise the detection bill to recover the loss.

7.4 The above procedure specifies the manner to prove the distribution company's claim of direct theft of electricity and is to be followed mandatorily to take punitive action against the person involved in theft and recovery of loss thereof. Accordingly, upon knowing of the alleged theft of electricity by the Respondent,



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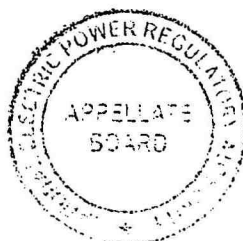


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the Appellant was required to immediately approach the Police, in the manner specified in the above-referred clause of CSM-2010, along with proof of theft of electricity. In the instant case, however, the Appellant raised the above detection bill against the Respondent without following the procedure specified in Clause 9.1 to prove the charge of theft before raising a detection bill. Thus due to the procedural infirmities, the Appellant's claim that the Respondent was involved in the direct theft of electricity is not proven and cannot become the basis for raising the detection bill against the Respondent.

7.5 The Appellant has given justification that the Respondent admitted the theft and paid the above detection bill. However, no documentary proof of such admittance of theft of electricity by the Respondent has been submitted before us. Logically the purpose for filing the complaint before the POI would be disagreement upon the detection bill.

7.6 The Appellant even did not provide the material evidence i.e. the checking report in support of the allegation of theft against the Respondent under Clause 9.1 of the CSM 2010, upon recovery of the alleged theft. The Appellant was required to approach the Police along with the proof of theft which the Appellant did not do. We are of the considered view that the Police being the investigation agency is competent to probe the criminal offense and ascertain the authenticity of such material evidences. However, instead of following the procedure as laid down including lodging FIR and handing over the proof of theft to the Police as required under the law, the Appellant has debited the above detection bill.



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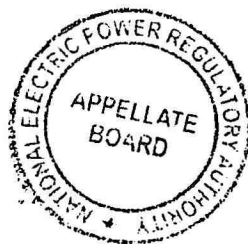
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7.7 In view of the foregoing discussion, it is established that the Appellant failed to follow the procedure as laid down in Chapter 9 of the CSM-2010 and did not take any legal action against the Respondent on account of the theft of electricity. Indeed, it is a metering, billing dispute and falls in the jurisdiction of the POI. The objection of the Appellant in this regard is devoid of force and therefore rejected.

7.8 As far as the fate of the detection bill of Rs.1,215,951/- against 58,025 units+ 112 kW MDI for October 2019 debited to the Respondent is concerned, it is observed that the impugned detection bill was debited based on the the sanctioned load of the Respondent. To reach just conclusion, the normal average consumption of the disputed months is compared with the normal average consumption recorded in the corresponding month of the preceding and succeeding years in the below table:

Month	Normal units	Detection units
Disputed: October 2019	43,445	58,025
Undisputed: October 2020	29,120	-

The above table shows that the detection units charged for the disputed month i.e. October 2019 are much higher than the normal consumption of the corresponding months of the succeeding year i.e. 2020. Even otherwise, the normal consumption charged in October 2019 is higher than the normal consumption of October 2018. Therefore, it is held that the detection bill of Rs.1,215,951/- against 58,025 units



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+112 kW MDI for October 2019 debited against the Respondent is illegal, and unjustified and the same is liable to be declared null and void. The impugned decision is liable to be maintained to this extent.

7.9 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

Naweed Illahi Sheikh
Convener

Muhammad Irfan-ul-Haq
Member

Dated: 14-09-2023

