



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

NEPRA Office , Ata Turk Avenue (East), G5/1, Islamabad
Tel. No.+92 051 2013200 Fax No. +92 051 2600030
Website: www.nepra.org.pk E-mail: office@nepra.org.pk

No. NEPRA/Appeal/159/POI/2021/ 027

January 11, 2023

- | | |
|--|--|
| 1. Major Riffat Hayat Khan,
S/o. Gull Muhammad Khan (Late),
Through Mst. Farah Hayat,
D/o. Major Riffat Hayat Khan,
R/o. Old Khanewal, Tehsil & Distt.
Khanewal, Through Muhammad Shafi
Manager/Representative | 2. Chief Executive Officer,
MEPCO Ltd,
MEPCO Complex, Khanewal Road,
Multan |
| 3. Sub Divisional Officer,
MEPCO Ltd,
1 st Sub Division,
Khanewal, Tehsil & District Khanewal | 4. POI/Electric Inspector,
Multan Region,
249-G, Shah Ruken-e-Alam Colony,
Phase II, Multan |

Subject: **Appeal Titled MEPCO Vs. Major Riffat Hayat Khan Against the Decision Dated 18.10.2021 Provincial Office of Inspection to Government of the Punjab Multan Region, Multan**

Please find enclosed herewith the decision of the Appellate Board dated 05.01.2023, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(Ikram Shakeel)
Deputy Director (M&E)/
Appellate Board

Forwarded for information please.

1. Additional Director (IT) –for uploading the decision on NEPRA website



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No.159/POI-2021

Multan Electric Power Company LimitedAppellant
Versus

Major Riffat Hayat Khan S/o Gull Muhammad Khan (Late),
Through Mst. Farah Hayat, D/o Major Riffat Hayat Khan,
R/o Old Khanewal, Tehsil & Distt. Khanewal,
Through Muhammad Shafi Manager RepresentativeRespondent

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

For the Appellant:
Mr. M. Awais SDO

For the Respondent:
Mr. Rabnawaz Khan Advocate

DECISION

1. Brief facts leading to the filing of instant appeal are that Major Riffat Hayat Khan (hereinafter referred to as the “Respondent”) is a domestic consumer of Multan Electric Power Company Limited (hereinafter referred to as the “Appellant”) bearing Ref No.03-15911-1553300 U with a sanctioned load of 04 kW and the applicable Tariff category is A-1(a). As per Site Inspection Report dated 11.07.2020 of the Appellant, the Respondent was stealing electricity directly and the connected load was observed as 7 kW. Notice dated 11.07.2020 was served to the Respondent



National Electric Power Regulatory Authority

and the electric supply of the Respondent was disconnected. A letter dated 11.07.2020 was written to police for registration of FIR against the accused Mr. Muhammad Shafique. Thereafter, a detection bill of Rs.458,750/- for 18,118 units for twelve (12) months from July 2019 to June 2020 was charged to the Respondent based on the connected load and added to the bill for October 2020.

2. Being aggrieved, the Respondent filed a complaint before the Provincial Office of Inspection, Multan Region, Multan (hereinafter referred to as the "POI") and challenged the above detection bill. During the joint inspection of the POI dated 10.08.2021, the meter under dispute was functioning within BSS limits, the connected load was found as 2.5 KW [1.5 ton AC +200 watt lighting load] and two phases were coming from the distribution transformer in three phases impugned meter. The joint checking report of the POI dated 10.08.2021 was signed by both parties without raising any objection. The complaint was decided by the POI vide the decision dated 18.10.2021 in which the detection bill of Rs.458,750/- for 18,118 units for twelve (12) months from July 2019 to June 2020 was cancelled and the Appellant was directed to debit the revised bills @ 365 units per month for three (03) months i.e. May 2020 to July 2020. The Appellant was further directed to overhaul the billing account of the Respondent.
3. Subject appeal has been filed against the afore-referred decision dated 18.10.2021 of the POI (hereinafter referred to as the "impugned decision") by the Appellant before the NEPRA, wherein it is contended that the Respondent was stealing





National Electric Power Regulatory Authority

electricity directly through two phases and the connected load was noticed as 7 kW during the checking dated 11.07.2020, therefore a letter was written to police for registration of FIR against the accused Mr. Muhammad Shafique. The Appellant further contended that the detection bill of Rs.458,750/- for 18,118 units for twelve (12) months from July 2019 to June 2020 was charged to the Respondent based on the connected load. As per the Appellant, the charging of the above detection bill was proved through authentic documents, however, the POI cancelled the detection bill of Rs.458,750/-. According to the Appellant, the matter pertains to the direct theft of electricity, hence the Civil Court has exclusive jurisdiction instead of POI. The Appellant submitted that the impugned decision was passed without perusal of checking report, and billing data, hence the impugned decision is not sustainable in the eye of the law. The Appellant finally prayed for setting aside the impugned decision.

4. 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. In response, the Respondent submitted his reply on 25.01.2022 wherein he refuted the allegation of theft of electricity and submitted that if he was stealing electricity why FIR was not registered with the Police against him. The Respondent further submitted that the Appellant failed to adhere to the procedure as laid down in the Consumer Service Manual 2021 (the "CSM-2021") to prove the direct theft of





National Electric Power Regulatory Authority

electricity. As per the Respondent, the impugned decision is logical, conventional, and based on the load verified during the joint checking of the POI. The Appellant opposed the charging of the detection bill and stated that the detection bill cannot be charged for six months without soliciting approval from the CEO as required in CSM-2021. The Respondent averred that the premises is lying vacant since the year 2017, hence the allegation of the Appellant for direct theft of electricity during the period July 2019 to June 2020 is not correct. The Respondent repudiated the objection of the Appellant regarding the jurisdiction of POI and asserted that the Appellant did not prove direct theft of electricity against him, hence the impugned decision is within four corners of laws based on the provided material. The Respondent finally prayed for upholding the impugned decision.

5. Hearing

- 5.1. Hearing in the matter of the subject Appeal was fixed for 22.08.2022 at Multan and accordingly, the notices dated 15.08.2022 were sent to the parties (i.e. the Appellant and the Respondent) to attend the hearing. As per schedule, the appeal was heard at the NEPRA Regional Office Multan on 22.08.2022 in which both parties were in attendance. The representatives for the Appellant reiterated the same version as contained in memo of the appeal and contended that the Respondent was found stealing electricity directly during checking dated 11.07.2020, therefore the detection bill of Rs.458,750/- for 18,118 units for twelve (12) months from July 2019 to June 2020 was debited to the Respondent. The Appellant further contended





National Electric Power Regulatory Authority

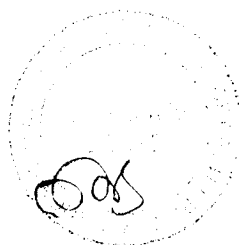
that the premises comprises of 1 Kanal house, which could not be checked by the POI due to its closure and the POI only visited the servant quarter, hence the fate of the detection bill cannot be determined on the basis of POI joint checking. As per the Appellant, the above detection bill charged to the Respondent is justified and the determination of POI for revision of the same for three months @ 365 units/month has no justification.

5.2. Conversely, learned counsel appearing on behalf of the Respondent rebutted the contentions of the Appellant and averred that the premises is closed since long which may be verified through the gas consumption. Learned counsel for the Respondent defended the impugned decision and prayed for the withdrawal of the impugned detection bill of Rs.458,750/- for 18,118 units for twelve (12) months from July 2019 to June 2020. Lastly, learned counsel for the Respondent assured to provide the gas statement within one week in support of his contention with regard to the vacant premises.

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

6.1 Preliminary objection of the Appellant for the jurisdiction of the POI being direct theft of electricity case

The Appellant has claimed that the Respondent was involved in the direct theft of electricity and the POI is not authorized to adjudicate the matter. Since the dispute of billing pertains to the year 2019-20, hence the case will be dealt with under Consumer Service Manual 2010 (the "CSM-2010"). Clause 9.1(a) of the CSM-2010 specifies the instances of Direct Theft of electricity by registered/ un-





National Electric Power Regulatory Authority

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:

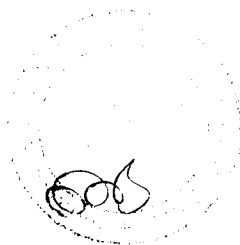
“9.1 (a) DIRECT THEFT OF ELECTRICITY BY REGISTERED/ UNREGISTERED CONSUMERS OF MEPCO.

i) If a premises/person is found to be hooked directly with the MEPCO's supply line by bypassing the metering equipment or if the consumer is using electricity direct from the MEPCO supply line and/or the person living on the premises is not a consumer of the MEPCO; then the MEPCO shall inert alia, process the case of THEFT of electricity. For all such cases, the MEPCO shall register FIR with the Police. The FIR is to be registered by a responsible officer of the MEPCO, not below the rank of Sub Divisional Officer.

ii) All theft cases of direct hooking would be dealt by MEPCO strictly in accordance with relevant clauses of the Electricity Act 1910. 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 MEPCO. The removed material shall be preserved as a proof of theft and the same shall be handed over to the police authorities while reporting to the Police.

iii) The MEPCO shall be authorized to recover its loss by raising a detection bill as per its own procedure.”

6.2 In the instant case, the Appellant alleged 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(a) of CSM-2010:





National Electric Power Regulatory Authority

- i. Register FIR against the Respondent by an officer not below the rank of Sub Division Officer.
- 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 Police while reporting the crime to Police.
- iv. Raise the detection bill to recover the loss.

6.3 The above procedure specifies the manner to prove the Distribution Company's claim of 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, the Appellant was required to immediately approach the Police, in the manner specified in the above clause of CSM-2010, along with proof of theft of electricity, and get the FIR registered against the Respondent. In the instant case, however, the Appellant raised detection bill against the Respondent on account of the alleged direct theft of electricity without following the legal manner specified in Clause 9.1(a) to prove the charge of theft before raising a detection bill. Although the electricity of the Respondent was disconnected by the Appellant, however, no FIR was lodged against the Respondent along with proof of theft to the police. Although an application dated 11.07.2020 was written to SHO Khanewal to register FIR. The Appellant neither submitted any documentary evidence of direct theft before the POI nor was the alleged discrepancy verified by the POI during the joint checking dated 10.08.2021.





National Electric Power Regulatory Authority

These stated facts gave rise to the billing dispute, which falls in the jurisdiction of the POI, hence the objection of the Appellant in this regard is devoid of force and rejected.

6.4 Detection bill of Rs.458,750/- for 18,118 units for twelve (12) months from July 2019 to June 2020

It is observed that the impugned detection bill was debited on the basis of the connected load i.e. 7 kW. However, the alleged connected load was neither verified by the POI during the joint checking dated 10.08.2021 nor the Appellant could regularize the same. Moreover, the above detection bill was charged beyond three billing cycles to the Appellant being a general supply consumer i.e. A-I but no approval from the Chief Executive Officer was obtained as required under Clause 9.1c(3) of the CSM-2010. Therefore, it is held that the detection bill of Rs.458,750/- for 18,118 units for twelve (12) months from July 2019 to June 2020 charged by the Appellant to the Respondent is illegal, unjustified and the same is liable to be declared as null and void. The impugned decision is liable to be maintained to this extent.

6.5 Determination of POI for revision of the detection bill @ 365 units/month for three months i.e. May 2020 to July 2020.

POI during the joint checking dated 10.08.2021 observed three meters installed along with a transformer at the premises of the Respondent and the connected load was observed as 2.5 kW [1.5 ton AC+200 Watt lighting load]. The joint checking report of the POI dated 10.08.2021 was signed by both parties without raising any objection. Hence contention of the Appellant with regard to the above checking is





National Electric Power Regulatory Authority

devoid of force and rejected. The only question remains whether the determination of POI for revision of the detection bill @ 365 units/month for three months i.e. May 2020 to July is correct. In this regard, the consumption data of the Respondent is analyzed in the below table:

Year	2017	2018	2019	2020	2021
Month	Units	Units	Units	Units	Units
January	22	25	32	32	0
February	21	28	33	26	0
March	3	39	28	2	0
April	41	25	18	18	0
May	45	28	27	21	397
June	19	29	47	32	18
July	41	47	27	0	84
August	20	30	27	0	103
September	35	36	29	0	94
October	21	29	20	0	78
November	17	31	16	0	-
December	26	32	28	0	-

As above, nominal consumption has been recorded during the last four years, which is not compatible with the connected load i.e. 2.5 kW as observed during the joint checking dated 10.08.2021 of the POI. This lower consumption vis-à-vis the connected load indicates that the impugned meter has not recorded the correct consumption. Moreover, the healthy consumption of gas bills as provided by the Respondent indicates that the premises was occupied during the months i.e. from May 2020 to July 2020, thus the claim of the Respondent about vacant premises is not correct. On the other hand, the Appellant could not prove the alleged connected load i.e. 7 kW before the POI as well as before us. Under these circumstances, we are inclined to agree with the findings of the POI for charging the





National Electric Power Regulatory Authority

revised bills for three months i.e. May 2020 to July 2020 @ 365 units/month based on connected load i.e. 2.5 kW.

6.6 The Appellant is directed to overhaul the billing account of the Respondent after adjusting payments made against the disputed detection bill.

7 In view of above, the appeal is dismissed.

Syed Zāwar Haider
Member

Muhammad Irfan-ul-Haq
Member

Abid Hussain
Convener

Dated: 05/01/2023.

