



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

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No. NEPRA/Appeal/040/2021/349

March 18, 2024

- | | |
|---|---|
| 1. Mst. Atifa Naseer,
W/o. Bilal Ahmed,
R/o. Jinnah Street, Near Yummy Street,
Mouza Bahadur Pur, Bosan Road,
Multan
Cell No. 0336-6608481 | 2. Chief Executive Officer,
MEPCO Ltd,
MEPCO Complex, Khanewal Road,
Multan |
| 3. Malik Muhammad Muzaffar Athangal,
Advocate High Court,
Seat No. 18-A, District Courts,
Multan
Cell No. 0300-6323224 | 4. Executive Engineer (Operation),
MEPCO Ltd,
B.Z (Musa Park) Division,
Multan |
| 5. Sub Divisional Officer (Operation),
MEPCO Ltd,
WAPDA 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 No.040/2021 (MEPCO Vs. Mst. Atifa Naseer) Against the Decision Dated 07.10.2020 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 18.03.2024 (04 pages), regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(Ikram Shakeel)
Deputy Director
Appellate Board

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.040/POI-2021

Multan Electric Power Company Limited

.....Appellant

Versus

Mst. Atifa Naseer W/o. Bilal Ahmed,
R/o. Jinnah Street Near Yummy Street,
Mouza Bahadurpur, Bosan Road, Multan

.....Respondent

APPEAL UNDER SECTION 38(3) OF THE REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997

For the Appellant:

Malik Muzaffar Athangal Advocate

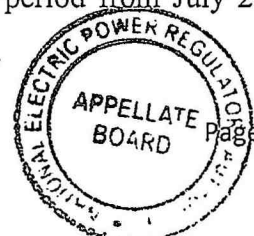
For the Respondent:

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DECISION

1. Briefly speaking, Mst. Atifa Naseer (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.16-15175-3304206 having a sanctioned load of 02 kW and the applicable tariff category is A-1(a). The billing meter of the Respondent became defective in July 2019, hence the DEF-Est code was fed by the Appellant w.e.f July 2019 and onwards. Later on, the impugned meter of the Respondent was replaced with a new meter by the Appellant on 18.12.2019 and sent to M&T lab for data retrieval. As per the M&T report dated 16.04.2020, 2315 units were found less charged, hence the Appellant debited a detection bill of Rs.70,986/- for 2,315 units for the period from July 2019 to December 2019 to the Respondent on account of pending units.
2. Being aggrieved, the Respondent filed an application before the Provincial Office of Inspection, Multan Region, Multan (hereinafter referred to as the "POI") and challenged the detection bill of Rs.70,986/- for 2,315 units for the period from July 2019 to December 2019 debited by the Appellant on account of vanished display of the impugned meter. The complaint of the Respondent was disposed of by the POI vide decision dated 07.10.2020, wherein, the detection bill of Rs.70,986/- for 2,315 units for the period from July 2019 to December 2019 is declared void, unjustified, and of no legal effect.

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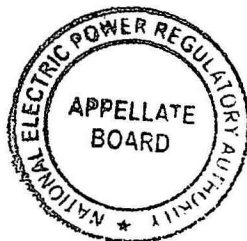




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3. Being dissatisfied, the Appellant has filed the instant appeal before NEPRA and assailed the decision dated 07.10.2020 of the POI (hereinafter referred to as the “impugned decision”). In its appeal, the Appellant opposed the maintainability of the impugned decision *inter alia*, on the following grounds that the POI has failed to observe the case in letter and spirit and the policy formulated in CSM-2010 and passed the impugned decision on surmises and conjectures; that the POI did not decide the matter within 90 days as envisaged under Section 26(6) of the Electricity Act 1910; that the matter exclusively falls within the domain of civil court; that the POI did not apply his judicious mind while deciding the matter and that the impugned decision is liable to be set aside.
4. Notice dated 26.04.2021 of the appeal was issued to the Respondent for filing reply/para-wise comment, which however were not filed.
5. Hearing of the appeal was conducted at NEPRA Regional Office Multan on 09.01.2024, wherein learned counsel appeared for the Appellant, whereas the Respondent did not tender appearance. Learned counsel for the Appellant contended that the billing meter of the Respondent was found defective with vanished display in July 2019 and the same was replaced with a new meter in December 2019, therefore a detection bill of Rs.70,986/- for 2,315 units for the period from July 2019 to December 2019 was debited to the Respondent. Learned counsel for the Appellant argued that the POI did not consider the real aspects of the case and erroneously declared the above detection bill as null and void. Learned counsel for the Appellant prayed that the impugned decision is unjustified and liable to be struck down.
6. Having heard the arguments and record perused. Following are our observations:
 - 6.1 While addressing the objection of the Appellant regarding the jurisdiction of the POI, the Respondent filed his complaint before the POI on 09.08.2019 under Section 38 of the NEPRA Act. POI pronounced its decision on 07.10.2020 i.e. after ninety (90) 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 Electricity Act, 1910. In this regard, it is observed that the forum of POI has been 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, of 1910. Reliance in this regard is placed on the judgments of the honorable Lahore High Court Lahore reported in 2017 PLJ 627 Lahore and 2017 PLJ 309 Lahore. Keeping in view the overriding effect of the NEPRA Act on the

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1910, and the above-referred decisions of the honorable High Court, the objection of the Appellant is dismissed.

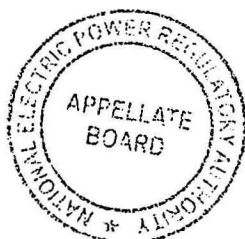
6.2 As regards another objection of the Appellant regarding the jurisdiction of the POI, it is clarified that the dispute of billing pertains to the metering equipment and the POI has exclusive jurisdiction to adjudicate the same under Section 38 of the NEPRA Act, 1997, and as per procedure laid down in Punjab (Establishment and Powers of Office of Inspection) Order, 2005. The above objection of the Appellant is not valid and, therefore overruled.

6.3 As per the available record, the display of the billing meter of the Respondent became defective in July 2019, hence the bills for the period from July 2019 to December 2019 were charged on DEF-EST code. Thereafter, the impugned meter of the Respondent was replaced with a new meter in December 2019. The Appellant charged a detection bill of Rs.70,986/- for 2,315 units for the period from July 2019 to December 2019 to the Respondent on the basis of pending units, which was challenged before the POI.

6.4 The Appellant neither produced the impugned meter before the POI for verification of alleged defectiveness nor could justify the charging of the impugned detection bill before the said forum. The Appellant even failed to follow the procedure as laid down in Chapter 4 of the CSM-10 in case of defective meter. To further verify their contention regarding the charging of impugned detection bill on account of pending units, the average consumption charged during the disputed period is compared with the corresponding consumption of periods before and after the dispute:

Period before dispute		Disputed period		Period before dispute	
Month	Units	Month	Units	Month	Units
Jul-18	540	Jul-19	540	Jul-20	0
Aug-18	594	Aug-19	594	Aug-20	212
Sep-18	537	Sep-19	537	Sep-20	124
Oct-18	164	Oct-19	243	Oct-20	10
Nov-18	186	Nov-19	249	Nov-20	107
Dec-18	159	Dec-19	8	Dec-20	193
Average	363	Average	362	Average	108

6.5 Perusal of the above table transpires that the average consumption charged during the disputed period is compatible with the average consumption of the corresponding months of the previous year and much higher than the average consumption of the corresponding months of the succeeding year. Hence, the bills for the disputed period from July 2019 to November 2019 debited to the Respondent on the DEF-EST code are justified and payable by the Respondent.





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As such, the detection bill of Rs.70,986/- for 2,315 units for the period from July 2019 to December 2019 debited to the Respondent on the basis of pending units is unjustified and the same is cancelled, which is also the determination of the POI.

- 6.6 It is further observed that less consumption was charged by the Appellant in December 2019, hence it would be judicious to revise the bill of December 2019 as per consumption of the corresponding month 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.
7. Summing up the foregoing discussion, it is concluded that the detection bill of Rs.70,986/- for 2,315 units for the period from July 2019 to December 2019 debited to the Respondent on the basis of pending units is unjustified and the same is cancelled. The Respondent may be charged the revised bill of December 2019 as per consumption of the corresponding month 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.
8. The appeal is disposed of in the above terms.

Abid Hussain
Member/Advisor (CAD)

Muhammad Irfan-ul-Haq
Member/ALA (Lic.)

Naweed Illahi Sheikh
Convener/DG (CAD)

Dated: 18-03-2024

