



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

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No. NEPRA/Appeal/110/2022/ 388

March 22, 2024

- | | |
|---|---|
| 1. Faiz Bux,
S/o. Malik Naseer Bux,
(Through Tahir Iqbal S/o. Habib Ahmed),
Prop: Doubling Machine Power Looms,
Rashid Colony, Near General Bus Stand
& Railway Station, Multan
Cell No. 0300-6379699 | 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 | 4. Executive Engineer (Operation),
MEPCO Ltd,
Shah Rukan-e-Alam Division,
Multan |
| 5. Sub Divisional Officer (Operation),
MEPCO Ltd,
Gulberg 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.110/2022 (MEPCO Vs. Faiz Bux) Against the Decision Dated 18.08.2022 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 22.03.2024 (05 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.110/POI-2022

Multan Electric Power Company Limited

.....Appellant

Versus

Faiz Bux S/o. Malik Naseer Bux,
Prop.: Doubling Machine Power Looms, Rashid Colony
Near General Bus Stand & Railway Station, Multan

.....Respondent

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

For the Appellant:

Malik Muzafar Athangal Advocate

For the Respondent:

Mr. Muhammad Iqbal

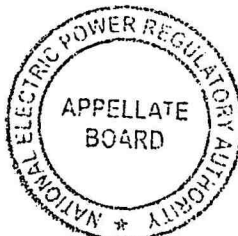
DECISION

1. Through this decision, the appeal filed by Multan Electric Power Company Limited (hereinafter referred to as the "Appellant") against the decision dated 18.08.2022 of the Provincial Office of Inspection, Multan Region, Multan (hereinafter referred to as the "POI") is being disposed of.
2. Briefly speaking, Mr. Faiz Bux (hereinafter referred to as the "Respondent") is an industrial consumer of the Appellant bearing Ref No.28-15194-0113401 with sanctioned load of 08 kW and the applicable Tariff category is B-1(b). The billing meter of the Respondent was found 23% slow during the M&T team checking dated 09.11.2020, therefore a detection bill of Rs.50,066/- against 2,146 units for two months i.e. October 2020 and November 2020 was debited to the Respondent in December 2020. In addition, the multiplication factor (the "MF") was raised from 01 to 1.29 w.e.f December 2020 and onwards till the replacement of the impugned meter on 15.04.2021.

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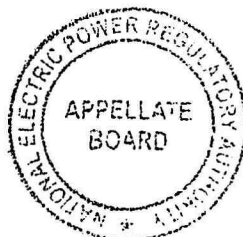




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3. Being aggrieved, the Respondent filed a complaint before the POI and challenged the above detection bill debited by the Appellant. The complaint of the Respondent was disposed of by the POI vide the decision dated 18.08.2022, wherein the detection bill amounting to Rs.50,066/- against 2,146 units for two months i.e. October 2020 and November 2020 along with the bills for the period from December 2020 to May 2021 were cancelled. As per the POI decision, the Appellant was directed to revise the bills for the period from December 2020 to May 2021 on the DEF-EST code.
4. Through the instant appeal, the afore-referred decision dated 18.08.2022 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 billing meter of the Respondent was found running 235 slow during checking dated 16.11.2020, therefore a detection bill of Rs.50,066/- against 2,146 units for two months i.e. October 2020 and November 2020 was debited to the Respondent; (2) the POI failed to observe the case in letter and spirit and the policy formulated in CSM and passed the impugned decision on surmises and conjectures; (3) the matter exclusively falls within the domain of Civil Court and the POI has no lawful jurisdiction and the impugned decision will be termed as void; (3) the POI has not applied his judicial mind while deciding the case; and; (4) and the impugned decision is liable to be set aside.
5. Proceedings by the Appellate Board
 - 5.1 Upon filing of the instant appeal, a notice dated 18.10.2022 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days which were submitted on 30.10.2022. In his reply, the Respondent prayed for dismissal of the appeal on the grounds that the appeal is time-barred by five days; that the Appellant failed to install the check meter in series with the impugned meter in compliance with Clause 4.4.3(a) of the CSM-2021; that the impugned meter was not produced before the POI for checking; that the POI has jurisdiction to adjudicate the instant matter as per judgment of Supreme Court of Pakistan reported as *PLD 2012 SC 371*; that the impugned decision is rendered on sheer merits after minute perusal of record and documents and that the same is liable to be uphold.
6. Hearing

Hearing was initially conducted at NEPRA Regional Office Multan on 23.06.2023 which





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however was adjourned in order to provide an opportunity for hearing to the counsel for the Appellant. Finally, the hearing was held on 10.01.2024, wherein a counsel along with an official appeared for the Appellant and the representative tendered appearance for the Respondent. Counsel for the Appellant contended that the billing meter of the Respondent was found 23% slow on 16.11.2020, as such the detection bill of Rs.50,066/- against 2,146 units for two months i.e. October 2020 and November 2020 was debited to the Respondent in December 2020. As per learned counsel for the Appellant, MF was raised from 1 to 1.29 w.e.f December 2020 to May 2021. As per learned counsel for the Appellant, the impugned decision for revisions of the bills for the period from December 2020 to May 2021 on DEF-EST code is illegal and unjustified and the impugned decision is liable to be struck down.

On the contrary, the representative for the Respondent rebutted the version of the Appellant, defended the impugned decision, and prayed for dismissal of the appeal on the grounds of limitation.

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

7.1 Limitation for filing the appeal before the NEPRA:

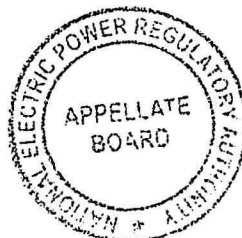
According to Section 38(3) of the NEPRA Act, any aggrieved party may prefer an appeal before the NEPRA within 30 days from the date of receipt of the decision of the Provincial Office of Inspection. Further, a margin of 7 days is provided in case of submission through registered post, and 3 days in case of submission of appeal through courier is given in the NEPRA (Procedure for filing Appeals) Regulations, 2012. The Appellant produced a copy of the impugned decision received from the office of POI on 12.09.2020. Counting 30 days from the date of said receiving, the appeal filed on 26.09.2020 before the NEPRA is within the time limit as prescribed in the above-referred Regulation of NEPRA (Procedure for filing Appeals) Regulations, 2012, hence the objection of the Respondent in this regard has no force and is rejected.

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

While addressing the preliminary objection of the Appellant regarding the jurisdiction of the POI, it is observed that the billing meter of the Respondent was found 23% slow during checking dated 16.11.2020 of the Appellant and the detection bill of Rs.50,066/- against 2,146 units for two months i.e. October 2020 and November 2020 was debited to the Respondent and MF was raised from 01 to 1.29 w.e.f December 2020 to May 2021. The entire facts of the case manifest that the case pertains to the billing due to a slow meter and the POI has been

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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.

7.3 Detection bill of Rs.50,066/- for 2,146 units for two months i.e. October 2020 and November 2020 due to 23% slowness of the meter

The billing meter of the Respondent was found 23% slow during checking dated 09.11.2020, therefore a detection bill of Rs.50,066/- against 2,146 units was debited to the Respondent. According to Clause 4.4(e) of the CSM-2010, the Respondent may be charged the detection bill maximum for two months in case of a slow meter. In the instant case, the Appellant neither installed a check meter nor got checked by the POI to verify 23% alleged slowness. Under these circumstances, consumption analysis be done in the below table to confirm, whether the impugned meter remained 23% slow during the months i.e. October 2020 and November 2020:

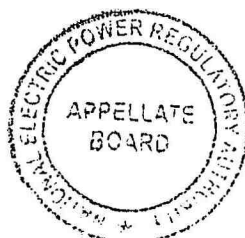
Disputed		Undisputed	
Month	Units	Month	Units
Oct-20	3460	Oct-21	4546
Nov-20	3940	Nov-21	3530
Total	7400	Total	8076

The above comparison of consumption data revealed that the total consumption recorded during the disputed period i.e. October 2020 and November 2020 is much lesser than the total consumption of corresponding months of the year 2021. This indicates that the impugned meter was running 23% slow during the months of October 2020 and November 2020. Hence, we are of the considered view that the detection bill of Rs.50,066/- for 2,146 units for two months i.e. October 2020 and November 2020 charged to the Respondent is justified and payable by the Respondent.

7.4 As regards the bills for the period from December 2020 to May 2021 debited to the Respondent with enhanced MF=1.29, it is observed that the Respondent did not dispute the same before the POI, hence the determination of the POI with regard to the bills for the period from December 2020 to May 2021 is beyond the prayer of the Respondent and the same is liable to be struck down to this extent.

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8. Summing up the foregoing discussion, it is concluded that the detection bill of Rs.50,066/- for 2,146 units for two months i.e. October 2020 and November 2020 charged to the Respondent is justified and payable by the Respondent. Similarly, the impugned decision with regard to the bills from December 2020 to May 2021 is set aside and the Respondent is responsible to pay the said bills.
9. Foregoing in view, the appeal is accepted and the impugned decision is set aside.

Abid Hussain,
Member/Advisor (CAD)

Naweed Illahi Sheikh
Convener/DG (CAD)

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

Dated: 22-03-2024

