



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

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No. NEPRA/Appeal/163/2021/ 333

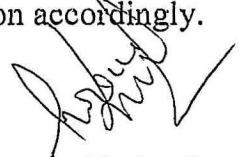
March 14, 2024

1. Azam Hussain,
S/o. Muhammad Ibrahim,
Through Shahid Hussain,
Real Son & Occupier Consumer,
Prop: Power Looms, House No. 66/4,
Main Gali, Near Masjid Sayyeda Fatima-Tu-Zehra,
Mohallah Ansaar Colony, Multan
Cell No. 0321-6305099
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,
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.163/2021 (MEPCO Vs. Azam Hussain) Against the Decision Dated 21.09.2021 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 14.03.2024 (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

Encl: **As Above**



National Electric Power Regulatory Authority

Before The Appellate Board

In the matter of

Appeal No.163/POI-2021

Multan Electric Power Company Limited

.....Appellant

Versus

Azam Hussain S/o. Muhammad Ibrahim Through Shahid Hussain,
Real Son and Occupier Consumer, Prop: Power Looms, House No.66/4,
Main Gali Near Masjid Sayyeda Fatima-ut-Zehra,
Mohallah Ansaar Colony, Multan

.....Respondent

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

For the Appellant:

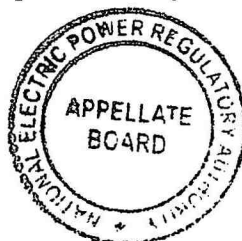
Malik Muzaffar Athangal Advocate

For the Respondent:

Mr. Shahid Hussain

DECISION

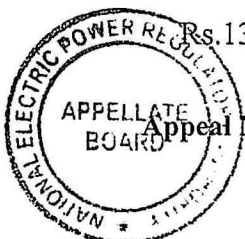
1. Briefly speaking, Mr. Azam Hussain (hereinafter referred to as the "Respondent") is an industrial consumer of Multan Electric Power Company Limited (hereinafter referred to as the "Appellant") bearing Ref No.28-15194-1144101-U having a sanctioned load of 09 kW and the applicable tariff category is B-1(b). Reportedly, the billing meter of the Respondent became defective in April 2020, hence nil consumption was charged by the Appellant from April 2020 to June 2020. Thereafter, the Appellant fed DEF-EST code w.e.f July 2020 and onwards till the replacement of the impugned meter on 23.08.2020. Subsequently, the impugned meter was checked by the M&T team of the Appellant on 15.02.2021 and reportedly, it was found dead stop, therefore a detection bill amounting to Rs.136,405/- for 6,067 units for five months for the period from May 2020 to September 2020 was charged to the Respondent on the basis of consumption of May 2019 to September 2019 and added to the bill for April 2021.





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2. Being aggrieved, the Respondent filed an application before the Provincial Office of Inspection, Multan Region, Multan (hereinafter referred to as the "POI") vide complaint dated 26.04.2021 and challenged the above detection bill and the bills for July 2020 and August 2020. The complaint of the Respondent was disposed of by the POI vide decision dated 21.09.2021, wherein, the detection bill of Rs.136,405/- for 6,067 units for five months for the period from May 2020 to September 2020 is declared void, unjustified, and of no legal effect. The Appellant was directed to charge the revised detection bill for net 294 units for the period from April 2020 to August 2020 to the Respondent.
3. Being dissatisfied, the Appellant has filed the instant appeal before NEPRA and assailed the decision dated 21.09.2021 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 the Consumer Service Manual (the "CSM") and passed the impugned decision on surmises and conjectures; that the POI has no jurisdiction to adjudicate the instant matter as per various judgments of Supreme Court of Pakistan; that the POI did not apply judicious mind while deciding the matter; and that the impugned decision is liable to be set aside.
4. Notice dated 12.01.2022 of the appeal was issued to the Respondent for filing reply/para-wise comment, which were filed on 25.01.2022. In the reply, the Respondent defended the impugned decision *inter alia*, on the following grounds that the POI correctly concluded to charge the revised bills for the period from April 2020 to August 2020 on the basis of percentage drop in consumption due to the COVID-19 pandemic; that the impugned detection bill for five months was debited to the Respondent in violation of Clause 4.4 of the CSM-2010; that the POI has exclusive jurisdiction to adjudicate the instant matter under Section 38 of the NEPRA Act; that the impugned decision is based on facts and law of the case and the same is liable to be upheld.
5. **Hearing:**
 - 5.1 Hearing of the appeal was conducted at NEPRA Regional Office Multan on 09.01.2024, wherein learned counsel appeared for the Appellant, whereas a representative tendered appearance for the Respondent. Learned counsel for the Appellant contended that the billing meter of the Respondent was found defective with upset date and time in April 2020 and the same was replaced with a new meter in September 2020, therefore a detection bill of Rs.136,405/- for 6,067 units for five months for the period from May 2020 to September





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2020 was debited to the Respondent to recover the revenue loss sustained due to defective meter. 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.

5.2 On the contrary, the representative for the Respondent repudiated the version of the Appellant regarding charging the impugned detection bill, supported the impugned decision, and prayed for upholding the same.

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

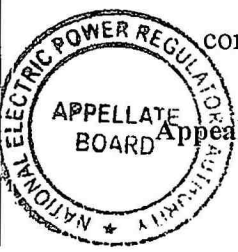
6.1 While addressing the objection of the Appellant regarding the jurisdiction of the POI, it is clarified that the dispute of billing pertains to the metering equipment and the POI has exclusive jurisdiction to adjudicate the same under Section 38 of the NEPRA Act, 1997, and as per procedure laid down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

6.2 As per the available record, the billing meter of the Respondent became defective, hence the bills for the period from April 2020 to June 2020 were charged with nil consumption, and thereafter the Appellant fed DEF-EST code w.e.f July 2020 and onwards till the replacement of the impugned meter on 23.08.2020. The Appellant charged a detection bill of Rs.136,405/- for 6,067 units for five months for the period from May 2020 to September 2020 to the Respondent on the basis of consumption of corresponding months of the year 2019.

6.3 The Respondent challenged before the POI the above detection bill and the bills for the months of July 2020 and August 2020 with the plea that the consumption during the said months dropped due to covid-19 pandemic and the decrease in business due to sold out of 8 looms. The POI vide impugned decision cancelled the detection bill of Rs.136,405/- for 6,067 units for five months for the period from May 2020 to September 2020 and revised the bills for net 294 units for the period from April 2020 to August 2020.

6.4 It is observed that 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.

6.5 To further verify their contention regarding the charging of the impugned detection bill, the average consumption charged during the disputed period is compared below with the corresponding consumption of periods before and after the dispute:





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Period before dispute		Disputed period		Period before dispute	
Month	Units	Month	Units	Month	Units
Apr-19	731	Apr-20	0	Apr-21	1358
May-19	1870	May-20	0	May-21	1635
Jun-19	2364	Jun-20	0	Jun-21	1483
Jul-19	2877	Jul-20	2877	Jul-21	1734
Aug-19	2538	Aug-20	2538	Aug-21	1107
Sep-19	1833	Sep-20	1	Sep-21	0

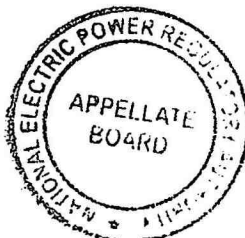
6.6 Perusal of the above table shows that the average consumption charged during the disputed period is much less than the average consumption of the corresponding months of the period before and after the dispute. However, The consumption of July 2020 and August 2020 were charged as per the corresponding consumption of the year 2019, which confirms that the Appellant fed DEF-EST code w.e.f July 2020 and onwards, there is no justification to include the months i.e. July 2020 to September 2020 in the impugned detection bill, which had ultimately overburden the Respondent due to twice charging of bills for the same cause of action.

6.7 Even otherwise, the Appellant debited the detection bill for five (05) months i.e. April 2020 to September 2020, which is contrary to Clause 4.4(e) of the CSM-2010. Said clause of the CSM-2010 restricts the Appellant to debit maximum for two months in case of defective meter. As such, the detection bill of Rs.136,405/- for 6,067 units for five months for the period from May 2020 to September 2020 debited to the Respondent is unjustified and the same liable to be cancelled, which is also the determination of the POI.

6.8 It is an admitted fact that nil consumption was charged during the period from April 2020 to June 2020, therefore it would be judicious to charge the revised bills for the said months as per consumption of corresponding months 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.

6.9 Moreover, the bills for the months i.e. July 2020 and August 2020 already charged by the Appellant on the basis of consumption of corresponding months of the year 2019 are justified as being consistent with Clause 4.4(e) of the CSM-2010 and payable by the Respondent. The impugned decision is liable to be modified to this extent.

7 In view of what has been stated above, we concluded that:





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- 7.1 The detection bill of Rs.136,405/- for 6,067 units for five months for the period from May 2020 to September 2020 debited to the Respondent is unjustified being contrary to the Clause 4.4(e) of the CSM-2010 and facts of the case and the same is cancelled.
- 7.2 The Respondent may be charged the revised bills for April 2020, May 2020, and June 2020 as per consumption of corresponding months 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.
- 7.3 The bills already charged with DEF-EST code from July 2020 and August 2020 are consistent with the foregoing clause of the CSM-2010 and the same are payable by the Respondent.
- 7.4 The billing account of the Respondent may be overhauled, accordingly.
- 8 The impugned decision is modified in the above terms.

Abid Hussain
Member/Advisor (CAD)

Dated: 14-03-2024

Naweed Illahi Sheikh
Convener/DG (CAD)

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

