



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

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No. NEPRA/Appeal/076/2022/ 624

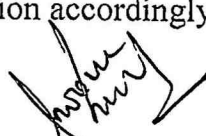
August 12, 2024

1. Imtiaz Haider,  
S/o. Abdul Ghaffar,  
Through Shafique Ahmad,  
S/o. Rehatullah, Porp: Tube Well,  
R/o. Chak No. 105/15-L,  
Tehsil & District Khanewal  
Cell No. 0300-4422432
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,  
Khanewal Division,  
Khanewal  
Cell No. 0302-8404063
5. Sub Divisional Officer (Operation),  
MEPCO Ltd,  
Kacha Khu Sub Division,  
Kacha Khu, Tehsil & District Khanewal
6. POI/Electric Inspector,  
Multan Region,  
Energy Department, Govt. of Punjab,  
249-G, Shah Rukan-e-Alam Colony,  
Phase-II, Multan

Subject: Appeal No.076/2022 (MEPCO Vs. Imtiaz Haider) Against the Decision Dated 22.12.2021 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 12.08.2024 (06 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.076/POI-2022

Multan Electric Power Company Limited

.....Appellant

Versus

Imtiaz Haider S/o. Abdul Ghafar,  
Through Shafique Ahmed, Prop: Tube Well,  
R/o. Chak No.105/15-L, Tehsil & District Khanewal

.....Respondent

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

#### For the Appellant:

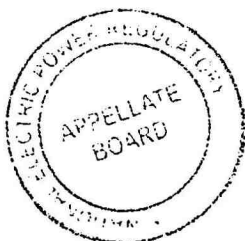
Malik Muzaffar Athangal Advocate  
Mr. Tariq Mehmood Daar XEN

#### For the Respondent:

Mr. Shafiq Ahmed

### **DECISION**

1. Briefly speaking, Mr. Imtiaz Haider (hereinafter referred to as the "Respondent") is an agricultural consumer of Multan Electric Power Company Limited (hereinafter referred to as the "Appellant") bearing Ref No.29-15916-1718700 having a sanctioned load of 15 kW and the applicable tariff category is D-2(b). The billing meter of the Respondent was checked by the Metering and Testing (M&T) team of the Appellant on 04.02.2021 and it was declared tampered (loop installed in terminal) for the dishonest abstraction of electricity and the connected load was noted as 19 kW. Notice dated 04.02.2021 was issued to the Respondent regarding theft of electricity and the electricity of the Respondent was disconnected by the Appellant. Thereafter, a detection bill of Rs.493,963/- against 32,959 units for six months for the period from July 2020 to December 2020 was charged based on 70% load factor of the connected load i.e. 19 kW along with arrears of Rs.118,658/- of February 2017 reflected in the deferred column of January 2021 against which the Respondent paid an amount of Rs.247,000/- to restore the electricity of the premises. Later on, the impugned meter of the Respondent was replaced with a new meter by the Appellant



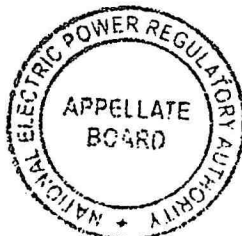
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on 18.02.2021 and handed over to the police.

2. Being aggrieved with the above actions, the Respondent filed an application before the Provincial Office of Inspection, Multan Region, Multan (hereinafter referred to as the "POI") on 22.03.2021 and assailed the detection bill of Rs.493,963/- along with the deferred arrears of Rs.118,658/-. Subsequently, FIR No.375/2021 dated 08.09.2021 was registered against the Respondent on account of theft of electricity. The complaint of the Respondent was disposed of by the POI vide decision dated 22.12.2021, wherein, the detection bill of Rs.493,963/- against 32,959 units for six months for the period from July 2020 to December 2020 and the arrears of Rs.118,658/- were declared void, unjustified, and of no legal effect. The Appellant was directed to overhaul the billing account of the Respondent.
3. Being dissatisfied, the Appellant has filed the instant appeal before NEPRA and assailed the decision dated 22.12.2021 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 lacks the jurisdiction to entertain the said matter according to Section 26(6) of the Electricity Act 1910; that the POI has failed to consider the detailed checking report of M&T formation and the documentary evidence; that credit of Rs.156,162/- was afforded to the Respondent in November 2016 and the remaining amount of Rs.118,658/- was deferred on the direction of Ministry; that the complaint of the Respondent against the arrears of Rs.118,658/- is barred by time under Article 18 of the Limitation Act, 1908; that the POI did not apply his judicious mind while deciding the matter; that the impugned decision is against the facts of law and contrary to well-established principles of justice, equity, and good conscience; and that the impugned decision is liable to be set aside.
4. Notice dated 23.06.2022 of the appeal was issued to the Respondent for filing reply/para-wise comment, which were filed on 07.09.2022. In the reply, the Respondent prayed for dismissal of the appeal on the following grounds that the appeal is time-barred being filed before the NEPRA after lapse of two months and twenty-five days; that the meter was removed from the site being suspicious and FIR was registered on 08.09.2021 after elapse of more than seven months of checking dated 04.02.2021; that the arrears of Rs.118,658/- were raised through some Audit Note, which had been charged in violation of honorable Lahore High Court reported vide 2015 MLD 1487; that the Limitation Act would not be attracted in the matter of filing complaints before the POI, according to clarification No.OP 15-21-2020 (Misc.)2897 dated 14.07.2020 of the Law of Parliamentary Affairs Department, Government of Punjab; that the POI has exclusive jurisdiction to adjudicate the instant dispute of billing, reliance in





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this regard is placed on the judgment of the Supreme Court of Pakistan reported as *PLD 2012 SC 371*; and that the impugned arrears be withdrawn as per impugned decision.

### 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 appeared for the Respondent. Learned counsel for the Appellant contended that the billing meter of the Respondent was found tampered during checking dated 04.02.2021 and the same was replaced with a new meter on 18.02.2021, thereafter a detection bill of Rs.493,963/- against 32,959 units for six months for the period from July 2020 to December 2020 was debited to the Respondent to revenue loss sustained due to theft of electricity. Learned counsel for the Appellant further contended that the Respondent challenged the above detection bill and the deferred arrears of Rs.118,658/-, which were cancelled by the POI without due consideration of the facts of the case. As per learned counsel for the Appellant, the complaint of the Respondent to the extent of the impugned arrears of Rs.118,658/- is barred by time and the impugned decision for cancellation of the said arrears is against Article 181 of the Limitation Act, 1908. Learned counsel for the Appellant prayed that the impugned decision is unjustified and liable to be struck down.

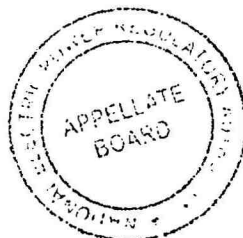
5.2 The representative for the Respondent repeated the preliminary objection regarding limitation and argued that the appeal be dismissed being barred by time. As per the representative for the Respondent, the POI after correct perusal of the record and consumption data, rightly cancelled the above detection bill and the arrears of Rs.118,658/-. He finally prayed for upholding the impugned decision.

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

### 6.1 Limitation:

While considering the preliminary objection of limitation raised by the Respondent, it is noted that the Appellant applied for the copy of the impugned decision dated 22.12.2021 on 22.02.2022, which was delivered by the POI on the same date i.e.22.02.2022. The Appellant filed the appeal before the NEPRA on 28.03.2022 after a lapse of thirty-four (34) days, however, the same may be treated within time after consideration the seven-day period of dispatch of the appeal as given in NEPRA (Procedure for filing Appeals) Regulations, 2012. There is no force in the arguments of the Respondent that the time of limitation starts from the date of announcement. Reliance in this regard is placed on the judgment of the honorable Lahore High Court Lahore cited as *2016 YLR 1916*, wherein it was held that the POI is

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required to send a copy of the impugned decision to the parties and the period of limitation for filing the appeal will start from the date of receipt of the impugned decision. In view of the above, the objection of the Respondent regarding limitation is not valid and, therefore dismissed.

**6.2 Detection bill of Rs.493,963/- against 32,959 units for six months for the period from July 2020 to December 2020**

In the instant case, the Appellant claimed that M&T on 04.02.2021 detected that the impugned meter was intentionally tampered with (terminal block burnt) and debited a detection bill of Rs.493,963/- for 32,959 units for six months for the period from July 2020 to December 2020 to the Respondent based on 70% load factor of the connected load.

6.3 Having found the above discrepancies, the Appellant was required to follow the procedure stipulated in Clause 9.1(c) of the CSM-2010 to confirm the illegal abstraction of electricity by the Respondent and thereafter charge the Respondent accordingly. However, in the instant case, the Appellant has not followed the procedure as stipulated under the ibid clause of the CSM-2010. From the submissions of the Appellant, it appears that the billing meter of the Respondent was checked and removed by the Appellant in the absence of the Respondent.

6.4 As per the judgment of the Supreme Court of Pakistan reported in *PLD 2012 SC 371*, the POI is the competent forum to check the metering equipment, wherein theft of electricity was committed through tampering with the meter and decide the fate of the disputed bill, accordingly. However, in the instant case, the Appellant did not produce the impugned meter before the POI for verification of the allegation regarding tampering with the impugned meter of the Respondent.

6.5 To further verify the contention of the Appellant regarding the illegal abstraction of electricity, the consumption data of connection of the Respondent as provided by the Appellant is examined in the table below:

| Period before dispute                               |             | Disputed period |             | Period after dispute |             |
|-----------------------------------------------------|-------------|-----------------|-------------|----------------------|-------------|
| Month                                               | Units       | Month           | Units       | Month                | Units       |
| Jul-19                                              | 0           | Jul-20          | 1496        | Jul-21               | 2618        |
| Aug-19                                              | 6526        | Aug-20          | 1577        | Aug-21               | 1759        |
| Sep-19                                              | 1264        | Sep-20          | 1950        | Sep-21               | 1526        |
| Oct-19                                              | 650         | Oct-20          | 586         | Oct-21               | 1726        |
| Nov-19                                              | 0           | Nov-20          | 892         | Nov-21               | 1868        |
| Dec-19                                              | 1240        | Dec-20          | 2150        | Dec-21               | 2150        |
| <b>Average</b>                                      | <b>1613</b> | <b>Average</b>  | <b>1442</b> | <b>Average</b>       | <b>1941</b> |
| Detection units/month= C/L (kW) x L.F x No. of Hrs. |             |                 |             |                      |             |
| = 19 x 0.7 x 730 = 9,709 units                      |             |                 |             |                      |             |

14-09-2022





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Perusal of the consumption data of the Respondent transpires that the normal average consumption charged during the disputed period is much less than the normal average consumption of the corresponding periods before and after the dispute. However, the detection units charged @ 9,709 units per month during the disputed period are much higher than the normal average consumption of the corresponding undisputed months of the years 2019 and 2021. Moreover, the above detection bill was charged on the basis of 70% load factor of the connected load, which is contrary to the applicable load factor i.e. 15% as given in Annex V of the CSM-2021.

6.6 In view of the foregoing discussion, we are of the considered view that the detection bill amounting to Rs.493,963/- for 32,959 units for six months for the period from July 2020 to December 2020 charged by the Appellant to the Respondent on the basis of connected load is unjustified and the same is cancelled, which is also the determination of the POI.

6.7 As the actual consumption could not be charged during the disputed period i.e. from July 2020 to December 2020, hence it would be judicious to charge the revised detection bill for three months i.e. October 2020 to December 2020 on the basis of 50% load factor of the sanctioned load i.e. 19 kW. Calculation in this regard is done below:

Table-B

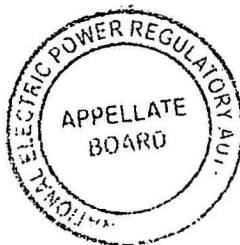
**Period: October 2020 to December 2020**

|                                                                             |                |
|-----------------------------------------------------------------------------|----------------|
| A. Total units to be charged = S/L (kW) x L.F x No. of Hrs. x No. of Months |                |
| = 19 x 0.5 x 730 x 03                                                       | = 20,805 units |
| B. Total units already charged= 586+892+2150                                | = 3,628 units  |
| C. Net units to be charged = A – B =                                        | = 17,177 units |

6.8 The Respondent is liable to be charged the detection bill against net 17,177 units for the period from October 2020 to December 2020 as calculated above. The impugned decision is liable to be modified to this extent.

**6.9 Dispute of deferred arrears of Rs.118,658/-:**

The claim of the Appellant with regard to the time-barred complaint against deferred arrears of Rs.118,658/- as per Article 181 of the Limitation Act 1908 is not valid pursuant to the Judgement dated 18-11-2022 in the Appeal No. 94/NT/2022 titled as “Rashid Bhutta v/s NEPRA” before the Appellate Tribunal (NEPRA). Moreover, the POI has exclusive jurisdiction to adjudicate the instant dispute of billing, reliance in this regard is placed on the judgment of the Supreme Court of Pakistan reported as *PLD 2012 SC 371*. Hence the objection of the Appellant in this regard is rejected.



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6.10 It is observed that the aforementioned arrears were deferred by the Appellant in the bill for February 2017, however, neither the Respondent nor the Appellant could explain the facts about the said deferred arrears. The Appellant even could not provide valid documents before NEPRA to substantiate their version with regard to the impugned arrears of Rs.118,658/-. Similarly, the POI being a competent forum without going into the merits and facts of the case, cancelled the impugned arrears of Rs.118,658/-. Hence the impugned decision to the extent of cancellation of the deferred arrears of Rs.118,658/- is incorrect and the same is liable to be set aside.

6.11 However, the Respondent may file a complaint before the POI against the arrears of Rs.118,658/- deferred in February 2017 and the POI make a fresh determination after hearing both parties in accordance with law.

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

7.1 The detection bill of Rs.493,963/- for 32,959 units for six months for the period from July 2020 to December 2020 debited to the Respondent is unjustified and the same is cancelled.

7.2 The Respondent may be charged against net 17,177 units for the period from October 2020 to December 2020 as calculated in Table B above.

7.3 The impugned decision to the extent of cancellation of the deferred arrears of Rs.118,658/- is incorrect and the same is set aside. However, the Respondent may file a fresh complaint before the POI against the arrears of Rs.118,658/- deferred in February 2017 and the POI make a fresh determination after hearing both parties in accordance with law.

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)

Naveed Illahi Sheikh  
Convener/DG (CAD)

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

Dated: 12-08-2024

