



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

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No. NEPRA/Appeal/007/2024/ *off*

January 06, 2025

- | | |
|---|---|
| 1. Abdul Wahab,
Electrical Engineer,
Board of Management (BOM),
Multan Industrial Estate (MIE),
Multan
Phone No. 061-6537177 | 2. Chief Executive Officer,
MEPCO Ltd,
MEPCO Complex, Khanewal Road,
Multan |
| 3. Muhammad Arshad Mughal,
Advocate High Court,
06-Justice Tariq Mehmood Block,
District Courts, Multan
Cell No. 0300-8733006 | 4. Executive Engineer (Operation),
MEPCO Ltd,
Cantt Division, Multan |
| 5. Sub Divisional Officer (Op),
MEPCO Ltd,
Industrial Estate 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.007/2024 (MEPCO Vs. Abdul Wahab) Against the Decision Dated 30.11.2023 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 06.01.2025 (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 of the Appellate Board on the NEPRA website



National Electric Power Regulatory Authority

Before The Appellate Board

In the matter of

Appeal No.007/POI-2024

Multan Electric Power Company Limited

.....Appellant

Versus

Abdul Wahab, Electrical Engineer,
Board of Management (BOM),
Multan Industrial Estate (MIE), Multan

.....Respondent

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

For the Appellant:

Mr. Muhammad Arshad Mughal Advocate

For the Respondent:

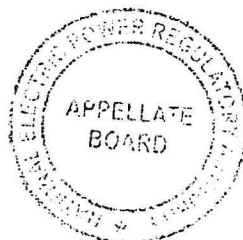
Mr. Abdul Wahab Electrical Engineer

DECISION

1. Brief facts leading to the filing of instant appeal are that Mr. Abdul Wahab (hereinafter referred to as the "Respondent") is a general supply consumer of Multan Electric Power Company Limited (hereinafter referred to as the "the Appellant") bearing Ref No.28-15118-0066601 with a sanctioned load of 494 kW and the applicable tariff category is A-3. Audit Department vide Audit Note No.144 dated 15.03.2021 pointed out the wrong application of tariff i.e. B-1 instead of A-3. Accordingly, the Appellant debited a detection bill of Rs.242,356/- for the period from July 2019 to December 2020 to the Respondent on the basis of the audit recommendation and added to the bill for July 2021.
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 abovementioned detection bill. The complaint of the Respondent was disposed of by the POI vide the decision dated 30.11.2023, wherein the detection bill of Rs.242,356/- was cancelled and the Appellant was directed to overhaul the billing account of the Respondent, accordingly.

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3. Subject appeal has been filed against the afore-referred decision dated 30.11.2023 of the POI by the Appellant before the NEPRA. In its appeal, the Appellant opposed the impugned decision *inter alia*, on the following grounds that the POI failed to observe the case in letter and spirit and the policy formulated in the CSM; the POI failed to decide the matter within 90 days from the date of receipt of the complaint, which is violative of Section 26(6) of Electricity Act 1910; that the factual controversies were involved in the matter and the same falls within domain of Civil Court and that the impugned decision is liable to be set aside.

4. **Proceedings by the Appellate Board**

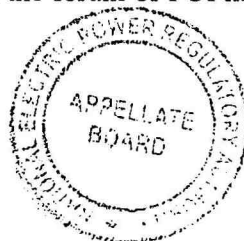
Upon filing of the instant appeal, a notice dated 30.01.2024 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days, which were filed on 14.02.2024. In the reply, the Respondent rebutted the version of the Appellant regarding charging the above detection bill, supported the impugned decision, and prayed for upholding the same.

5. **Hearing**

A hearing was conducted at NEPRA Regional Office Lahore on 14.09.2024, wherein both parties participated through Zoom. Learned counsel for the Appellant contended that the Respondent was found involved in the misuse of the tariff as pointed out by the Audit Department, therefore, a detection bill of Rs.242,356/- for the period from July 2019 to December 2020 was debited to the Respondent on the basis of audit recommendation and added to the bill for July 2021 to recover the revenue loss sustained by the Appellant. Learned counsel for the Appellant opposed the impugned decision and prayed that the same is liable to be set aside. Conversely, the Respondent appearing in person repudiated the stance of the Appellant and argued that the impugned detection bill was charged by the Appellant with malafide intention just to recover their revenue loss. He prayed that the above detection bill be cancelled as already determined by the POI.

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

6.1 While addressing the preliminary objection of the Appellant regarding the time limit for the POI to decide the complaint, it is observed that the Respondent filed a complaint before the POI under Section 38 of the NEPRA Act. POI pronounced its decision on 30.11.2023 after 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, 1910. Reliance in this regard is placed on the judgments of the honorable Lahore High Court Lahore reported in *PLJ 2017 Lahore 627* and *PLJ 2017 Lahore 309*. The relevant excerpt of the above judgments is reproduced below:

“PLJ 2017-Lahore-627:

Regulation of Generation Transmission and Distribution of Electric Power Act, 1997--838(3)--Electricity Act, 1910, S. 26(6)--Constitution of Pakistan, 1973. Art. 199--Constitutional petition--Consumer of LESCO.. The sanctioned load was differed with the connected load--Determine the difference of charges of the previous period of misuse to be recovered from the consumer--Validity--No disconnection or penal action was taken against petitioner rather only difference of charges between sanctioned load and load actually used by petitioner was charged, hence Clause 7.5 of Consumer Service Manual has not been violated-Issuance of detection bill itself amounts to notice and petitioner had also availed remedy before POI against determination--Order passed by POI was beyond 90 days--Order was not passed by the respondent under Section 26(6) of the Act as Electric Inspector rather the order was passed by him in the capacity of POI under Section 38(3) of Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (NEPRA Act), therefore, argument has no substance.

PLJ-2017-Lahore-309:

The learned counsel for the petitioner submitted that there was an outer time limit of 90 days for a decision by the Electric Inspector which has not been observed and which rendered the decision of the Electric Inspector a nullity. This submission of the learned counsel has been dealt with by the Appellate Board and in any case, is fallacious- The short and simple answer rendered by the Appellate Board was that the decision was made under Section 38 of the Act, 1997 and not in terms of Section 26 of the Electricity Act, 1910. Therefore, the outer time limit of 90 days was inapplicable.”

Keeping in view the overriding effect of the NEPRA Act on the Electricity Act, 1910, and the above-referred decisions of the honorable High Court, the objection of the Appellant is dismissed.

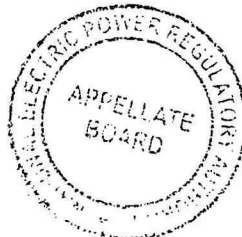
6.2 Audit Department of the Appellant vide Audit Note No.144 dated 15.03.2021 pointed out the discrepancy of misuse of the tariff for the period from July 2019 to December 2020. Accordingly, the Appellant debited a detection bill of Rs.242,356/- to the Respondent in July 2021, which was challenged by him before the POI.



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- 6.3 This whole scenario indicates that the Appellant did not point out misuse of tariff during the monthly readings of the disputed period from July 2019 to December 2020, which is the prime responsibility of the meter reader as per Chapter 6 of the CSM-2021. Subsequently, the Audit Department vide the above-referred audit note recommended the Appellant to charge the detection bill of Rs.242,356/- to the Respondent on account of misuse of tariff in July 2021.
- 6.4 As per Clause 12 of the clarification dated 26.03.2021 regarding the revised CSM-2021, if due to any reason, the charges i.e. MDI/Fixed charges, multiplication factor, power factor penalty, tariff category, etc., have been skipped by the DISCO, the difference of these charges can be raised within one year for a maximum period of six months, retrospectively. Thus the recovery of the impugned detection bill for eighteen (18) months after a lapse of more than seven years is contradictory to the abovementioned clarification of the revised CSM-2021.
- 6.5 Even the impugned detection bill raised on the basis of Audit observation is not tenable in the eyes of the law. The Audit observation is an internal matter between the DISCO and the Audit Department and the Consumer cannot be held responsible for the payment of any detection bill based on the Audit Para. The honorable Lahore High Court in its judgment in the “Water and Power Development Authority, etc v. Umaid Khan” (1988 CLC 501) held that *no amount could be recovered from the consumer on the basis of the audit report as the audit affair is between the WAPDA and its audit department and no audit report could in any manner make consumer liable for any amount and the same could not bring about any agreement between the WAPDA and the consumer making consumer liable on the basis of so-called audit report*. The courts in similar cases relied on the same principle in cases reported cited as 2014 MLD 1253 and 2008 YLR 308.
- 6.6 In view of the foregoing discussion, we are of the considered view that the detection bill of Rs.242,356/- charged to the Respondent based on audit observation is unjustified and the same is cancelled, which is also the determination of the POI.
- 6.7 Perusal of the bill for July 2021 confirms that the Tariff category of the Respondent is changed from B-1 to A-3, hence the Respondent is liable to be charged the detection bill for six (06) retrospective months prior to July 2021 on account of the difference of tariff i.e. A-3 instead of B-1, under Clause 12 of the Clarification dated 26.03.2021 regarding the revised CSM-2021. The impugned decision is liable to be modified to this extent.

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7. Summing up the foregoing discussion, it is concluded as under:

7.1 The detection bill of Rs.242,356/- charged in July 2021 is unjustified and the same is cancelled.

7.2 The Respondent may be charged the detection bill for six (06) retrospective months prior to July 2021 on account of the difference of tariff i.e. A-3 instead of B-1 under Clause 12 of the Clarification dated 26.03.2021 regarding the revised CSM-2021.

7.3 The billing account of the Respondent be overhauled after adjustment payment made against the impugned detection bill.

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: 06-01-2025

