



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

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No. NEPRA/AB/Appeal/299/POI/2019/ **249-252**

March 10, 2020

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| 1. Naeem Ahmed
S/o. Bashir Ahmed,
Prop: M/s. Willy Foods (Pvt.) Ltd,
150-Phase V, Industrial Estate,
Hattar, Haripur | 2. Chief Executive Officer
PESCO Ltd,
WAPDA House, Sakhi Chashma,
Shami Road, Peshawar |
| 3. Sub Divisional Officer (Operation),
PESCO Ltd,
Hattar Sub Division,
Haripur | 4. Provincial Office of Inspection,
Abbotabad Region,
House No. CB-81, Iqbal Road Supply,
Abbottabad |

Subject: **Appeal Titled M/s. Willy Foods (Pvt.) Ltd Vs. PESCO Against the Decision Dated 16.09.2019 of the Provincial Office of Inspection to Government of the Khyber Pakhtunkhwa, Abbotabad Region, Abbottabad**

Please find enclosed herewith the decision of the Appellate Board dated 09.03.2020, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above


(Ikram Shakeel)

No. NEPRA/AB/Appeal/299/POI/2019/

March 10, 2020

Forwarded for information please.

**Assistant Director
Appellate Board**

1. Director (IT) –for uploading the decision on NEPRA website



National Electric Power Regulatory Authority

Before Appellate Board, National Electric Power Regulatory Authority, Islamabad

In the matter of

Appeal No. 299/2019

Naeem Ahmed S/o Bashir Ahmed, Prop: M/s. Willi Foods (Pvt.) Ltd,
150-Phase V Industrial Estate, Hattar HaripurAppellant

Versus

Peshawar Electric Supply Company LimitedRespondent

APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 16.09.2019 PASSED BY PROVINCIAL OFFICE OF INSPECTION PESHAWAR REGION, PESHAWAR

For the appellant:

Mr. Majid Maqsood

Mr. Atif Noman

For the respondent:

Mr. Bashir Ahmed Durrani Advocate

Mr. Innayatullah Deputy Manager

Mr. M. Hamayun SDO

DECISION

1. Brief facts of the case are that the appellant is an industrial consumer of Peshawar Electric Supply Company Limited (PESCO) bearing Ref No.30-26442-0001810 having sanctioned load of 72 kW under the B-2b tariff. Metering equipment of the appellant was checked by S&I team PESCO on 05.12.2016 and reportedly the Automatic Meter Reading (AMR) billing meter was found 33.33% slow due to its red dead phase. Notice dated 26.12.2016 was served to the appellant regarding 33.33% slowness of the AMR billing meter and SDO PESCO approached the Provincial Office of Inspection Abbottabad Region (POI Abbottabad Region) vide letter No.6285-85 dated 26.12.2016 for verification of 33.33% slowness of the AMR billing meter. The AMR billing meter of the appellant was checked by POI Abbottabad Region in

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presence of both the parties on 04.01.2017, wherein 33.33% slowness was established. POI Abbottabad Region vide letter No.REI/Vetting/Atd/781 dated 29.03.2018 recommended PESCO to recover 33.33% slowness of the AMR billing meter for the period 13.05.2015 to 04.01.2017 from the appellant. Subsequently, the appellant received the bill of August 2019, which contained the detection bill of Rs. 1,414,328/- for (OP=63,945 & P=7,137) units for the period 13.05.2015 to 04.01.2017 debited by PESCO @ 33.33% slowness of the AMR billing meter.

2. Being aggrieved, the appellant approached POI Peshawar Region vide application dated 26.08.2019 and prayed for withdrawal of the detection bill of Rs.1,414,328/- charged by PESCO in August 2019. POI Peshawar Region disposed of the matter vide its order dated 16.09.2019, the operative portion of which is reproduced below:

“Parties were afforded opportunity of being heard. The petitioner appeared while the respondents failed to appear in the case. The record was thoroughly examined and the fact reflected that as per Abbottabad Region (Electric Inspectorate). The case was vetted on 29.03.2018 after proper hearing. Hence the instant case is time-barred for the appeal to this forum and the case is dismissed. Respondents are allowed to recover their dues under the law and procedure.”

3. Through the instant appeal, the appellant has assailed the order dated 16.09.2019 of POI Peshawar Region (impugned order) in which he inter alia contended that the detection bill of Rs.1,414,328/- for (OP=63,945 & P=7,137) units for the period 13.05.2015 to 04.01.2017 was charged by PESCO @ 33.33% slowness of the AMR billing meter on the basis of vetting assessment of POI Abbottabad Region as



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conveyed vide letter dated 29.03.2018. The appellant further contended that the above detection bill was charged in violation of clause 4.4 of the Consumer Service Manual (CSM), which allows DISCOs to recover the detection bill for two months only in case of a defective meter. As per appellant, the POI Abbottabad Region neither applied his mind nor checked the slowness of the meter by installing a check meter as laid down in the ibid clause of CSM, therefore vetting assessment dated 29.03.2018 of POI Abbottabad Region is unjustified. The appellant finally prayed that the impugned order of POI Peshawar Region is illegal, unlawful and the same is liable to be set aside. Notice for filing reply/para-wise comments to the appeal was served to PESCO, which however were not filed.

4. The appeal was heard in NEPRA Regional Office Peshawar on 04.01.2020 in which both the parties entered their appearance. The appellant reiterated the same arguments as mentioned in the appeal and opposed the charging of the detection bill of Rs.1,414,328/- for (OP=63,945 & P=7,137) units for the period 13.05.2015 to 04.01.2017 @ 33.33% slowness of the AMR billing meter on the plea that the detection bill for only two months is recoverable in case of defective/slow meter as per provisions of CSM. The appellant further contended that the above detection bill was debited by PESCO in the year 2019 on the basis of the vetting assessment of POI Abbottabad Region conveyed vide letter No. REI/Vetting/Atd/781 dated 29.03.2018, against which he approached the POI Peshawar Region, who treated his application as an appeal and rejected the same vide order dated 16.09.2019 being time barred. The appellant finally prayed that the impugned order of the POI Peshawar Region may be struck down in the interest of justice. On the contrary, learned counsel appearing for



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PESCO rebutted the version of the appellant, defended the impugned order of POI Peshawar Region and prayed for its maintainability. Learned counsel for PESCO submitted the written arguments, wherein it was explained that the AMR billing meter of the appellant was found 33.33% during PESCO checking dated 05.12.2016 and confirmed during POI Abbottabad Region joint checking dated 04.01.2017. As per learned counsel for PESCO, the detection bill of Rs. 1,414,328/- for (OP=63,945 & P=7,137) units for the period 13.05.2015 to 04.01.2017 was debited to the appellant on the recommendation of POI Abbottabad Region conveyed vide letter dated 29.03.2018, which is justified and payable by the appellant.

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

- i. As per Section 38 of the NEPRA Act, 1997, POI Abbottabad Region is the competent forum to determine the accuracy of the metering equipment of the appellant, hence the vetting assessment of POI Abbottabad Region conveyed vide letter No. REI/Vetting/Atd/781 dated 29.03.2018 to the extent of 33.33% slowness in the AMR billing meter of the appellant is correct.
- ii. However, PESCO charged the detection bill of Rs. 1,414,328/- for (OP=63,945 & P=7,137) units for the period 13.05.2015 to 04.01.2017 to the appellant @ 33.33% slowness of the AMR billing meter in August 2019 after a delay of more than sixteen months of vetting assessment of POI Abbottabad Region conveyed vide letter No. REI/Vetting/Atd/781 dated 29.03.2018. The appellant approached the POI Peshawar Region and agitated the above detection bill, who treated it as an appeal against the vetting assessment of POI Abbottabad Region conveyed vide

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letter No. REI/Vetting/Atd/781 dated 29.03.2018 and rejected the same vide impugned order dated 16.09.2019.

iii. The dispute of the detection bill of Rs.1,414,328/- for (OP=63,945 & P=7,137) units for the period 13.05.2015 to 04.01.2017 charged @ 33.33% slowness of the AMR billing meter lies in the jurisdiction of POI Abbottabad Region. However, the appellant disputed the aforesaid detection bill before the wrong forum i.e. POI Peshawar Region, hence the order dated 16.09.2019 of POI Peshawar Region is declared illegal and set aside accordingly.

iv. The appellant however may file a complaint before the competent forum against the charging of the above detection bill in accordance with the law.

6. The appeal is disposed of in the above terms.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Dated: 09.03.2020