



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

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No. NEPRA/Appeal/119/POI/2022/ 061

January 27, 2023

- | | |
|--|---|
| 1. Muhammad Afzal,
S/o. Abdul Aziz,
M/s. Afzal Steel Re-Rolling Mills,
Plot No. 66, Phase-III, HIE, Hattar | 2. Chief Executive Officer
PESCO Ltd,
WAPDA House, Sakhi Chashma,
Shami Road, Peshawar |
| 3. Muhammad Hanzala,
Advocate High Court,
Office 101, Mezzanine Floor,
Dosal Arcade, Jinnah Avenue,
Blue Area, Islamabad | 4. Executive Engineer (Operation),
PESCO Ltd,
Rural Division,
Hattar |
| 5. Sub Divisional Officer (Operation),
PESCO Ltd,
Hattar Sub Division,
Hattar | 6. POI/Electric Inspector,
Abbottabad Region,
Energy & Power Department,
House # CB-81, Iqbal Road Supply,
Abbottabad |

Subject: Appeal Titled PESCO Vs. Muhammad Afzal Against the Decision Dated 22.09.2022 of the Provincial Office of Inspection to Government of the Khyber Pakhtunkhwa, Attotabad Region, Abbottabad

Please find enclosed herewith the decision of the Appellate Board dated 23.01.2023, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(Ikram Shakeel)
Deputy Director (M&E)
Appellate Board

Forwarded for information please.

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



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No.119/POI-2022

Peshawar Electric Supply Company Limited

.....Appellant

Versus

Muhammad Afzal S/o Abdul Aziz,
M/s. Afzal Steel Re-Rolling Mills, Plot No.66,
Phase-III, HIE, Hattar

.....Respondent

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

For the Appellant:

Mr. Muhammad Aqil Jamil SDO

For the Respondent:

Mr. Awais

DECISION

1. Brief facts leading to the filing of instant appeal are that Mr. Muhammad Afzal (hereinafter referred to as the "Respondent") is an industrial consumer of the Peshawar Electric Supply Company Limited (hereinafter referred to as the "Appellant") bearing Ref No.24-26442-0001735 with a sanctioned load of 490 kW and the applicable Tariff category is B-2(b). The billing meter of the Respondent was found 33% slow due to one phase being dead during the Appellant checking dated 15.06.2022. As per downloaded data of the AMR meter installed at the premises of the Respondent, total 127,819 units were found uncharged during the





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period 17.03.2022 to 15.06.2022 due to one phase being dead, therefore, a detection bill of 127,819 (Off-peak=118,555+Peak=9264) units+1,055 kW MDI for three months for the period from 17.03.2022 to 15.06.2022 was charged by the Appellant to the Respondent at the rate of 33% slowness of the billing meter.

2. Being aggrieved, the Respondent assailed the above detection bill before the Provincial Office of Inspection, Abbottabad Region, Khyber Pakhtunkhwa (hereinafter referred to as the "POI"). The complaint of the Respondent was disposed of by the POI vide the decision dated 22.09.2022, wherein the detection bill of 127,819 (Off-peak=118,555+Peak=9264) units+1,055 kW MDI for three months for the period from 17.03.2022 to 15.06.2022 charged to the Respondent was cancelled. However, the Appellant was directed to charge the revised bill for the cost of 6,438 units for two (2) months only i.e. May 2022 and June 2022 to the Respondent.
3. Subject appeal has been filed against the afore-referred decision dated 22.09.2022 of the POI by the Appellant before the NEPRA. In its appeal, the Appellant contended that the billing meter of the Respondent was found 33% slow by the Appellant on 15.06.2022, which was verified through the downloaded data of the AMR meter of the Respondent. The Appellant further contended that notice dated 26.07.2022 was served to the Respondent regarding the slowness of the meter and a detection bill of 127,819 (Off-peak=118,555+Peak=9264) units+1,055 kW MDI for three months for the period from 17.03.2022 to 15.06.2022 was charged to the





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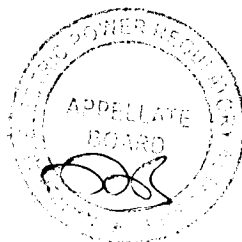
Respondent at the rate of 33% slowness of the billing meter. The Appellant took the ground that online AMR data show zero consumption on one phase during the period from 17.03.2022 to 15.06.2022; which confirms that the above detection bill was charged on the basis of consumed units. As per the Appellant, the POI has no jurisdiction to entertain the instant dispute as per the judgment of the honorable Supreme Court of Pakistan. The Appellant prayed for setting aside the impugned decision.

4. Proceedings by the Appellate Board

Upon filing of the instant appeal, a Notice dated 08.11.2022 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days. However, no reply/para-wise comments were received from the Respondent.

5. Hearing

5.1 Hearing in the matter of the subject Appeal was fixed for 12.01.2023 at Peshawar and accordingly, the notices dated 05.01.2023 were sent to the parties (i.e. the Appellant and the Respondent) to attend the hearing. As per schedule, the hearing of the appeal was conducted at the NEPRA Regional Office, Peshawar on 12.01.2013 in which both parties were in attendance. During the hearing, the representative for the Appellant reiterated the same version as contained in the memo of the appeal and contended that 33% slowness was reported in the billing meter of the Respondent due to a defective Current Transformer (CT) on 15.06.2022, which was verified through downloading the data of AMR meter,





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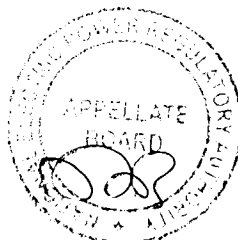
therefore, the detection bill against 127,819 (Off peak=118,555 + Peak=9264) units +1,055 kW MDI for three months for the period from 17.03.2022 to 15.06.2022 was charged to the Respondent at the rate of 33% slowness of the billing meter. The Appellant averred that the dip in consumption data during the disputed period 17.03.2022 to 15.06.2022 proves 33% slowness in the billing meter, hence the above detection bill is justified and payable by the Respondent. The Appellant opposed the impugned decision for cancellation of the above detection bill and prayed to allow the same for three months.

5.2 The representative for the Respondent rebutted the version of the Appellant and argued that healthy MDI was recorded in April 2022 and May 2022, hence there is no justification to charge the above detection bill for three months. The representative for the Respondent supported the impugned decision for allowing the detection bill for two months and prayed for upholding the same.

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

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

The billing meter of the Respondent was found 33% slow during checking dated 15.06.2022 of the Appellant and the detection bill of 127,819 (Off peak=118,555 + Peak=9264) units+1,055 kW MDI for three months for the period from 17.03.2022 to 15.06.2022 was debited to the Respondent. The entire facts of the case manifest that the case pertains to the billing due to a slow meter and the POI has been empowered to adjudicate such matters under Section 38 of the NEPRA Act. In this





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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 metering equipment. Thus the objection of the Appellant has no force and the same is rejected.

6.2 As such the alleged slowness was discovered in the month of June 2022, the matter shall be dealt under the Consumer Service Manual-2021 (the "CSM-2021") implemented in the month of January 2021. Clause 4.3.3 of CSM-2021 being relevant in the matter is reproduced below:

"4.3.3 If at any time PESCO, doubts the accuracy of any metering installation, PESCO may after informing the consumer:

- (a) Fix another duly calibrated and tested metering installation (check meter) in series with the impugned metering installation to determine the difference in consumption or maximum demand recorded by the check meter and that recorded by the impugned metering installation during a fixed period.*
- (b) Where it is not possible for PESCO to install check meter/metering installation of appropriate capacity (due to non-availability of such equipment or otherwise) in series with the impugned metering installation, to check the accuracy of the impugned metering installation, PESCO shall, after informing (in writing) the consumer, test the accuracy of the impugned metering installation at site by means of Rotary Sub-Standard or digital power analyzer or meter testing equipment.*
- (c) If the impugned metering installation should prove to be incorrect during the above checking(s), PESCO shall install a "correct meter" immediately or within two billing cycles if meters are not available.*
 - (i) In case slowness is established, PESCO shall enhance multiplying factor for charging actual consumption till replacement of the defective metering installation.*
 - (ii) Further, charging of a bill for the quantum of energy lost if any, because of malfunctioning of metering installation shall not be more than two previous billing cycles.*
 - (iii) In case fastness is established, PESCO shall change/reduce multiplying factor for charging actual consumption till replacement of the defective metering installation. PESCO shall provide due credit for excessive units up to two previous billing*





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cycles. ”

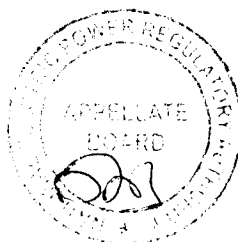
6.4 Under the above provision of CSM-2021, immediately upon alleged discovery of slowness, the Appellant was required to install a duly calibrated check meter in series with the impugned metering installation to determine the difference in consumption or maximum demand recorded by the check meter and that recorded by the impugned metering installation during a fixed period. But, it was not done, which is a violation of the procedure given in the CSM-2021.

6.5 Clause 4.3.5 (b) of the CSM-2021 requires that the “Electric Inspector/POI” shall carry out checking of the accuracy of the metering installation within one month of receipt of such request.” There is no evidence on record that an inspection of the metering installation was carried out by the POI as required under the CSM-2021 to determine the slowness of the meter, which is a failure on his part to comply with the applicable law.

6.6 Notwithstanding all the above observations, the contention of the Appellant regarding the 33% slowness of the billing meter may be verified through the analysis of the consumption data of the Respondent in the below table:

Undisputed			Disputed			% increase/decrease in consumption
Month	Units	MDI	Month	Units	MDI	
Mar-21	172688	752	Mar-22	185560	733	7%
Apr-21	217022	752	Apr-22	139700	770	-36%
May-21	180274	784	May-22	97019	774	-46%
Jun-21	102163	677	Jun-22	31746	469	-69%

6.7 The above consumption data shows a considerable decrease in consumption of the Respondent during the disputed period i.e. April 2022 to June 2022 vis-à-vis the





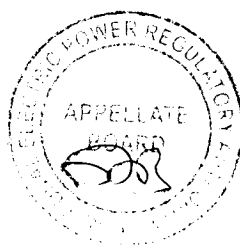
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consumption of corresponding months of the previous year, which may indicate slowness of the impugned meter during the disputed period. However, impugned meter recorded healthy MDI till May 2022 as compared to the MDI of corresponding months of previous year and it drastically declined in June 2022. Under Clause 4.3.3(c)(i) of the CSM-2021, upon confirmation of the inaccuracy of a meter, the Appellant was responsible to either replace the defective meter immediately or apply enhanced MF till the replacement of the correct meter. Further, as per Clause 4.3.3(c)(ii) of the CSM-2021, the Appellant is bound to charge the consumer on account of the slowness of the meter for a maximum of two billing cycles.

6.8 In view of the foregoing discussion, we hold that the detection bill of 127,819 (Off peak=118,555 + Peak=9264) units+1,055 kW MDI for three months for the period from 17.03.2022 to 15.06.2022 debited by the Appellant to the Respondent is unjustified being inconsistent with Clause 4.3.3(c)(ii) of the CSM-2021 and the same is liable to be cancelled.

6.9 Since the slowness was discovered in June 2022, therefore, under Clause 4.3.3(c)(ii) of the CSM-2021, the Respondent is liable to be charged the revised bill containing two parts i.e. (i) (off-peak+peak) units to be assessed for two months i.e. May 2022 and June 2022 and (ii) MDI to be assessed for June 2022 only on the basis of 33% slowness of the impugned meter. The impugned decision is liable to be modified to this extent.

7. Summing up the foregoing discussion, it is concluded that the detection bill of





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127,819 (Off peak=118,555 + Peak=9264) units+1,055 kW MDI for three months for the period from 17.03.2022 to 15.06.2022 is illegal, unjustified being contrary to Clause 4.4.3(c)(ii) of the CSM-2021 and the same is declared as null and void. Under the said Clause 4.4.3(c)(ii) of the CSM-2021, the Respondent may be charged the bill containing two parts i.e. (i) (off peak+peak) units to be assessed for two months i.e. May 2022 and June 2022 and (ii) MDI to be assessed for June 2022 in respect of the quantum of energy lost because of malfunctioning of metering installation at the rate of 33% slowness of the billing meter. The billing account of the Respondent be overhauled, accordingly.

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

Syed Zavar Haider
Member

Abid Hussain
Convener

Muhammad Irfan-ul-Haq
Member

Dated: 23/01/2023.

