



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

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No. NEPRA/Appeal/045/2024/ /o//

December 03, 2024

- | | |
|---|---|
| 1. Fazal Tahir,
Gandaf, Swabi
Cell No. 0346-9805039 | 2. Chief Executive Officer
PESCO Ltd,
WAPDA House, Sakhi Chashma,
Shami Road, Peshawar |
| 3. Executive Engineer (Operation),
PESCO Ltd,
Topi Division, Swabi
Cell No. 0370-1340840 | 4. Sub Divisional Officer (Operation),
PESCO Ltd,
Gadoon Sub Division, Swabi
Cell No. 0370-1340842 |
| 5. POI/Electric Inspector,
Nowshera Region,
Tehsil Road, Near Police Station,
Nowshera Kalan, Nowshera | |

Subject: **Appeal No.045/2024 (PESCO Vs. Fazal Tahir) Against the Decision Dated 24.07.2023 of the Provincial Office of Inspection to Government of the Khyber Pakhtunkhwa Nowshera Region, Nowshera**

Please find enclosed herewith the decision of the Appellate Board dated 03.12.2024 (04 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.045/POI-2024

Peshawar Electric Supply Company Limited

.....Appellant

Versus

Fazal Tahir Gandaf, Swabi

.....Respondent

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

For the Appellant:

Mr. Irfan Ali XEN

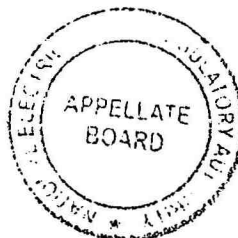
Mr. Hamayun Khan SDO

For the Respondent:

Mr. Fazal Tahir

DECISION

1. Brief facts of the case are that Mr. Fazal Tahir (hereinafter referred to as the “Respondent”) is a domestic consumer of Peshawar Electric Supply Company Limited (hereinafter referred to as the “Appellant”) bearing Ref No.30-26842-0006602-3 having sanctioned load of 40 kW and the applicable tariff category is A-1(b). The metering equipment of the Respondent was checked by the M&T team of the Appellant on 30.05.2017 and reportedly the billing meter was found 33% slow due to the yellow phase being dead. Subsequently, downloaded data of the impugned meter was sent to POI for vetting assessment, who vide report dated 15.09.2017 declared the impugned meter as 66% slow due to yellow and blue being defective. Resultantly, a detection bill of Rs.1,132,892/- for 68,449 units for the period from 04.06.2016 to 04.09.2016 (four months) was debited to the Respondent @ 33% slowness of the meter and added to the bill for November 2017.
2. Being aggrieved with the abovementioned actions of the Appellant, the Respondent initially approached the Civil Court Swabi against the charging of the impugned detection bill. After litigation in different courts, the honorable High Court Peshawar vide order dated 27.03.2023 directed the Respondent to approach the Provincial Office of Inspection, Nowshera Region, Khyber Pukhtunkhwa (hereinafter referred to as the “POI”) for redressal of his grievance. Accordingly, the Respondent filed a complaint before the POI and challenged the impugned detection bill. The matter was decided by POI vide decision dated 24.07.2023, wherein the



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detection bill of Rs.1,132,892/- for 68,449 units for the period from 04.06.2016 to 04.09.2016 was declared null and void and the Appellant was allowed to debit the revised bill of net 18,112 units for the period from 04.10.2016 to 28.02.2017 on account of 67% slowness of the meter.

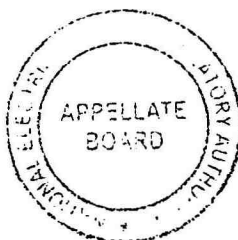
3. Being dissatisfied, the Appellant has filed the instant appeal before NEPRA and assailed the decision dated 24.07.2023 of the POI (hereinafter referred to as the "impugned decision"). In its appeal, the Appellant opposed the maintainability of the impugned decision, *inter-alia*, on the following grounds that the POI misunderstood and misinterpreted the facts, documents, consumption data and applicable law; that the impugned meter was declared 66% slow by the POI vide his assessment dated 15.09.2017 but the said forum unlawfully granted relief to the Respondent beyond his request; and that the impugned decision is liable to be set aside.
4. Notice dated 12.06.2024 of the appeal was issued to the Respondent for filing reply/para-wise comment, which however were not filed.

5. Hearing

- 5.1 Hearing of the appeal was conducted at NEPRA Head Office Islamabad on 12.09.2024, wherein both parties tendered appearance. The Appellant contended that the billing meter of the Respondent was found 33% slow during M&T checking dated 30.05.2017, which was verified by the POI vide assessment dated 15.09.2017 therefore a detection bill of Rs.1,132,892/- for 68,449 units for the period from 04.06.2016 to 04.09.2016 was debited to the Respondent. 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. The representative for the Appellant prayed that the impugned decision is unjustified and liable to be struck down.
- 5.2 On the contrary, the Respondent appearing in person rebutted the version of the Appellant and averred that the impugned meter was functioning correctly till 30.05.2017 and the impugned detection bill of Rs.1,132,892/- for 68,449 units for the period from 04.06.2016 to 04.09.2016 charged to the Respondent on account of 33% slowness of the meter is unjustified and the POI has rightly cancelled the same. The Respondent finally defended the impugned decision and prayed for withholding the same.

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

- 6.1 As per the available record, the billing meter of the Respondent was found 33% slow during checking dated 30.05.2017. Therefore, the Appellant charged a detection bill of Rs.1,132,892/- for 68,449 units for the period from 04.06.2016 to 04.09.2016 (four months) to the Respondent,



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which was challenged before the POI. The POI vide impugned decision cancelled the impugned detection bill and allowed the Appellant to debit the revised bill of 18,112 units for the period from 04.10.2016 to 28.02.2017 against which the Appellant filed the present appeal before the NEPRA.

6.2 It is observed that the Appellant debited the impugned detection bill for four months, which is contrary to Clause 4.4(e) of the CSM-2010. Said clause of the CSM-2010 restricts the Appellant to debit the slowness maximum for two months to the Respondent. It is further observed that the impugned meter was found 33% slow during checking dated 30.05.2017, whereas the Appellant debited the impugned detection bill for the period from 04.06.2016 to 04.09.2016 instead of two retrospective billing cycles and the basis of said detection bill was made @ 33% slowness. The Appellant could not give just reasoning as to why the irrelevant period was charged to the Respondent on account of the alleged 33% slowness of the meter. Under these circumstances, we are of the considered view that the impugned detection bill of Rs.1,132,892/- for 68,449 units for the period from 04.06.2016 to 04.09.2016 charged to the Respondent is unjustified and the same is liable to be cancelled as already determined by the POI.

6.3 Similarly, the determination of the POI for revision of the bill against net 18,112 units @ 67% slowness of the meter need to be verified through the analysis of consumption data in the below table:

Month	Units	Month	Units	% slowness
Jan-16	10228	Jan-17	1567	85%
Feb-16	11819	Feb-17	2490	79%
Mar-16	11898	Mar-17	1957	84%
Apr-16	13896	Apr-17	2454	82%
May-16	16027	May-17	6331	60%
Jun-16	35046	Jun-17	12616	64%
Jul-16	37500	Jul-17	19281	49%
Aug-16	50112	Aug-17	19405	61%
Sep-16	49996	Sep-17	17592	65%
Oct-16	48690	Oct-17	17134	65%
Nov-16	1676	Nov-17	12738	-660%
Dec-16	1366	Dec-17	4625	-239%
Average	24021	Average	9849	59%

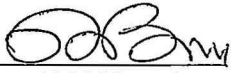
Perusal of the above table shows that the impugned meter recorded 59% less average consumption in the year 2017 as compared to the average consumption of the year 2016. This negates the finding of the POI regarding 67% slowness of the meter. Even otherwise, the




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determination of the POI has no valid basis as the said forum has taken irrelevant period i.e. 04.10.2017 to 28.02.2017, which is contrary to the facts as well as the Clause 4.4(e) of the CSM-2010. In view of above, we are of the considered view that the impugned decision for revision of the detection bill for net 18,112 units @ 67% slowness of the meter is unjustified and the same is liable to be withdrawn to this extent.

- 6.4 Since the impugned meter was found running 59% slow, the Respondent is liable to be charged the revised detection bill for two billing cycles prior to checking dated 30.05.2017 @ 59% slowness of the meter as per Clause 4.4(e) of the CSM-2010 and the bills with enhanced MF due to 59% slowness of the meter w.e.f checking dated 30.05.2017 and onwards till the replacement of the impugned meter as per Clause 4.4(c) of the CSM-2010. The impugned decision is liable to be modified to this extent.
7. In view of what has been stated above, it is concluded that the detection bill of Rs.1,132,892/- for 68,449 units for the period from 04.06.2016 to 04.09.2016 (four months) is unjustified, and the same is cancelled. The Respondent may be charged the revised detection bill for two billing cycles before checking dated 30.05.2017 @ 59% slowness of the meter as per Clause 4.4(e) of the CSM-2010 and the bills with enhanced MF due to 59% slowness of the meter w.e.f checking dated 30.05.2017 and onwards till the replacement of the impugned meter as per Clause 4.4(c) of the CSM-2010.
8. The impugned decision is modified in the above terms.


Abid Hussain
Member/Advisor (CAD)

Dated: 03-12-2024


Naweed Illahi Sheikh
Convener/DG (CAD)


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

