



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

NEPRA Office , Ataturk Avenue (East), G5/1, Islamabad
Tel. No.+92 051 2013200 Fax No. +92 051 2600030
Website: www.nepra.org.pk E-mail: ikramshakeel@nepra.org.pk

No. NEPRA/Appeal/015/2024/ *266*

March 28, 2025

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| 1. Ibrar Saeed,
S/o. Muhammad Yousaf,
C/o. Coles Law College,
Iqbal Road Supply, Abbottabad
Cell No. 0345-5026666
0331-5026666 | 2. Chief Executive Officer
PESCO Ltd,
WAPDA House, Sakhi Chashma,
Shami Road, Peshawar |
| 3. Saeed Khan Akhunzada,
Advocate High Court,
Chamber No. 19, Muslim Block,
District Courts, F-8 Markaz,
Islamabad
Cell No. 0300-8597974 | 4. Executive Engineer (Operation),
PESCO Ltd,
City Division, Mansehra
Cell No. 0347-0921613 |
| 5. Sub Divisional Officer (Operation),
PESCO Ltd,
City Sub Division, Mansehra
Cell No. 0322-9928028 | 6. POI/Electric Inspector,
Abbottabad Regional Office,
CB.81, Iqbal Road, Supply Bazar,
Abbottabad
Phone No. 0992-405582 |

Subject: **Appeal No.015/2024 (PESCO Vs. M/s. Sang-e-Paras CNG) Against the Decision Dated 05.09.2022 of the Provincial Office of Inspection to Government of the Khyber Pakhtunkhwa Abbottabad Region, Abbottabad**

Please find enclosed herewith the decision of the Appellate Board dated 28.03.2025 (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.015/POI-2024

Peshawar Electric Supply Company Limited

.....Appellant

Versus

M/s. Sang-e-Paras CNG,
Shahrah-e-Resham Dhangri Road,
Tehsil & District Mansehra

.....Respondent

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

For the Appellant:

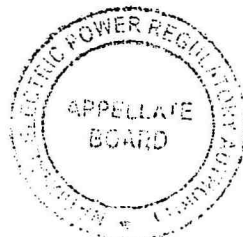
Mr. Saeed Khan Akhunzada Advocate
Mr. Rasheed Ahmed Qureshi XEN
Mr. Daniyal Khan SDO

For the Respondent:

Mr. Naeem Ahmed Manager

DECISION

1. Brief facts of the case are that M/s. Sang-e-Paras CNG (hereinafter referred to as the "Respondent") is a commercial consumer of Peshawar Electric Supply Company Limited (hereinafter referred to as the "Appellant") bearing Ref No.30-26711-0099709 having sanctioned load of 103 kW and the applicable tariff category is A-2(c). The metering equipment of the Respondent was checked by the M&T team of the Appellant on 28.03.2022 and reportedly, AMR billing meter was found 33% slow due to one phase being dead, therefore, the CT wire of the impugned meter was reconnected, and it was found running ok. Subsequently, a detection bill of 19,827 (OP=16634+P=3193) units for the period from January 2022 to March 2022 (three months) was debited to the Respondent @ 33% slowness of the meter.
2. Being aggrieved with the abovementioned actions of the Appellant, the Respondent initially approached the Consumer Court Mansehra on 25.05.2022 against the charging of the impugned detection bill. Subsequently, the honorable Consumer Court, vide order dated 07.06.2022, directed the Respondent to approach the Provincial Office of Inspection Abbottabad Region, Khyber Pukhtunkhwa (hereinafter referred to as the "POI") for redressal of his grievance. Accordingly, the Respondent filed a complaint before the POI on 09.06.2022 and challenged the impugned detection bill. POI decided the matter vide decision dated 05.09.2022, the operative portion of which is reproduced below:

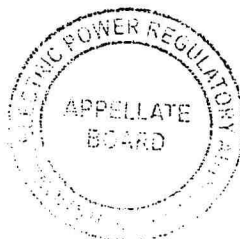




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“The record placed on file scrutinized and the above data indicates that the consumption recorded during the disputed months (01/2022 to 03/2022) is higher as compared to the consumption of undisputed corresponding months which reveals no slowness in the above disputed months. Hence, the assessment charged on account of 33.33% slowness shall be withdrawn, and the LPS charged during the disputed period shall also be waived off. After that, the respondents are directed to prepare a revised bill to the Petitioner for payment. The case is, therefore, disposed of with the above decision.

3. Being dissatisfied, the Appellant has filed the instant appeal before NEPRA and assailed the decision dated 05.09.2022 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 impugned meter was found 33% slow during checking dated 28.03.2022; that notice date 29.03.2022 was issued to the Respondent; that the detection bill of 19,827 units for the period from January 2022 to March 2022 (three months) was debited to the Respondent @ 33% slowness of the meter; that the impugned decision is suffering from material irregularity and gross illegality as the POI has not applied his anxious mind to the fact that the Respondent was caught red-handed stealing electricity; that the POI has no jurisdiction to entertain such complaint of direct theft of electricity, according to the judgments of superior courts; and that the impugned decision is liable to be set aside.
4. Notice dated 11.03.2024 of the appeal was issued to the Respondent for filing reply/para-wise comment, which were filed on 20.03.2024. In the reply, the Respondent raised the preliminary objection regarding limitation and submitted that the impugned decision was announced on 05.09.2022, whereas the Appellant filed an appeal before the NEPRA after a lapse of more than one year, which is inconsistent with Section 38(3) of the NEPRA Act. The Respondent further submitted that the Appellant remained silent from 05.09.2022 till the Consumer Court Order dated 12.12.2023, wherein it was directed to both parties to approach a competent forum within one month, however, the Appellant filed instant appeal before the NEPRA on 06.02.2024. As per Respondent, the Appellant neither raised any objection before the Consumer Court nor provided consumption record of the AMR meter before the POI despite various directions. According to the Respondent, the POI has jurisdiction to adjudicate the instant matter, and the impugned decision was announced after hearing both parties and perusal of the record. The Respondent finally prayed for the dismissal of the appeal with cost.
5. Hearing of the appeal was conducted at NEPRA Head Office Islamabad on 05.11.2024, wherein both parties tendered appearance. Learned counsel for the Appellant contended that the billing meter of the Respondent was found 33% slow during M&T checking dated



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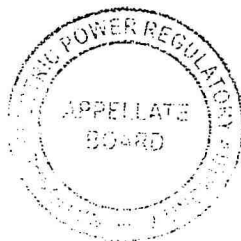
28.03.2022, which was rectified on the same date. Learned counsel for the Appellant further contended that a detection bill of 19,827 (OP=16634+P=3193) units for the period from January 2022 to March 2022 (three months) was debited to the Respondent @ 33% slowness of the meter. The Appellant argued that the POI did not consider the real aspects of the case and erroneously declared the above detection bill as null and void. Learned counsel for the Appellant prayed that the impugned decision is unjustified and liable to be struck down. On the contrary, the representative for the Respondent rebutted the version of the Appellant and averred that the impugned meter was functioning correctly and the impugned detection bill of 19,827 units is unjustified. The Respondent 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 28.03.2022. Therefore, the Appellant charged a detection bill of 19,827 (OP=16634+P=3193) units for the period from January 2022 to March 2022 (three months) to the Respondent @ 33% slowness of the meter, which was challenged before the POI. The POI vide impugned decision cancelled the impugned detection bill against which the Appellant filed the present appeal before the NEPRA.

6.2 While addressing the preliminary objection of limitation raised by the Respondent, it is noted that the Appellant obtained the copy of the impugned decision dated 05.09.2022 on 01.01.2024 and filed the instant appeal before the NEPRA on 12.01.2024 which is within thirty (30) days of the receipt of the impugned decision as per Section 38 of the NEPRA Act, 1997. 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 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. The objection of the Respondent regarding limitation is not valid and, therefore dismissed.

6.3 It is observed that the Appellant debited the impugned detection bill for three months, which is contrary to Clause 4.3.3c(ii) of the CSM-2021. Said clause of the CSM-2021 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 28.03.2022, whereas the Appellant alleged direct theft of electricity. In such cases, the Appellant was required to disconnect the electricity of the Respondent and preserve the removed material as





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evidence, thereafter, the Appellant has to lodge an FIR with the Police against the Respondent as per Clause 9.1 of the CSM-2021. However, the Appellant neither proceeded as per the ibid clause of the CSM-2021 nor could bring documentary evidence to substantiate their stance that the Respondent was involved in direct theft of electricity. Hence, the objection of the Appellant regarding the jurisdiction of the POI has no force and is rejected.

6.4 With regard to the charging of the impugned detection bill by the Appellant to the Respondent, consumption data as provided by the Appellant is analyzed in the below table:

Year	2021	2022	2023
Month	Units	Units	Units
January	9027	18659	23390
February	9269	13902	1741
March	5990	7696	6996
April	6344	8800	9898
May	4870	12115	10881
June	5055	10179	10853
July	5796	16229	10005
August	13615	15281	10709
September	4919	11206	9250
October	5204	14285	8200
November	6537	24037	15469
December	7448	21636	11422
Average	7006	14502	10735


Perusal of the record shows that the consumption of the Respondent during the disputed period is much higher than the normal consumption of the corresponding months of the preceding and succeeding years. Hence, there is no justification to debit further detection bill on account of the alleged slowness of the impugned meter.

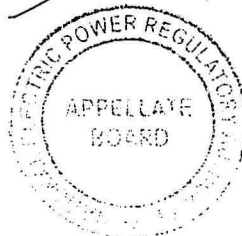
6.5 Under these circumstances, we are of the considered view that the impugned detection bill of 19,827 (OP=16634+P=3193) units for the period from January 2022 to March 2022 charged to the Respondent is unjustified and the same is cancelled as already determined by the POI.


7. Foregoing in view, the appeal is dismissed.

On leave
Abid Hussain
Member/Advisor (CAD)

Dated: 28-03-2025
Appeal No.015/POI-2024


Naweed Hahhi Sheikh
Convener/DG (CAD)




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