



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

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No. NEPRA/AB/Appeal-035/POI-2013/ 398—400

April 14, 2014

1. The Chief Executive Officer  
TESCO Ltd,  
WAPDA House, Sakhi Chasma,  
Shami Road,  
Peshawar
2. The XEN  
FATA Division,  
Near Hamdard Dawa Khana,  
I.E. Jamrud Road, Hayatabad,  
Peshawar
3. Habib Ullah Khan  
TF-243, 3<sup>rd</sup> Floor,  
Denze Trade Centre, Saddar,  
Peshawar

Subject: Appeal Titled "Habib Ullah Khan" Vs. "TESCO" Against the Decision Dated 07.03.2013 of the Electric Inspector/POI to Government of the Khyber Pakhtunkhwa Peshawar Region, Peshawar

Please find enclosed herewith the decision of the Appellate Board dated 11.04.2014, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

  
(M. Qamar Uz Zaman)

No. NEPRA/AB/Appeal-035/POI-2013/ 401

April 14, 2014

Forwarded for information please.

Member Appellate Board

1. Registrar
2. Director (CAD)
3. Electric Inspector/POI, Peshawar Region
4. Master File

CC:

1. Vice Chairman/Member (Tariff)
2. Member (M&E/Licensing)
3. Member (CA)



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# National Electric Power Regulatory Authority

## Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-035/POI-2013

Habib Ullah Khan

..... Appellant

## Versus

Tribal Electric Supply Company Limited

..... Respondent

Date of Hearing:

20/03/2014

### For the Appellant

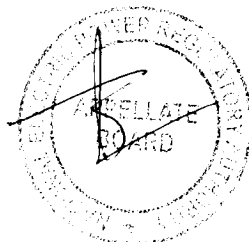
Habib Ullah Khan in person

### For the Respondent

Gul Nawaz Khan, Director Commercial  
Tajammul Hussain, Revenue Officer  
Javed Hussain, SDO

## ORDER

1. This order shall dispose of the Appeal filed by Habib Ullah Khan (hereinafter referred to as the Appellant) against the decision dated 07.03.2013 of the Provincial Office of Inspection / Electric Inspector Peshawar Region, Peshawar (hereinafter referred to as POI/EI) under Section 38(3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (hereinafter referred to as "the Act").
2. Brief facts giving rise to the instant Appeal are that TESCO is the licensee of National Electric Power Regulatory Authority (hereinafter referred to as NEPRA) for distribution





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of electricity in its authorized territorial jurisdiction as per terms and conditions of the license.

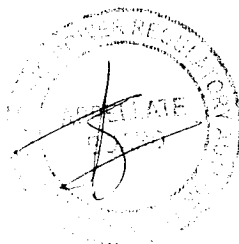
3. The Respondent is an industrial consumer (Steel Mill) of TESCO under tariff B-2 with the sanctioned load of 210 KW having Reference No. 24-59112-0027903. The Appellant filed a complaint to Consumer Affairs Division, NEPRA Islamabad on 15.06.2011 regarding non installation of meter on his premises and charging of excess bills instead of fixed monthly charges. Subsequently this complaint was forwarded by the Authority to POI/EI on 12.09.2012 for making determination under section 38 of NEPRA Act, 1997. The Appellant also approached the POI/EI through in another application dated 05.05.2012. In his application addressed to POI/EI, the Appellant stated that an excessive billing of Rs.15.0 million had been made and charged to him with the following breakup.:

About Rs.10 million included in the bill for unknown reasons and Rs. 5.5 million charged in excess due to application of B-2 tariff instead of B-3.

4. Learned POI/EI after affording opportunity of hearing to both the parties and examination of relevant record placed before him announced his decision on 07.03.2013. The operative portion of same is reproduced below:

*"On the fact of foregoing discussions, the instant petition is disposed off to the following extent:-*

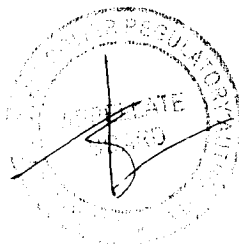
1. *The billing so made against the Petitioner from the date of connection to the dates from which the petitioner extended his load as per TON's capacity (Production Capacity) of the Furnace Crucible while restricting the Power factor to 35 % (though during proceeding it was said that supply on FATA Feeders remained for 6 hours to 8 hours on daily basis).*
  - a. *From 08-2008 to May 2009 @ of 800 KVA Transformer with p.f of 0.8 (which is approximate capacity for melting a stuff in a crucible of 1 TON).*
  - b. *From June 2009 to November 2009 @ of 2 TONs capacity.*
  - c. *From October 2009 to June 2010 @ 3 TONs capacity.*





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- d. *From July 2010 onward (to the date upto which the connection remained intact and not disconnected, such date shall be reckoned from the official record of TESCO only) @ of 4 TONs capacity.*
- The TONs capacities shall be in proportionate to the base of 1 TON capacity.*
- e. *After proper installation of dedicated Feeder to the petitioner (confirming from official record of TESCO), petitioner should be billed on actual meter reading.*
2. *The billing from June, 2011 onward shall be made/revised under Tariff B-III, whatever excess amount recovered from the Petitioner under Tariff-B-2 during this period shall be refunded.*
3. *Due to the non-provision of requisite inquiry report of FIA regarding the charging on A/C of less MDI, the petitioner if qualified like others, be considered accordingly.*
4. *The metering equipments of the Petitioner shall be installed at the premises of the Petitioner duly secured in a separate room under lock & key and keys shall be kept by the XEN Operation to avoid temperance with the meter and future billing be restricted to actual meter.*
5. / Being aggrieved with impugned decision dated 07.03.2013 of POI/EI, the Appellant initially preferred an Appeal before Secretary Energy and Power, Government of KPK on 16.04.2013. The Appeal was however transferred to NEPRA by Government of KPK vide letter No. CPO/E&P/Appeal/EI/2013/9/4791-92 dated 03.10.2013 for adjudication. Later on the Appellant also filed an Appeal before NEPRA on 10.12.2013 which was registered in NEPRA on 16.12.2013. In the instant Appeal, the Appellant stated that he obtained the electric connection for the Steel Mills on 27.08.2008 with a sanctioned load of 210 KW. The load gradually increased in June 2009 to 400 KW, in July 2009 to 500 KW, in November 2009 to 900 KW, in June 2010 to 1200 KW and finally in January 2011 to 1600 KW which remained in tact till September 2011 when his electric supply was disconnected. According to the Appellant, the POI/EI in the impugned decision has not considered the above declared load by him on oath and also the period during which factory remained closed. In the opinion of the Appellant the tariff applicable to him is B-3 w.e.f June 2010 instead of June 2011. The Appellant pointed out that no relief was given to him by POI/EI in the light of inquiry report of FIA. The Appellant submitted





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that from August 2009 to September 2011, the total units consumed by his mill are 5,720,645 units whereas TESCO has billed him 7,905,814 units and as such 2,185,169 units being excessively charged are refundable. The Appellant contented that it was admitted by TESCO officials before the POI/EI during the course of hearing that the electricity was supplied for 6 hours a day which converts into 25 % load factor. The Appellant pointed out that the POI/EI in the impugned decision has mentioned 6 to 8 hours supply daily which converted into 30 % load factor but unfortunately the load factor applied by the POI/EI in the impugned decision is 35 % which according to him was totally wrong. Referring to the tabulated data provided in the Appeal, the Appellant pleaded that excessive units were booked by TESCO on the feeder which resulted in negative line losses. He stated that the load was not checked by the POI/EI due to imposition of curfew in FATA and as such MDI declared by him on affidavit should have been charged accordingly. The Appellant further pointed out that, although TESCO could not furnish a report of FIA regarding charging of Rs. 9,944,625/- against him but the POI/EI did not exempt the Appellant from such charges. In the end the Appellant prayed as under:

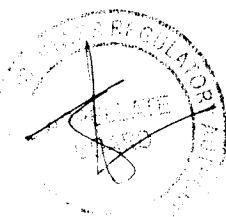
*"For the foregoing and accepting the instant appeal, it is most respectfully prayed that:*

- 1. The billing made by the Electric Inspector be set aside and all the billing be revised on the load (submitted) by the appellant to the Electric Inspector through Affidavit with 25 % load factor as the Respondents has admitted that electricity was supplied to the appellant for 6 hours in a day only.*

**OR**

*Relief of line losses of at least 50 % be allowed.*

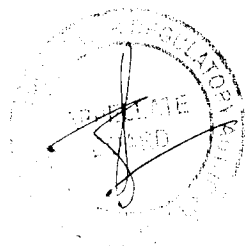
- 2. The billing from on 11/2009 onward be revised under Tariff B-3 and whatever amount debited/billed due to application of wrong Tariff B-2 be adjusted.*
- 3. The assessment of the [Rs.] 9944625/- debited against the appellant in account of less MDI on the report of F.I.A, be expunged as having been quashed from the account of the appellant.*
- 4. Any other relief, which the Honourable appellate authority may deems necessary."*





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6. In response to the above Appeal, a notice was issued to TESCO for reply/parawise comments which were submitted vide letter No. 8496 dated 03.01.2014. TESCO in the reply, inter alia, submitted that due to security reason, installation of energy meter was not possible in tribal areas and even otherwise the Appellant by-passed the meter and that is the reason the Appellant was charged on load factor basis. TESCO informed that the sanctioned load of industrial connection of the Appellant is 210 KW but the Appellant enhanced the load without approval of competent authority. Since the sanctioned load of the Appellant is less than 500 KW, the tariff applicable to him is B-2 and there can be no tariff change without completion of departmental formalities by the Appellant, stated TESCO. TESCO further contented that fixed charges have been levied against the Appellant correctly. TESCO opposed the Appeal and declared the same as unjustified.
7. After issuing the notice to both the parties the Appeal was fixed for hearing on 03.02.2014 at NEPRA Islamabad, in which Habib Ullah Khan, the Appellant appeared in person whereas TESCO was represented by Gul Nawaz Khan Director Commercial, Tajammul Hussain Revenue Officer and Javed Hussain SDO. During the hearing the Appellant insisted that the hours of supply to his mill be restricted to 6 hours per day only whereas the TESCO officials contented that the supply be considered for 7-8 hours daily. In order to prove their assertions both the parties were directed to provide relevant record and evidence within 15 days. During the hearing it also emerged that TESCO had also challenged the impugned decision and preferred an appeal to Secretary Energy and Power, Government of KPK. Accordingly TESCO was also directed to provide proof regarding pendency of any such appeal before Government of KPK. During the hearing TESCO provided statements showing.
  - (i) The detail of the bill of the Appellant actually carried out by TESCO from July 2008 to December 2013.
  - (ii) Inter alia, the detail of electricity units supplied by 11 KV Ghallanai and Khawazai feeders booked against the connection of the Appellant.

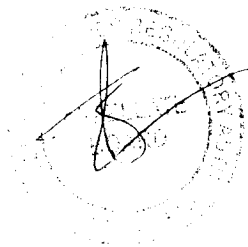




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(iii) Proposed Revised Billing of the Appellant from August 2008 to March 2013 on the basis of 7 hours supply per day @ 29 % load factor. In support of his claim regarding supply of electricity for 6 hours a day which is equivalent to 25 % load factor, the Appellant provided some papers on 28.02.2014 but perusal of the same revealed that the papers do not substantiate his contention.

8. After issuing notice the Appeal was fixed for hearing on 20.03.2014 at NEPRA Islamabad, in which Habib Ullah Khan, the Appellant, appeared in person whereas TESCO was represented by Gul Nawaz Khan Director Commercial, Tajammul Hussain Revenue Officer and Javed Hussain SDO. At the outset TESCO officials stated that they do not press their point regarding pendency of the Appeal before Government of KPK and also submitted statement showing duration of supply of 11 kV Khawazai and Ghallanai Feeders emanating from 132 kV Ghallanai grid station Mohmand Agency. Regarding the MDI kW for billing the Appellant submitted in the hearing that his declaration on oath in this regard should be considered. He once again reiterated that hours of supply are not more than 6 hours a day and the same shall be considered for load factor and billing purpose. The Appellant also requested that the amount of Rs. 9,944,625/- levied against him on the report of FIA may be waived off being not justified. TESCO officials in their arguments vehemently opposed the stance of the Appellant regarding hours of supply per day and kW MDI for the billing purpose.
9. We have heard the arguments advanced by both the parties and examined the relevant record placed before us. Following are our observations in the instant Appeal:
  - i. The industrial connection (Ittehad Steel Mills) of the Appellant was sanctioned for a load of 210 KW in July 2008 and his billing started from August 2008.
  - ii. Initially the Appellant's connection was getting supply from mixed load 11 KV Khawazai feeder which continued till February 2011 and later on shifted to mixed load 11 KV Ghallanai feeder.
  - iii. Admittedly no energy meter was installed on the premises of the Appellant connection and his billing was made on assessment/average basis. However the







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payments were made by the Appellant after revision of the original bill issued by TESCO with lesser amount.

- iv. TESCO is responsible to install the energy meter on the premises of the Appellant and charge him bill accordingly but it could not be done due to law and order situation in FATA. Billing became disputed due to non installation of the meter by TESCO. Hence balance of convenience is in the favour of the Appellant.
- v. From the record available, the MDI kW charged to the Appellant is discussed below:

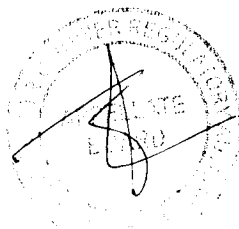
MDI kW as per actual billing by TESCO.

Month	MDI KW	Month	MDI KW
Aug-08	190	Apr-10	370
Sep-08	104	May-10	370
Oct-08	204	Jun-10	900
Nov-08	204	Jul-10	473
*Dec-08	0	Aug-10	473
Jan-09	190	Sep-10	600
Feb-09	180	Oct-10	1200
Mar-09	180	*Nov-10	0
Apr-09	180	Dec-10	1200
May-09	192	Jan-11	4182
Jun-09	461	Feb-11	1776
Jul-09	460	Mar-11	1925
Aug-09	460	*Apr-11	0
Sep-09	460	*May-11	0
Oct-09	460	*Jun-11	0
Nov-09	550	Jul-11	1851
Dec-09	550	Aug-11	2073
Jan-10	550	Sep-11	2073
Feb-10	470	Oct-11	2073
Mar-10	370		

Total MDI kW= 27954 kW

Average MDI kW Per Month=  $27954/34=822$  kW

\* Months excluded: December 2008, November 2010, April 2011, May 2011 and June 2011.





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MDI kW as declared by the Appellant on oath.

Period	Months	MDI KW	Total (KW)
August 2008 to May 2009	10	210	2100
June 2009 to October 2009	5	400	2000
November 2009 to May 2010	7	500	3500
June 2010 to December 2010	7	900	6300
January 2011 to October 2011	10	1600	16000
Total	39	3610	29900
Average kW Per month $29900/39=$			767

MDI kW as assessed by TESCO in the proposed Revised Billing.

Period	Months	MDI KW	Total (KW)
August 2008 to November 2008	4	500	2000
*December 2008	1	0	0
January 2009 to May 2009	5	500	2500
June 2009 to October 2009	5	800	4000
November 2009 to June 2010	8	1200	9600
July 2010 to October 2010	4	1600	6400
*November 2010	1	0	0
December 2010 to March 2011	4	1600	6400
*April 2011	1	0	0
*May 2011	1	0	0
*June 2011	1	0	0
July 2011 to October 2011	4	1600	6400
Total	39	7800	37300
Average kW Per month $29900/34*=$			1097

\* Months excluded: December 2008, November 2010, April 2011, May 2011 and June 2011.



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As MDI kW determined by POI/EI in the impugned decision.

Period	Months	MDI KW	Total (KW)
August 2008 to May 2009	10	400	4000
June 2009 to September 2009	4	800	3200
October 2009 to June 2010	9	1200	10800
July 2010 to October 2011	16	1600	25600
Total	39	4000	43600
Average KW Per month $29900/39=$			1118

The comparison of above calculation has revealed that the average kW MDI as already charged per month i.e. 822 KW is closer to the figure i.e. 767 kW as declared by the Appellant on oath. **Therefore the MDI charged every month as per previous billing of TESCO is found reasonable and justified.** MDI as already assessed by TESCO in revised billing i.e. 1097 kW and decided by POI/EI i.e. 1118 kW are too high, without basis, not justified and therefore can not be considered for the purpose of billing of the Appellant.

vi. As regards the hours of supply and corresponding load factor it has been observed that the Appellant has admitted 6 hours of supply which on conversion become 25 % load factor. On the other hand in the revised billing TESCO has proposed 7 hours of supply per day which converts into 29 % load factor. In the absence of actual meter reading it is awfully difficult to decide the number of hours per day and the resultant load factor. However at this belated stage we observe that the mean of 6 hours (25 % load factor) supply which is admitted by the Appellant and 7 hours (29 % load factor) as proposed by TESCO in the Revised Billing will be reasonable. **Therefore 6.5 hours which is equivalent to 27 % load factor shall be considered for the monthly billing of the Appellant.**

vii. In the impugned decision, the POI/EI has decided as under:

- Load Factor 35%
- Charging of kW MDI as under:
  - August 208 to May 2009 400 kW (1 TON)
  - June 2009 to September 2009 800 kW (2 TON)
  - October 2009 to June 2010 1200 kW (3 TON)
  - July 2010 till date 1600 kW (4 TON)





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Billing for June 2011 onwards on B-3 tariff basis.

- Case of the Appellant regarding FIA charges on account of less MDI be considered.
- Metering equipment shall be installed on premises of the Appellant and future billing be done accordingly.

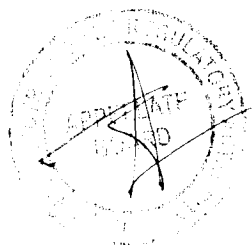
viii. As regards the charging of Rs. 9,944,625/- on the recommendations of FIA, it is noted that no record was placed before POI/EI by TESCO in spite of his demand. This amount also does not appear in the Proposed Revised Billing of TESCO. Moreover neither this recovery was pressed by TESCO nor any record placed before us in this regard in the instant Appeal.

ix. The running hours detail provided by TESCO for 132 KV grid station is not reliable as the daily log sheets have not been attached. Moreover this data is not consistent with the proposed revised billing data prepared by the TESCO. Hence it cannot be considered for the billing of the Appellant

12. In view of the detailed discussion in foregoing paragraphs, it is held that:

- The past billing of the Appellant made by TESCO from August 2008 to October 2011 has been found unjustified, void and without lawful authority and is hereby set aside.
- The impugned decision of learned POI/EI is also set aside being not reasonable and justified.
- The Appellant is liable to pay from August 2008 to October 2011 excluding the months: December 2008, November 2009, April 2011, May 2011 and June 2011 as under:

- MDI kW chargeable: As per actual billing carried out by TESCO against the Appellant from August 2008 to October 2011
- No. of hours per day/load factor applicable: 6.5 hours/27 %





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- iv. Tariff B-2 is applicable up to load of 500 KW and tariff B-3 for the load above 500 kW and the same shall be applied every month as the case may be.
- v. TESCO is directed to revise the entire billing from August 2008 to October 2011 in accordance with the parameters as given in para-iii and para-iv above and make the adjustments of the payments already made by the Appellant. LPS charges, penalties or detection bills imposed if any to the Appellant shall not be charged by TESCO being void and of no legal effect.
- vi. TESCO is directed to install the TOU meter on the premises and ensure billing of Appellant according to actual meter reading in future.
- vii. As the existing connected load of the Appellant is above the sanctioned load of 210 kW, the Appellant is directed to complete the departmental formalities within 30 days for regularization of his load and application of tariff accordingly.

13. The Appeal is disposed of in above terms.

Muhammad Qamar-ur-Zaman  
Member

Nadir Ali Khoso  
Convener

Muhammad Saqlain Arsha  
Member

Date: 11.04.2014

