



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

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No. NEPRA/Appeal/179/2018/ 1093-1098

May 15, 2019

1. Rab Nawaz
S/o. Jehandad,
R/o. Balra Dakhli,
Jhang, Tehsil Fateh Jhang,
District Attock
2. Chief Executive Officer
IESCO Ltd,
Head Office, St. No. 40,
Sector G-7/4, Islamabad
3. Faisal Bin Khurshid,
Advocate Supreme Court,
Al Rushd Advocates,
32-Haroon-Ur-Rasheed Block,
Near Post Office, Johar Road,
F-8 Markaz, Islamabad
4. Executive Engineer/Manager Operation,
IESCO Ltd,
Pindi Gheb Division,
Having office at WAPDA Colony,
Attock Road, near Khan Hotel,
Pindi Gheb
5. Sub Divisional Officer
IESCO Ltd,
Fateh Jhang Sub Division,
Fateh Jhang, District Attock
6. Electric Inspector/POI,
Islamabad Region,
XEN Office, Irrigation & Power
Department,
Rawal Dam Colony, Park Road,
Islamabad

Subject: Appeal Titled IESCO Vs. Rab Nawaz Against the Decision Dated 30.07.2018 of the Provincial Office of Inspection to Government of the Punjab Islamabad Region, Islamabad

Please find enclosed herewith the decision of the Appellate Board dated 14.05.2019, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

No. NEPRA/Appeal/179/2018/ 1099
Forwarded for information please.

(Ikram Shakeel)

May 15, 2019

Assistant Director
Appellate Board

✓ Registrar



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No.179/2018

Islamabad Electric Supply Company LimitedAppellant

Versus

Rab Nawaz S/o Jehandad R/o Balra_Dakhli_Jhang,
Tehsil Fateh_Jhang, Distt. AttockRespondent

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

For the appellant:

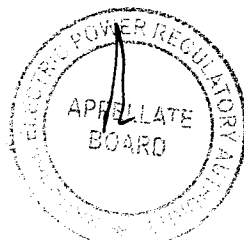
Mr. Faisal Bin Khurshid Advocate
Mr. M. Saleem Khan SDO
Mr. Hafiz Qadir Bakhsh C/S

For the respondent:

Nemo

DECISION

1. Through this decision, an appeal filed by Islamabad Electric Supply Company Limited (IESCO) against the decision dated 30.07.2018 of the Provincial Office of Inspection, Islamabad region, Islamabad (POI) is being disposed of.
2. As per facts of the case, the respondent is an industrial consumer of IESCO bearing Ref No.27-14253-3636500 with a sanctioned load of 107 kW under B-2(II) tariff. Meter of the respondent was checked by the appellant IESCO during December 2011



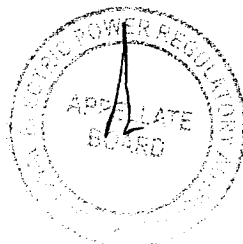


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and reportedly 69,276 units were found pending, hence those pending units were charged to the respondent by IESCO in the bill for December 2011. The respondent approached IESCO against the aforesaid bill, which subsequently was withdrawn on the recommendation of the review committee vide letter dated 05.03.2012. IESCO observed that the meter of the respondent recorded 13,658 units/6 kW MDI in January 2012, hence again prepared the detection bill of 68,486 units for the period July 2011 to December 2011 (6 months) on the basis of consumption of January 2012 but it was not charged to the respondent. Subsequently, the Audit department vide Audit Note No.182 dated 03.07.2014 also pointed out less charging of 67,754 units during the period July 2011 to December 2011. Later on, IESCO charged the detection bill of Rs.334,540/- for 67,754 units for the period July 2011 to December 2011 to the respondent in December 2017 as per Audit Note No.182 dated 03.07.2014.

3. The respondent assailed the above detection bill before NEPRA and the complaint of the respondent was forwarded by NEPRA to POI for further adjudication. POI disposed of the matter vide decision dated 30.07.2018 with the following conclusion:

“Summing up all the above observations/discussion and keeping in view all the aspects of the case this forum declares the detection bill of Rs.334,540/- in 12/2017 on the basis of Audit Note as null, void and without legal effect and the petitioner is not liable to pay the same. The IESCO/Respondents are directed to

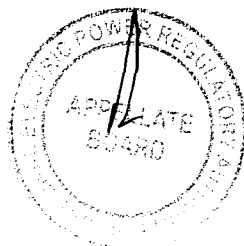




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withdraw the same and overhaul the petitioner's account by adjusting all Credits, Debits, Deferred Amount & Payments already made by the consumer."

4. The subject appeal has been filed by IESCO against the POI decision dated 30.07.2018 (hereinafter referred to as the impugned decision) before NEPRA in which IESCO contended that the respondent was charged the bill for December 2011 on account of 69,276 pending units, which however was withdrawn on the recommendation of review committee vide letter dated 05.03.2012. As per IESCO, the detection bill of 68,486 units for the period July 2011 to December 2011 on the basis of consumption recorded in January 2012 prepared but not served to the respondent. According to IESCO, subsequently, the Audit department recommended to charge 67,754 units for the period July 2011 to December 2011 vide AN No.182 dated 03.07.2014, hence the detection bill of Rs.334,540/- for 67,754 units for the period July 2011 to December 2011 was charged to the respondent in December 2017. IESCO opposed the maintainability of the impugned decision on the grounds that POI did not consider the real aspects of the case; that POI flouted the legal, technical facts and impleaded the parties in violation of Order 1 Rule 10 of the CPC; that the impugned decision was pronounced in the absence of the appellants; that POI did not advert the provisions of NEPRA Act, 1997, Electricity Act, 1910, the CPC and passed the whimsical order; that the impugned decision is liable to be set aside being passed without lawful authority.





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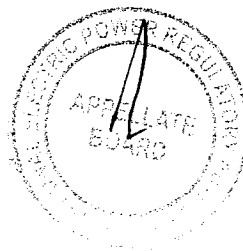
5. Notice for filing reply/para-wise comments to the appeal was summoned to the respondent, which however was not replied.
6. Hearing of the appeal was conducted in NEPRA Head Office, Islamabad on 04.04.2019, which was attended by the IESCO representatives and no one appeared for the respondent. Learned counsel for IESCO reiterated the same version as contained in memo of the appeal and contended that 69,276 units were charged in December 2011 which were withdrawn by the review committee IESCO on 05.03.2012. Learned counsel for IESCO averred that the detection bill of Rs.334,540/- for 67,754 units for the period July 2011 to December 2011 was charged to the respondent in December 2017 on the recommendation of Audit Department. Learned counsel for IESCO argued that the above detection bill is justified as the less consumption was charged during the disputed period July 2011 to December 2011. Learned counsel for IESCO submitted that POI has only considered the audit note and not discussed the facts of the case while deciding the disputed detection bill. Learned counsel for IESCO finally prayed for setting aside the impugned decision.
7. Having heard the arguments and perusal of record, it is observed as under:-
 - i. Being a billing dispute, POI is competent to adjudicate the matter u/s 38 of NEPRA Act, 1997, the objection of IESCO in this regard is void.





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- ii. 69,276 pending units were initially charged to the respondent by IESCO in the bill for December 2011, which later on were withdrawn on the recommendation of review committee vide letter dated 05.03.2012. Subsequently, the Audit department pointed out less charging of 67,754 units during the period of July 2011 to December 2011 vide Audit Note No.182 dated 03.07.2014. IESCO charged the detection bill of Rs.334,540/- for 67,754 units for the period July 2011 to December 2011 to the respondent on the basis of consumption of January 2012 as recommended vide Audit Note No.182 dated 03.07.2014. The respondent assailed the above detection bill before POI.
- iii. It is observed that the dispute of pending 69,276 units for the period July 2011 to December 2011 was already settled between the parties and IESCO withdrew the above units on 05.03.2012. Hence charging the detection bill of Rs.334,540/- for 67,754 units on the basis of Audit recommendation for the same period is unjustified as the dispute of billing for that period is past and closed transaction and IESCO is estopped from the recovery of the above detection bill.
- iv. Further, the above detection bill was charged for a period of six months to the respondent by IESCO due to a defective meter, which is inconsistent with clause 4.4 of the Consumer Service Manual (CSM). In fact, said clause of CSM allows DISCOs to charge the detection bill maximum for two months to a consumer. Hence the detection bill is violative of CSM.





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- v. Even otherwise, the audit observation is an internal matter between the DISCO and Audit Department and the respondent cannot be held responsible for payment of the same. In this regard, reliance is placed on the cases reported in 2014 MLD 1253 titled M/s. Mehmood Textile Mills v/s MEPCO and 2008 YLR 308 titled WAPDA v/s Fazal Karim.
- vi. It is relevant to mention that the respondent was charged detection bill for the period July 2011 to December 2011 by IESCO in December 2017. The claim of IESCO is even time-barred by more than three years under the Limitation Act, 1908. In this regard, reliance is placed on the Lahore High Court, judgment dated 30.11.2015 in respect of writ petition No.17314-2015 titled "Muhammad Hanif v/s NEPRA and others", which is reproduced below:

"-the period of three years for filing an application applies when the right to apply accrues as prescribed in Article 181 of Limitation Act, 1908."

8. In view of the above, the findings recorded in the impugned decision are upheld and consequently the appeal is dismissed.

Muhammad Qamar-uz-Zaman
Member

Nadir Ali Khoso
Convener

Muhammad Shafique
Member

Dated: 14.05.2019

