



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

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No. NEPRA/Appeal/286/POI/2019/1270

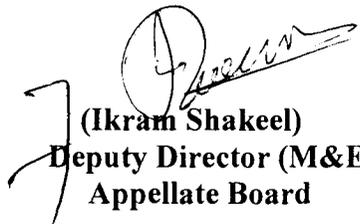
December 29, 2020

1. Zameer-ur-Rehman
S/o. Asmat Ullah Khan,
R/o. Dhoke Abbasi, Sarai Kharbooza,
Tarnol, Islamabad
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. Imran Shaukat Rao
Advocate High Court,
Islamabad High Court Building,
G-10/1, Islamabad
5. Sub Divisional Officer (Operation)
IESCO Ltd,
Margalla Sub Division,
Wahdat Colony, Taxila
6. Electric Inspector/POI,
Islamabad Region,
XEN Office, Irrigation & Power
Department,
Rawal Dam Colony, Park Road,
Islamabad

Subject: **Appeal Titled IESCO Vs. Zameer-ur-Rehman Against the Decision Dated 15.07.2019 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 10.12.2020, 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. Director (IT) –for uploading the decision on NEPRA website



National Electric Power Regulatory Authority

Before Appellate Board National Electric Power Regulatory Authority Islamabad

In the matter of

Appeal No.286/POI-2019

Islamabad Electric Supply Company LimitedAppellant

Versus

Zameer-ur-Rehman S/o Asmat Ullah Khan, R/o Dhoke Abbasi,
Sarai Kharbooza Tranol, IslamabadRespondent

APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION, TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 15.07.2019 PASSED BY PROVINCIAL OFFICE OF INSPECTION ISLAMABAD REGION ISLAMABAD

For the appellant:

Mr. Faisal Bin Khursheed Advocate
Mr. Saifullah Afridi Addl. XEN

For the respondent:

Mr. Imran Shaukat Rao Advocate

DECISION

1. As per facts of the case, the respondent is an industrial consumer bearing Ref No. 24-14213-163000 with a sanctioned load of 10 kW under the B-1b tariff. Premises of the respondent was raided by IESCO along with FIA on 16.09.2013 and allegedly the respondent was found stealing electricity through a bogus meter No.0072167. The electric supply of the respondent was instantly disconnected by IESCO, the meter was removed and handed over to FIA. IESCO lodged FIR No.58/2013 dated 16.09.2013 with the FIA Crime Circle against the respondent for theft of electricity and debited a

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detection bill amounting to Rs.646,770/- of 28,082 units for the period 29.06.2012 to 16.09.2013 (16 months) to the respondent on the basis of the connected load.

2. Being aggrieved with the actions of IESCO, the respondent initially filed a civil suit before the Senior Civil Judge Islamabad in December 2013. Honorable Senior Civil Judge Islamabad vide order dated 28.07.2015 stopped the criminal proceedings against the respondent due to non-prosecution of FIA Crime Circle despite repeated notices and the respondent was released on bail. After litigation in different courts, Honorable Islamabad High Court, Islamabad vide order dated 06.06.2018 directed the respondent to approach the Provincial Office of Inspection (POI). In compliance with the ibid directions of the High Court, the respondent filed a complaint before POI and challenged the aforesaid detection bill. The complaint of the respondent was decided by POI vide decision dated 15.07.2019 in which the detection bill of Rs.646,770/- of 28,082 units for the period 29.06.2012 to 16.09.2013 (16 months) was declared as null and void.
3. IESCO was dissatisfied with the decision of POI dated 15.07.2019 (hereinafter referred to as the impugned decision), therefore filed the instant appeal before NEPRA. In its appeal, IESCO inter alia stated that the premises of the respondent was checked by IESCO along with FIA on 16.09.2013 and the respondent was found involved in the illegal abstraction of electricity through the bogus meter. IESCO submitted that the supply of the respondent was disconnected and the removed bogus meter was handed over to FIA. As per IESCO, a detection bill of Rs.646,770/- of 28,082 units for the



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period 29.06.2012 to 16.09.2013 (16 months) was charged by IESCO to the respondent due to theft of electricity. According to IESCO, the respondent was stealing electricity through a bogus meter, hence the above detection bill was debited to the respondent as per the formula of estimated billing. IESCO challenged the impugned decision on the plea that opinion of POI is scanty and without consideration of the real aspects of the case; that POI flouted the legal, technical facts and jumped upon assuming jurisdiction forthwith on the very first opportunity; 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.

4. In response to the notice, the respondent filed reply/para-wise comments to the appeal on 28.04.2020. In his reply, the respondent denied the allegation of theft of electricity levelled by IESCO, supported the impugned decision and prayed for dismissal of the appeal on the ground of limitation.
5. Notice was issued to both the parties for hearing scheduled at Islamabad on 03.12.2020, in which both the parties participated. Learned counsel for IESCO reiterated the same arguments given in memo of the appeal and contended that the premises of the respondent was inspected by IESCO along with FIA on 16.09.2013, wherein he was found involved in the dishonest abstraction of electricity through the bogus meter.

Learned counsel for IESCO further contended that the electric supply of the respondent





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was disconnected, the removed meter was handed over to FIA and FIR No.58/2013 was lodged against the respondent. As per learned counsel for IESCO, the detection bill amounting to Rs.646,770/- of 28,082 units for the period 29.06.2012 to 16.09.2013 was charged by IESCO to the respondent on the basis of connected load, which is justified and payable by the respondent. Learned counsel for IESCO argued that the respondent was using electricity through the bogus meter, hence the above detection bill was charged for fifteen months as the Consumer Service Manual (CSM) is not applicable in the instant case. On the contrary, learned counsel for the respondent repeated his objection regarding the limitation and contended that the impugned decision was pronounced in presence of IESCO and the time for filing the appeal may be counted from the date of the impugned decision. Learned counsel for IESCO rebutted the version of learned counsel for the respondent and informed that the period for filing the appeal before NEPRA is considered from the date of receipt of the impugned decision in pursuance of judgment reported as 2016 YLR 1916. Learned counsel for the respondent refuted the allegation of theft of electricity through the bogus meter and contended that the electricity bills were charged by IESCO to the respondent on the basis of recording of the meter till August 2013, which were paid accordingly. According to learned counsel for the respondent, IESCO failed to follow the procedure of theft of electricity as laid down in chapter 9 of CSM, hence charging the detection bill Rs.646,770/- of 28,082 units for the period 29.06.2012 to 16.09.2013 (16 months) to the respondent is liable to be withdrawn.





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6. Arguments heard and the record perused, Following has been observed:
- i. Regarding the preliminary objection of the respondent for limitation. It is observed that copy of the impugned decision dated 15.07.2019 was received by IESCO on 10.10.2019 and the appeal was filed before NEPRA on 23.10.2019 within 30 days of receipt of the impugned decision as laid down in Section 38 of NEPRA Act, 1997. Therefore, the objection of the respondent in this regard is devoid of force and overruled.
 - ii. IESCO along with FIA raided the premises of the respondent on 16.09.2013 and allegedly the respondent was found stealing electricity through a bogus meter. FESCO handed over the removed meter to the FIA crime circle and registered FIR No.58/2013 against the respondent. Subsequently, a detection bill of Rs.646,770/- of 28,082 units for the period 29.06.2012 to 16.09.2013 (16 months) was charged by IESCO based on connected load, which was assailed before POI.
 - iii. It is observed that allegation of theft of electricity was leveled by IESCO against the respondent and handed over the bogus meter to FIA. During the criminal proceedings, FIA failed to appear before the Senior Civil Judge Islamabad despite repeated notices, hence the Honorable Senior Civil Judge Islamabad vide order dated 28.07.2015 closed the proceedings and the respondent was released on bail. It is the prime responsibility of IESCO to produce the disputed meter to authenticate its allegation of theft of electricity, which was not done in the instant





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case. Besides, charging the aforesaid detection bill for the period 29.06.2012 to 16.09.2013 (sixteen months) by IESCO to the respondent is violative of provisions of clause 9.1 c(3) of CSM as the prescribed procedure therein was not followed. We are inclined to agree with the determination of POI that the detection bill of Rs.646,770/- of 28,082 units for the period 29.06.2012 to 16.09.2013 (16 months) charged by IESCO against the respondent is unjustified and liable to be declared null and void.

iv. According to clause 9.1c(3) of CSM, the respondent being an industrial consumer could be charged the detection bill maximum for six billing cycles i.e. April 2013 to September 2013 as the inspection was conducted by IESCO on 16.09.2013. As a matter of fact, the sanctioned load of the respondent is 10 kW, hence the net chargeable units to the respondent are calculated below as per Annex-VIII of CSM:

Period: April 2013 to September 2013 (6 months)	
(A) Total units to be charged as per CSM	= Load x Load factor x Hrs. x months = 10 kW x 0.2 x 730 x 6 = 8,760 units
(B) Total units already charged	= [Reading noted in Sep-2013 – Reading noted in Apr-2013] = [11,345 – 4,361] = 6,984 units
(C) Net units to be charged	= (A) - (B) = 8,760 - 6,984 = 1,776 units

7. In view of what has been stated above, we have concluded that the detection bill of Rs.646,770/- of 28,082 units for the period 29.06.2012 to 16.09.2013 (16 months)





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charged by IESCO to the respondent is unjustified and should be cancelled. The respondent may be charged net of 1,776 units as a detection bill for the period April 2013 to September 2013. The billing account of the respondent be overhauled accordingly.

8. The impugned decision is modified in the above terms.

Muhammad Qamar-uz-Zaman
Member/SA (Finance)

Muhammad Shafique
Member/SA (Legal)

Nadir Ali Khoso
Convener/ DG (M&E)

Dated: 10.12.2020