



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

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

No. NEPRA/Appeal/092/POI/2019/ 621

January 19, 2021

1. Faisal Saeed
KPD Marketing,
Iqbal Kayani, Faisal Shopping Mall,
29-Kashmir Road, Opposite GPO,
Saddar, Rawalpindi
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. Sub Divisional Officer (Operation)
IESCO Ltd,
Dhamial Sub Division,
Opposite Friends CNG,
Liaquat Colony, Chakri Road,
Rawalpindi
5. Electric Inspector/POI,
Islamabad Region,
XEN Office, Irrigation & Power Department,
Rawal Dam Colony, Park Road,
Islamabad

Subject: **Appeal Titled IESCO Vs. Faisal Saeed Against the Decision Dated 15.02.2019 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 14.01.2021, 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



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Before Appellate Board National Electric Power Regulatory Authority Islamabad

In the matter of

Appeal No.092/POI-2019

Islamabad Electric Supply Company LimitedAppellant

Versus

Faisal Saeed KPD Marketing, Jahangir Iqbal Kayani, Faisal Shopping Mall,
29-Kashmir Road, Opposite GPO, Saddar, RawalpindiRespondent

APPEAL UNDER SECTION 38 OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 15.02.2019 OF PROVINCIAL OFFICE OF INSPECTION, ISLAMABAD REGION, ISLAMABAD

For the appellant:

Mr. Faisal Bin Khurshid Advocate

Mr. Shahid Mehmood SDO

For the respondent:

Mr. Jahangir Iqbal Kayani

DECISION

1. Briefly speaking, the respondent is a domestic consumer of IESCO bearing Ref No.07-14363-2865900 with a sanctioned load of 14 kW under the A-1R tariff. Old billing meter (first billing meter) of the respondent became defective in October 2016 and the billing was done by IESCO on estimated basis during the months October 2016 & November 2016. First billing meter of the respondent was replaced with a new meter (second billing meter) by IESCO in December 2016 and the respondent was given a



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credit of Rs.144,625/- for 7,773 units by IESCO vide adjustment note No.502 dated 21.12.2016 on the plea that the billing was done on wrong reading during the defective period. Another credit of Rs.145,801/- for 9,009 units (off peak=7,912, peak=1,097) was given to the respondent by IESCO vide adjustment note No.A-413 dated 20.07.2017 on the plea that the respondent was charged wrongly. Subsequently, the second billing meter was replaced with the third billing meter by IESCO in September 2017 and the respondent was given one more credit of Rs.114,517/- for 6,500 units vide adjustment note No.F-940 dated 19.12.2017. Later on, the Audit department vide Audit Note No.52 dated 10.08.2018 declared the total credit of Rs.404,943/- as unjustified and recommended to recover the same amount from the respondent. Consequently, IESCO charged the detection bill of Rs.404,943/- to the respondent in October 2018 on the basis of the audit note. Electric supply of the respondent was disconnected by IESCO due to nonpayment of electricity dues.

2. Being dissatisfied, the respondent initially assailed the above detection bill before NEPRA, which was forwarded by the NEPRA to the Provincial Office of Inspection (POI) for adjudication. POI vide decision dated 15.02.2019 declared the charging of the detection bill of Rs.404,903/- in October 2018 as null and void and IESCO was directed the overhauling the billing account of the respondent accordingly.
3. Subject appeal has been filed by IESCO against the POI decision dated 15.02.2019



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(hereinafter referred to as the impugned decision) before NEPRA in which IESCO contended that the Audit Department vide Audit Note No.52 dated 10.08.2018 pointed out that IESCO has given unjustified credit of Rs.404,943/- to the respondent vide three adjustment notes (the first adjustment of Rs.144,625/- for 7,773 units vide adjustment note No.502 dated 21.12.2016, second adjustment of Rs.145,801/- for 9,009 units (off peak=7,912, peak=1,097) vide adjustment note No.A-413 dated 20.07.2017 and third adjustment of Rs.114,517/- for 6,500 units vide adjustment note No.F-940 dated 19.12.2017). As per IESCO, a detection bill of Rs.404,943/- was served to the respondent in October 2018 as per the recommendation of the Audit Department. According to IESCO, POI flouted the legal, technical, factual aspects of the matter and jumped upon assuming jurisdiction forthwith on the very first opportunity. IESCO stated that the POI erred with the fact that the Post Audit System exists instead of Pre Audit System in IESCO and the Audit Report has its legal strength. IESCO submitted that the impugned decision was pronounced by POI in the absence of IESCO representatives. IESCO finally prayed for setting aside the impugned decision.

4. Notice for filing reply/para-wise comments to the appeal was summoned to the respondent, which however were submitted.
5. Hearing of the appeal was conducted in NEPRA Head Office, Islamabad on



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03.12.2020, which was attended by both the parties. Learned counsel for IESCO reiterated the same arguments as contained in the memo of the appeal and contended that the first billing meter of the respondent became defective in October 2016 due to illegal supply of electricity to 10 other houses, hence the billing was done on average basis in October 2016 and November 2016. Learned counsel for IESCO further contended that a detection bill of Rs.144,625/- for 7,773 units for the period October 2016 and November 2016 was debited to the respondent on the basis of consumption of the year 2015, which was erroneously withdrawn by IESCO vide Adjustment No.502 dated 21.12.2016. As per learned counsel for IESCO, two further adjustments [the second adjustment of Rs.145,801/- for 9,009 units (off peak=7,912, peak=1,097) vide adjustment note No.A-413 dated 20.07.2017 and the third adjustment of Rs.114,517/- for 6,500 units vide adjustment note No.F-940 dated 19.12.2017] were incorrectly given to the respondent. According to learned counsel for IESCO, the Audit Department vide Audit Note No.52 dated 10.08.2018 has rightly recommended to recover the total credit of Rs.404,943/- already given to the respondent, hence the said amount was debited to the respondent in October 2018. Learned counsel for IESCO termed the above detection bill as justified and prayed for setting aside the impugned decision. Conversely, the respondent stated that the bills charged by IESCO till September 2018 were paid by him accordingly, however the detection bill of Rs.404,943/- was charged by IESCO in October 2018 on the recommendation of the

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Audit Department against which 50% payment was made by him under duress. The respondent further stated that he is not bound to pay the above detection bill charged on the basis of the audit note. The respondent supported the impugned decision and prayed for its maintainability.

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

- i. The respondent was charged a detection bill of Rs.404,943/- by IESCO in October 2018 on the basis of audit recommendation vide Audit Note No.52 dated 10.08.2018, which was challenged by him before POI. It is observed that the audit observation is an internal matter between the IESCO and the Audit Department and the respondent cannot be held responsible for payment of any detection bill on the recommendation of the Audit Department. 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. Hence POI has rightly cancelled the detection bill of Rs.404,943/- charged by IESCO to the respondent in October 2018 and the respondent is not responsible to pay the same.
- ii. Perusal of record shows that the first billing meter of the respondent became defective in October 2016 and the bills of October 2016 & November 2016 were charged by IESCO to the respondent on an estimated basis. IESCO has replaced the first billing meter with the second billing meter in December 2016 and given a

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credit of Rs.144,625/- for 7,773 units for the months October 2016 & November 2016 to the respondent vide adjustment note No.502 dated 21.12.2016. The said credit was subsequently withdrawn by the Audit Department vide Audit Note No.52 dated 10.08.2018. To verify the stance of IESCO, the bills for the disputed months i.e. October 2016 and November 2016 may be compared with the bills of the corresponding months of the previous year i.e. 2015 in the below table:

Month	Amount (Rs.)	Month	Amount (Rs.)
Oct-16	80799	Oct-15	62495
Nov-16	43529	Nov-15	35239
Total	124328	Total	97734
Difference =Rs.124,328 - Rs.97,734 = Rs.26,594/-			

The above analysis indicates that the respondent was billed in excess during the months i.e. October 2016 and November 2016 due to a defective meter as compared to the billing of corresponding months of the year 2015. As such the respondent is liable to be afforded a credit of Rs.26,594/- by IESCO on account of excessive billing for the months October 2016 & November 2016. The impugned decision is liable to be modified to this extent.

iii. It is noticed that the second billing meter was installed by IESCO in December 2016 and remained at the site for ten months i.e. December 2016 till its replacement with final reading (off peak=21,697, peak=4,598) by IESCO vide meter change order (MCO) dated 25.09.2017. However, the second billing meter



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was not produced before POI for verification of its accuracy and final reading. Hence the entire billing done by IESCO during the period December 2016 to September 2017 is unjustified and liable to be cancelled. However, the respondent may be charged the bills for the period December 2016 to September 2017 on the basis of consumption of the period December 2015 to September 2016 being undisputed.

7. The upshot of the above discussion is that the impugned decision for declaring the detection bill of Rs.404,943/- as null and void is correct and maintained. The respondent may be afforded a credit of Rs.26,594/- for the months October 2016 & November 2016 as calculated in para 6(ii) above and revise the bills for the period December 2016 to September 2017 on the basis of undisputed consumption of the period December 2015 to September 2016. The billing account of the respondent may be revised after adjusting payments made (if any) against the above detection bill.
8. The impugned decision is modified in the above terms.

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

Nadir Ali Khoso
Convener/DG (M&E)

Muhammad Shafique
Member/ SA (Legal)

Dated: 14.01.2021