



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

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No. NEPRA/AB/Appeal-034/POI-2015/ *844-848*

September 08, 2015

1. M/s Fatima Flour Mills,  
Through its Managing Partner,  
Masood Nasir, Sama Satta Road,  
Bahawalpur
2. The Chief Executive Officer  
MEPCO Ltd,  
Khanewal Road,  
Multan
3. Ch. Faheem Akbar,  
Advocate High Court,  
Haq Law Chamber, office No. 11,  
Khawaja Centre, Near District Courts,  
Multan
4. Saeed Ahmed Bhatti,  
Advocate High Court,  
2<sup>nd</sup> Floor, Akram Mansion,  
Neela Gumbad, Lahore
5. Jam Gul Muhammad Zahid,  
Executive Engineer (Opr),  
MEPCO Moden Town Division,  
Bahawalpur

Subject: Appeal Titled MEPCO Vs. M/s Fatima Flour Mills Against the Decision Dated 30.03.2015 of the Electric Inspector/POI to Government of the Punjab Multan Region, Multan

Please find enclosed herewith the decision of the Appellate Board dated 08.09.2015, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(M. Qamar Uz Zaman)

No. NEPRA/AB/Appeal-034/POI-2015/ *849*

September 08, 2015

Forwarded for information please.

*M. Qamar Uz Zaman*  
Member Appellate Board

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

CC:

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

*11/09/15*  
*M/R*

|           |          |
|-----------|----------|
| Registrar | 9658     |
| DY No.    | 11-09-15 |
| Date      | 11-09-15 |



# National Electric Power Regulatory Authority

## Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-034/POI-2015

Multan Electric Power Company Limited

.....Appellant

Versus

Masood Nasir (Managing Partner) M/s Fatima Flour Mills, Sama Satta Road, Bahawalpur.

.....Respondent

For the appellant:

M. Iqbal Khan XEN

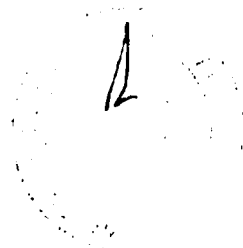
For the respondent:

Iftikhar Majid Advocate

M. Moazzam Ali

## DECISION

1. Brief facts giving rise to the instant Appeal are that Multan Electric Power Company Limited (hereinafter referred to as MEPCO) is a licensee of National Electric Power Regulatory Authority (hereinafter referred to as NEPRA) for distribution of electricity in the territory specified as per terms and conditions of the license. The respondent is an industrial consumer of MEPCO bearing Ref No.27-15443-0952000 with a sanctioned load of 551 kW under B-3 tariff.





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2. As per facts of the case, meter of the respondent was checked on 12.09.2014 and found 32.42% slow. After issuing notice dated 12.09.2014 a detection bill of Rs.2,572,570/- for peak 23,438 units, off-peak 108,912 units and 562kW for the period May 2014 to August 2014 was issued by MEPCO to the respondent in September 2014 at the rate of 32.42% slowness of the meter. A payment of Rs.500,000/- was made by the respondent through a post dated check dated 16.09.2014. The respondent instead of making remaining payment challenged the above mentioned detection bill before Provincial Office of Inspection/Electric Inspector Multan Region, Multan (hereinafter referred to as POI) vide his application dated 12.11.2014 after withdrawing his writ petition No.13724/2014 from Lahore High Court Multan branch, Multan. The respondent prayed that the detection bill of Rs.2,572,570/- issued by MEPCO be declared as illegal and an appropriate action be taken against the concerned officials responsible for slackness in reporting the slowness of meter at proper time. The POI decided the matter vide its decision dated 30.03.2015 and the operative portion of same is given below:

*"Keeping in view the above aspects of the case and summing up all the above observations/conclusions, this forum declares the charging of detection bill of Rs.2,572,570/- for the cost of Peak=23438 & Off-Peak=108912 ( Total=132350-KWH) & 562-KW MDI for the period 05/2014 to 08/2014 on the basis of 32.42% slowness as Null, Void & of no legal effect. The respondents are also directed to withdraw the same and charge revised detection on the basis of 32.42% slowness for the billing months 07/2014 & 08/2014. The respondent is also directed to overhaul petitioner's account by adjusting all Debits, Credits & Payments already made by the consumer."*

3. MEPCO being aggrieved with the POI decision date 30.03.2015 has filed the instant appeal through Mr. Saeed Ahmad Bhatti Advocate. It is stated by MEPCO that premises (Fatima Flour Mills) of the respondent was visited by Regional Manager M&T MEPCO in routine on 04.09.2014 and during checking the yellow phase current element was found missing and the percentage error of the meter was calculated as 31.09%. MEPCO submitted that standing committee of MEPCO installed bulk meter on the premises of the respondent on 09.09.2014 in the presence of representative of the respondent. MEPCO informed that the standing committee



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again visited the site on 12.09.2014 in the presence of representative of the respondent and found that the billing meter was 32.42% slow. According to MEPCO after issuing notice dated 12.09.2014 for the aforesaid detected discrepancies detection bill for 132,350 kWh plus 562 kW for the period May 2014 to August 2014 was issued to the respondent. As stated by MEPCO, the respondent acknowledged the aforesaid 32.42% slowness of the meter during the period May 2014 to August 2014 and agreed to pay the detection bill of Rs.2,572,570/- and also issued a check of Rs.500,000/- which was realized on 16.09.2014. MEPCO informed that on the request of the respondent, six number monthly installments were allowed to him but instead of making the payment of remaining installments the respondent challenged the detection bill before POI. MEPCO contended that after receipt of notice it joined the proceedings and submitted reply there to along with all relevant documents and proved that the aforesaid detection bill was legal, valid and justified but POI accepted the complaint of the respondent and declared the detection bill as void and of no legal effect with the direction to withdraw the same and charged him revise detection bill on the basis of 32.42% slowness for the billing months July 2014 and August 2014 by applying Chapter 4 of Consumer Service Manual (hereinafter referred to as CSM). MEPCO contended that the impugned decision dated 30.03.2015 of POI was illegal, unlawful, void, ab-initio, without jurisdiction, without lawful authority, misconceived, self contradictory, biased and based on surmises and conjectures and the same was liable to be set aside. MEPCO pleaded that the respondent was estopped by his words and conduct to challenge the detection bill under Article 114 of Qanone-e- Shahadat Order and there was no cause of action for filing petition before POI and therefore the impugned decision was not sustainable in the law and liable to be set aside. MEPCO further observed that the impugned decision was ex-facie corum non-judice, ab-initio void and without jurisdiction as POI had no power or jurisdiction to carry out the proceedings after expiry of the mandatory period of 90 days as envisaged under section 26(6) of the Electricity Act 1910. MEPCO contended that after expiry of 90 days Electric Inspector was bound to refer the matter to Provincial Government but he failed to do so therefore the impugned decision was nullity in the eyes of law and liable to be set aside. MEPCO asserted that the impugned decision was illegal, unlawful, arbitrary, vague, misconceived, without lawful authority, without jurisdiction, void



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ab-initio, biased and based on surmises and conjectures. Finally MEPCO prayed that the impugned decision dated 30.03.2015 of POI be set aside.

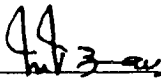
4. The respondent was issued a notice for filing reply/parawise comments which were submitted on 02.06.2015. In his reply/parawise comments the respondent rebutted the arguments and denied submissions of MEPCO and defended the impugned decision of POI and submitted that the impugned decision was announced after keeping in view all the legal and technical aspects of the case and after analyzing all available record. According to the respondent the impugned decision was legal, just and was based on the facts of the case. In the end the respondent prayed that the impugned decision of POI be amended or upheld.
5. After issuing notice the appeal was heard in Multan on 07.08.2015 in which both the parties participated and submitted arguments in support of their versions. Muhammad Iqbal Khan XEN appearing for the appellant submitted that the detection bill was raised against the respondent as his meter was found slow and period of four months was charged as the consumption data of the respondent proved that the meter remained slow during that period. According to the representative of MEPCO the detection bill was raised against the respondent to recover the revenue loss sustained by MEPCO due to slowness of the meter and the respondent was liable to pay the same as it was legal and justified. Mr. Iftikhar Majid Advocate appearing for the respondent reiterated his stance as given in his reply/parawise comments. The learned counsel for the respondent submitted that the CSM approved by the Authority allowed charging of bill for a maximum period of two billing cycles due to slowness of meter but in the instant case MEPCO charged the detection bill for a period of four months which was the violation of the CSM. He defended the impugned decision of POI and contended that the same be upheld and the appeal of MEPCO be dismissed.
6. We have heard arguments of both the parties and considered the record placed before us. As regards the objection of MEPCO that after filing application before Electric Inspector the matter should have been referred to Provincial Government for adjudicating the matter under section 26 (6) of Electricity Act, 1910 as the Electric Inspector failed to decide the matter within stipulated period of 90 days. In this regard it may be clarified that the application was being




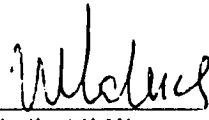
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heard by the officer in his capacity as POI pursuant to section 38 of the NEPRA Act where no time limit restriction has been imposed for deciding the matter by POI, hence objection of the appellant in this regard being not valid is dismissed. It is an admitted position that the meter of the respondent was found 32.42% slow during MEPCO checking carried out on 12.09.2014. The detection bill of Rs.2,572,570/- for peak 23,438 units , off-peak 108,912 units from May 2014 to August 2014 was charged by MEPCO to the respondent in September 2014 considering 32.42% slowness of the meter. There is force in the argument of the learned counsel for the respondent that as per Chapter 4 of the CSM the billing for past period is limited to two billing cycles. As the 32.42% slowness of the meter was discovered in September 2014 therefore the respondent is liable to be billed for the months of July 2014 and August 2014. POI in its impugned decision has rightly decided that the detection bill of Rs.2,572,570/- for the period May 2014 to August 2014 on the basis of 32.42% slowness is null void and of no legal effect and the respondent is not liable to pay the same. Therefore, as decided by POI in the impugned decision MEPCO may charge detection bill at the rate of 32.42% slowness for the months of July 2014 and August 2014, which is in-line with the provisions of CSM.

7. In the view of forgoing discussion it is concluded that the impugned decision dated 30.03.2015 taken by POI is in accordance with facts and law. We do not find any reason to interfere in the impugned decision and therefore the same is upheld. Resultantly appeal of MEPCO is dismissed.

  
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Muhammad Qamar-uz-Zaman  
Member

  
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Muhammad Shafique  
Member

  
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Nadir Ali Khoso  
Convener

Date: 08.09.2015