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

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No. NEPRA/AB/Appeal-060/POI-2015/ 963—966 October 13, 2015

1. Rana Hafiz Muhammad Yamin Khan
S/o Abdul Sattar,
Lessor/Managing Director,
M/s Zaman (Ex-Muslim Model Ginning) Cottol Factory, Mouza Sanjar Jhangi Wala Road,
Tehsil & District Bahawalpur

2. The Chief Executive Officer
MEPCO Ltd,
Khanewal Road,
Multan

3. Sardar Mazhar Abbas Mahar
Advocate High Court,
45-Zikriya Block, District Courts,
Multan

4. Shamsul Haq
S/o Abdul Haq,
Sub Divisional Officer (Op),
MEPCO Ltd,
Baghdad-ul-Jadeed Sub Division,
Bahawalpur

Subject: **Appeal Titled MEPCO Vs. Rana Hafiz Muhammad yamin Khan Against the Decision Dated 22.05.2015 of the Electric Inspector/POI to Government of the Punjab Multan Region, Multan**

Please find enclosed herewith the decision of the Appellate Board dated 13.10.2015, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(M. Qamar Uz Zaman)

No. NEPRA/AB/Appeal-060/POI-2015/ 967 October 13, 2015

Forwarded for information please.

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)

Registrar
Dy No. 10869
Dated 15-10-15

15/x

TA

National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-060/POI-2015

Multan Electric Power Company Limited

.....Appellant

Versus

Rana Hafiz Muhammad Yamin Khan S/O Abdul Sattar, Caste Rajput, Lessor/Managing Director M/S Zaman (Ex-Muslim Ginning) Cotton Factory, Mouza Sanjar, Jhangli Wala Road, Tehsil& District Bahawalpur.

.....Respondent

For the appellant:

Sardar Mazhar Abbas Advocate
Hameed-ur-Rehman Line Superintendent-I

For the respondent:

Nemo

DECISION

1. Through this decision, an appeal filed by Multan Electric Power Company Limited (hereinafter referred to as MEPCO) against the decision dated 22.05.2015 of Provincial Office of Inspection (POI) is being disposed of.
2. As per facts of the case, the respondent is an industrial consumer of MEPCO bearing Ref No. 27-15419-1654600 with a sanctioned load of 487kW under B-2b tariff.

3. As per record, the electricity meter of the respondent was found correct during the meter reading on 10.11.2014 and a bill amounting to Rs.1,182,525/- for the month of November 2014 was issued by MEPCO to the respondent and was paid without any dispute. Meter of the respondent was checked by the Line Superintendent concerned on 10.12.2014 and reportedly it was found defective. A provisional detection bill of Rs.2,808,632/- for 12,986 units was issued on the recommendation of Executive Engineer Metering and Testing (M&T) which was paid in December 2014. A new meter was installed on 13.12.2014. The detection bill was reviewed by the inquiry committee constituted by Chief Executive Officer MEPCO which decided that the detection bill of Rs.2,808,632/- for 129,862 units was justified. The matter was challenged by the respondent before Lahore High Court Bahawalpur Bench, Bahawalpur in writ petition No.1610 of 2015 and the honorable High Court ordered that the matter be decided by POI within 10 days.

4. In pursuance of the above mentioned order of the honourable Lahore High Court Bahawalpur Bench, Bahwalpur, POI adjudicated the matter. POI vide its interim order dated 11.03.2015 directed MEPCO to preserve the status of disputed removed meter and proceed for retrieval and production of its monthly billing/data consumption along with other relevant/supporting documents. However, no data retrieval report was provided by MEPCO inspite of directions by POI on the plea of internal error of the meter. However MEPCO supplied M&T checking reports dated 04.09.2013, 11.10.2014, 10.11.2014 and 10.12.2014 and according to those reports the meter was found working within British Standard and Specifications (BSS) limits. POI during the proceedings observed that the electricity consumption of the respondent be analyzed on the basis of production record of crushed benola and cotton bales. After analysis of the production record and relevant calculations POI concluded that average consumption was 14.82kWh/units per cotton bale and 2.52kWh/units per mond of benola. On this basis the POI worked out 53,754kWh (units) for the production of 3,625 cotton bales and 34,543kWh (units) for production of 13,693 mond of benola during the period 10.11.2014 to 10.12.2014. Accordingly the total consumption of units during the period 10.11.2014 to 10.12.2014 was worked out by POI as 88,297 kWh (units). POI recommended that out of this total consumption, 18,542 units be charged in peak hours at the rate of 21% of the total consumption and 69,755 units be charged in off-peak hours at the rate of 79% of the total units consumed. POI observed that the billing of November 2014 was wrongly included in the detection period. The POI concluded vide its impugned decision dated 22.05.2015as under:-

"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.28,21,305/- for the cost of Peak=16017 & Off-Peak=113845 (Total = 129862-KWH) & 260-KW MDI for the period 11/2014 to 11.12.2014 on the basis of average of 20-KWh for 1-Cotton Bale & 2.5-KWh for i-Munn Benola due to over-shoot of reading parameters as Null, Void & of no legal effect because billing month 11/2014 was wrongly included in the detection period and higher average was taken for cotton bales. The respondents are directed to withdraw the same and charge revised detection for the cost of 88297-KWh (Peak=18452 KWh & Off-Peak-69755 KWh) and 260-KWH MDI considering the same as consumption for the billing month 12/2014(10.11.2014 to 10.12.2014). The Respondents are also directed to overhaul petitioner's account by adjusting all Debits, Credits, Payments already made by the consumer &FPA adjustment for 12/2014."

5. Being aggrieved with the POI decision dated 22.05.2015, MEPCO has filed the instant appeal under section 38 (3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (hereinafter referred to as "the Act"). It is contended by MEPCO that a detection bill amounting to Rs.2,808,632/- issued during the billing month of December 2014 was challenged by the respondent before POI on the plea that it was in violation of NEPRA approved Consumer Service Manual (hereinafter referred to as CSM). According to MEPCO the matter was contested by it but POI did not consider facts of the case and misconceived the policy formulated in the CSM and announced the impugned decision which is not sustainable and maintainable in the eyes of law. Further it is submitted by MEPCO that impugned decision was passed by POI without going in to merits of the case and without applying conscientious mind and passed the impugned decision which was not sustainable and prayed that the same may be set aside.

6. The respondent submitted it's reply/parawise comments on 04.09.2015 in response to the notice issued for that purpose. The respondent in his reply/parawise comments denied the assertions of MEPCO and inter-alia submitted that the meter checked by M&T MEPCO on 09.12.2014 was found working within BSS limits but the reading chart was found abnormal/overshooted. According to the respondent no notice was issued as per CSM, the supply was disconnected and handmade detection bill of Rs.2,808,632/- was delivered for the billing months of November 2014 and December 2014. The respondent submitted that Lahore High Court Bahawalpur Bench Bahawalpur was approached against the above unlawful and unjustified charging by the appellant

but later on it was withdrawn and matter was placed before POI for resolving billing/metering dispute pursuant to judgment of Supreme Court of Pakistan reported vide PLD 2012 Supreme Court 371. The respondent contended that the impugned decision was announced by POI after applying his experienced mind which is justified and liable to be maintained. He vehemently defended the impugned decision and prayed that the same may be maintained/upheld and appellant be charged for violating CSM.

7. The appeal was heard in Lahore on 12.09.2015 in which Sardar Mazhar Abbas Advocate and Mr. Hameed-ur-Rehman Line Superintendent represented MEPCO but no one entered appearance for the respondent. The learned counsel for MEPCO reiterated the same arguments as given in memo of the appeal. However, the representatives of MEPCO could not raise any objection regarding the analysis of POI and the impugned decision. It has been observed that, prima facie the basis and the calculation for the detection bill worked out by POI for the period 10.11.2014 to 10.12.2014 (i.e. for billing month December 2014) is reasonable and justified. The POI has fairly decided that the impugned detection bill of Rs. 2,808,632/- for 12,986 units/260 kW for November 2014 to 11.12.2014 is null, void and of no legal effect and liable to be withdrawn.

8. Foregoing in view, the impugned decision dated 22.05.2015 of POI is upheld and the appeal is dismissed accordingly.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Date: 13.10.2015