



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

NEPRA Office, Atta 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/AB/Appeal-070/POI-2016/ 1116-1120

September 02, 2016

1. Nabi Ahmed Cheema,
S/o Khushi Muhammad,
M/s Cheema Cotton Factory,
Chak No. 239/EB, Burewala,
District Vehari
2. The Chief Executive Officer
MEPCO Ltd,
Khanewal Road, Multan
3. Sardar Mazhar Abbas Mahr
Advocate High Court,
45-Zakariya Block,
District Courts, Multan
4. Sub Divisional Officer (E),
MEPCO Ltd,
Satellite Sub Division,
Burewala, District Vehari
5. Electric Inspector
Multan Region,
249-G, Shah Ruken-e-Alam Colony,
Phase II, Multan

Subject: Appeal Titled MEPCO Vs. Nabi Ahmed Cheema Against the Decision Dated 25.09.2014 of the Electric Inspector/POI to Government of the Punjab Multan Region, Multan

Please find enclosed herewith the Decision of the Appellate Board dated 30.08.2016, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(Ikram Shakeel)

No. NEPRA/AB/Appeal-070/POI-2016/ 1121

September 02, 2016

Forwarded for information please.


Assistant Director
Appellate Board

1. Registrar
2. Director (CAD)

CC:

1. Member (CA)



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-070/POI-2016

Multan Electric Power Company Limited

.....Appellant

Versus

Nabi Ahmed Cheema, S/o Khushi Muhammad, M/s Cheema
Cotton Factory, Chak No. 239/EB, Burewala, District Vehari

.....Respondent

For the appellant:

Sardar Mazhar Abbas Mahar Advocate

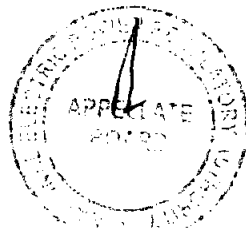
For the respondent:

Nabi Ahmed Cheema Advocate

DECISION

1. Through this decision, an appeal filed by Multan Electric Power Company Limited (hereinafter referred to as MEPCO) against the decision dated 25.09.2014 of Provincial Office of Inspection, Multan Region, Multan (hereinafter referred to as POI) is being disposed of.
2. 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 and the respondent is its industrial consumer bearing Ref No. 27-15332-0901700 with a sanctioned load of 304 kW under B-2b tariff.
3. As per fact of the case, metering equipment of the respondent was checked by Metering and Testing (M&T) MEPCO on 19.12.2013 and reportedly LT TOU meter was found

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11.11 % slow. A bill amounting to Rs. 570,619/- for off peak = 24,948 units, peak = 5,360 units and MDI = 16 kW was debited to the respondent for the period October 2013 to December 2013 (03 months) in March 2014 to account for 11.11% slowness of the meter. Multiplication Factor (M.F) of the respondent's meter was raised from 80 to 90 w.e.f January 2014.

4. The respondent being aggrieved with the billing of MEPCO filed an application before POI on 21.03.2014 and challenged the aforementioned detection bill. Subsequently during hearing before POI, the respondent also challenged electricity bill of Rs. 26,831/- charged in May 2014. Despite notices MEPCO failed to submit the reply and contest the case before POI. POI disposed of the matter on ex-parte basis against MEPCO vide its decision dated 25.09.2014 and concluded as under:

"Keeping in view all the aspects of the case and summing up all the above observations/conclusions, this forum decides the case Ex-Parte and accepts the plea of the petitioner. Therefore, this forum declares the charging of detection bill of Rs. 5,70,619/- during billing month 03/2014 and Bill Adjustment Amount of Rs. 26,831/- during billing month 05/2014 as Null, Void & of no legal effect. The Respondents are directed to withdraw both the above amounts and overhaul petitioner's account accordingly by adjusting all Credits, Debits, Deferred Amount & Already Made Payments."

5. Being dissatisfied with the decision of POI dated 25.09.2014 (hereinafter referred to as the impugned decision), MEPCO has filed the instant appeal before NEPRA on 18.05.2015 under section 38 (3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (hereinafter referred to as NEPRA Act 1997) and inter alia pleaded that ex-parte decision be set aside and the case be remanded to POI for awarding a decision arresn after providing opportunity of hearing to both the parties.
6. A notice of the appeal was issued to the respondent for filing reply/parawise comments which were filed on 11.05.2016. In his reply/parawise comments, the respondent pointed out

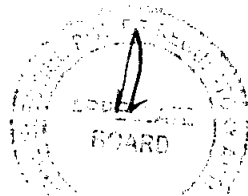




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that the impugned decision was announced on 25.09.2014 and the appeal before NEPRA was filed very late and as such was liable to be dismissed being time barred.

7. Notice was issued to both the parties and hearing of the appeal was fixed for 22.07.2016 in Multan, in which Sardar Mazhar Abbas Mahar advocate appeared for the appellant MEPCO and Mr. Nabi Ahmed Cheema advocate represented the respondent. In the outset of the hearing, learned counsel for the respondent raised preliminary objection regarding limitation and asserted that the appeal be dismissed being time barred. Sardar Mazhar Abbas Mahar advocate learned counsel for MEPCO contended that the appeal was delayed due to departmental process and pursuant to Article 181 of Limitation Act 1908, a time of three years was provided. According to learned counsel for MEPCO, the appeal was within the time limit as per law and therefore be decided on merit. As regards merit of the case, MEPCO submitted that 11.11% slowness of the meter was observed during the checking on 19.12.2013, which was admitted by the respondent w.e.f. January 2014. According to learned counsel for MEPCO, the detection bill amounting to Rs. 570,619/- for off peak = 24,948 units, peak = 5,360 units and MDI = 16 kW debited to the respondent in March 2014 for the period October 2013 to December 2013(03 months) to account for 11.11% slowness of the meter is justified and the respondent is liable to pay the same. Counsel for the respondent rebutted arguments of MEPCO and averred that the meter was functioning correctly till December 2013 and moreover the MDI (kW) of the disputed period was higher than the MDI (kW) recorded in the corresponding months of previous year and as such the detection bill was not justified. The counsel for the respondent pleaded for dismissal of the appeal on merits as well on the ground of limitation.
8. We have heard the arguments of both the parties and perused the record placed before us. It is evident that, the impugned decision was announced on 25.09.2014 and a copy thereof was received by MEPCO on 06.11.2014 (as per document annexed with the memo of the appeal on page 34) and the appeal was filed before NEPRA on 18.05.2015 after an inordinate delay. Pursuant to section 38 (3) of the NEPRA Act 1997, an appeal should be filed before





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NEPRA within 30 days of receipt of the impugned decision, but in the instant case the appeal was filed before NEPRA after a lapse of 192 days after its receipt. Obviously the appeal is time barred. Neither any application nor any cogent reason for the delay has been given by MEPCO.

- i. As regards merits of the case, it is observed that the respondent was not involved in meter checking by MEPCO on 19.12.2013 and moreover the meter was also not checked by POI. From the consumption data (as provided by the respondent in his parawise comments), it is observed as under:

- Average MDI per month for the corresponding period before dispute i.e October 2011 to December 2011= $188 \text{ kW} + 235 \text{ kW} + 239 \text{ kW} / 3 = \underline{221 \text{ kW}}$
- Average MDI per month for the corresponding period before dispute i.e October 2012 to December 2012= $196 \text{ kW} + 199 \text{ kW} + 186 \text{ kW} / 3 = \underline{194 \text{ kW}}$
- Average MDI per month for the disputed period i.e October 2013 to December 2013 = $241 \text{ kW} + 231 \text{ kW} + 244 \text{ kW} / 3 = \underline{239 \text{ kW}}$

From above analysis, we are inclined to agree with the contention of the respondent that the MDI recorded during the disputed period is higher than the MDI recorded during the corresponding periods before the dispute. Therefore the detection bill for the disputed period is not justified and the respondent is not liable to pay the same.

- ii. MEPCO did not associate the respondent while checking the meter on 19.12.2013 and also failed to get the meter checked by POI to verify its accuracy. Under these circumstances, the unilateral checking of the meter conducted by MEPCO is not credible and cannot be made a basis for charging the detection bill amounting to Rs. 570,619/- for the period October 2013 to December 2013 due to 11.11 % slowness of the meter. The detection bill is therefore liable to be withdrawn.

9. In view of forgoing discussion, it is concluded as under:





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Detection bill amounting to Rs. 570,619/- for off peak = 24,948 units, peak = 5,360 units and MDI=16 kW debited to the respondent for the period October 2013 to December 2013 (03 months) in March 2014 to account for 11.11% slowness of the meter is not justified and the same is therefore declared null and void and of no legal effect. Impugned decision to this extent is maintained.

10. For the foregoing reasons, the appeal is dismissed.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Date: 30.08.2016

