



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

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No. NEPRA/AB/Appeal-046/POI-2017/ *1798-1802*

November 30, 2017

1. Muhammad Pervez,  
S/o Haq Nawaz,  
Prop: Pervez Ice Factory,  
One Unit Chowk,  
Bahawalpur
2. Chief Executive Officer  
MEPCO Ltd,  
MEPCO Complex, Khanewal Road,  
Multan
3. Sardar Mazhar Abbas Mahar,  
Advocate High Court,  
45-Zikriya Block,  
District Courts, Multan
4. Sub Divisional Officer,  
MEPCO Ltd,  
Satellite Town Sub Division,  
Bahawalpur
5. Electric Inspector  
Multan Region,  
249-G, Shah Ruken-e-Alam Colony,  
Phase II, Multan

Subject: Appeal Titled MEPCO Vs. Muhammad Pervez Against the Decision Dated 16.02.2017 of the Electric Inspector/POI to Government of the Punjab Multan Region, Multan

Please find enclosed herewith the Decision of the Appellate Board dated 29.11.2017, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(Ikram Shakeel)

No. NEPRA/AB/Appeal-046/POI-2017/ *1803*

November 30, 2017

Forwarded for information please.

*(Signature)*  
Assistant Director  
Appellate Board

✓ Registrar

CC:

1. Member (CA)



# National Electric Power Regulatory Authority

## Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-046/POI-2017

Multan Electric Power Company Limited .....Appellant

Versus

Muhammad Pervez S/o Haqnawaz, Prop: Pervez Ice Factory,  
One Unit Chowk, Bahalpur .....Respondent

For the appellant:

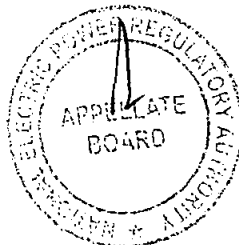
Sardar Mazhar Abbas advocate  
Mr. Muhammad Amir Ansari Add. XEN

For the respondent:

Mr. Muhammad Pervez

## DECISION

1. This decision shall dispose of an appeal filed by Multan Electric Power Company Limited (hereinafter referred to as MEPCO) against the decision dated 16.02.2017 of Provincial Office of Inspection, Multan region, Multan (hereinafter referred to as POI) under Section 38(3) of NEPRA Act 1997.
2. Brief facts of the case are that the respondent is an industrial consumer (Ice factory) of MEPCO bearing Ref No.27.15414-1075200 with sanctioned load of 122 kW under B-2 tariff. Metering equipment of the respondent was initially checked by SDO MEPCO on 05.07.2013 and reportedly the billing meter was found burnt out. Both the billing and backup meters of the respondent were again checked by metering & testing





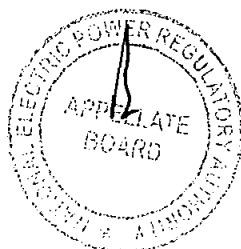
## National Electric Power Regulatory Authority

(M&T) MEPCO on 24.07.2013 and reportedly the display of the billing meter was found washed out, whereas the backup meter was found 31.03% slow. New meter was installed on the premises of the respondent by MEPCO on 01.08.2013 and the electricity bill for August 2013 was partially charged on the basis of new meter reading. Subsequently audit of the respondent was conducted in June 2015, which pointed out vide Audit Note No.47 dated 22.06.2015 that the less units were charged during the period July 2013 to August 2013. Consequently after issuing notice dated 02.06.2016 to the respondent, a detection bill of Rs.520,913/- for 31,219 units [16,686 units less debited in July 2013 + 14,533 units less charged in August 2013] was charged to the respondent as prescribed in the Audit Note No.47.

3. Being aggrieved, the respondent filed an application before POI on 09.06.2016 and challenged the aforementioned detection bill, which was disposed of by POI vide its decision dated 16.02.2017 with the following conclusion:

*“Keeping in view the above narrated facts of the case and in the best interest of justice, this forum declares the charging the detection bill of Rs.520,913/- on the basis of Audit Note No.47 dated 22.06.2015 as Null, Void & of no legal effect. The respondent are directed to charge the Petitioner @4.4(e) of Consumer Service Manual, 2010 approved by NEPRA for the period from 05.07.2013 till installation of new meter on 01.08.2013 and overhaul the account of the petitioner proportionately and accordingly.”*

4. MEPCO being dissatisfied with the decision dated 16.02.2017 of POI (hereinafter referred to as the impugned decision) has filed the instant appeal. MEPCO in its

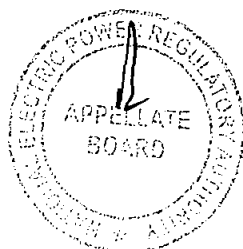




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appeal contended that billing meter of the respondent was checked by SDO MEPCO on 05.07.2013 and it was found defective (burnt out). According to MEPCO, both the billing and backup meters of the respondent were again checked by M&T MEPCO on 24.07.2013 and display of the billing meter was found vanished and the backup meter was found 31.03% slow, therefore the new meter was installed by MEPCO on 01.08.2013. MEPCO stated that less units were charged during the disputed period July 2013 to August 2013, therefore the detection bill of Rs.520,913/- for 31,219 units charged to the respondent vide Audit Note 47 dated 22.06.2015 is justified and the respondent is liable to pay the same. MEPCO pointed out that the POI is not authorized to adjudicate the instant matter, which falls in the jurisdiction of a Civil Court. MEPCO finally pleaded for cancellation of the impugned decision being violative of law and provisions as laid down in the Consumer Service Manual (CSM).

5. Notice of the appeal was issued to the respondent for filing reply/parawise comments, which were filed on 04.05.2017. The respondent rebutted the stance of MEPCO regarding the jurisdiction of POI and contended that the POI is empowered to adjudicate the instant matter being a metering and billing dispute as envisaged in the judgment reported vide PLD 2012 SC 371. The respondent even denied the contention of MEPCO regarding the malfunctioning of the billing meter and averred that the billing meter was correct till 10 July 2013 as the meter reading was recorded on this date. As per respondent, MEPCO has also charged 2,160 excessive units in the bill for August 2013 as compared to the corresponding month of previous year, which

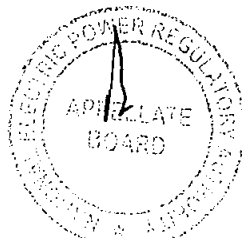




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however was paid by him without any protest. The respondent further submitted that the demand of the detection bill of Rs.520,913/- by MEPCO is violative of the Lahore High Court Judgment reported in 2014 MLD 1253 in the case titled "M/s. Mehmood Textile Mills Ltd vs MEPCO", wherein it was concluded that the audit is the internal matter between MEPCO and its audit department and the consumer is not held responsible for payment of the any detection bill on the basis of audit recommendation. The respondent defended the impugned decision and contended that the POI has considered all the technical and legal aspects of the case and rendered the impugned decision in accordance with facts and law.

6. Notice of the hearing was issued and the appeal was heard in Multan on 20.10.2017 in which Sardar Mazhar Abbas advocate along with Muhammad Amir Ansari Add. XIN represented the appellant MEPCO and Mr. Muhammad Pervez the respondent appeared in person. Learned counsel for MEPCO reiterated the same arguments as described in memo of the appeal and contended that the detection bill of Rs.520,913/- for the period July 2013 to August 2013 issued in line with Audit Note No.47 dated 22.06.2015 is justified and payable by the respondent. Conversely, the respondent in his rebuttal repeated the stance as contained in his reply/ parawise comments and pleaded that the audit observation is an internal matter of MEPCO and as such claim of MEPCO on the basis of Audit note is neither admissible nor payable.
7. We have heard arguments of both the parties and examined the record placed before us. It has been observed as under:





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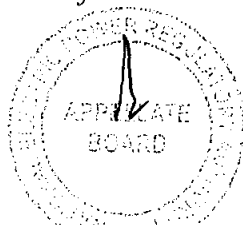
- i. As for as the objection of MEPCO regarding the jurisdiction of POI is concerned, it is clarified that the POI is empowered to adjudicate the instant matter being a metering, billing dispute under Section 38 of NEPRA Act, 1997. Objection of MEPCO in this regard has no force, therefore rejected.
- ii. As regards merit of the case, it is observed that the billing meter of the respondent was found defective/burnt out by SDO MEPCO on 05.07.2013. The metering equipment was again checked by M&T MEPCO on 24.07.2013 and reportedly the billing meter was found defective with display washed out and the backup meter was found 31.03% slow, therefore the healthy billing meter was installed by MEPCO on 01.08.2013. Subsequently audit department vide Audit Note No.47 dated 22.06.2015 pointed out less charging of 31,219 units during the period July 2013 to August 2013. Consequently MEPCO charged the detection bill of Rs.520,913/- for 31,219 units to the respondent on the basis of Audit recommendation, which was assailed by the respondent before POI on 09.06.2016.
- iii. Pursuant to the decision of Lahore High Court, we endorse the impugned decision that the detection bill of Rs.520,913/- for 31,219 units for the period July 2013 to August 2013 is not payable by the respondent on the recommendation of Audit department. In this regard reliance is placed on Lahore High Court Judgement dated 25.09.2007, reported in 2008 YLR 308, which is reproduced below:

*“WAPDA through chairman –Petitioner versus Fazal Karim respondent.*

*Electricity Act (IX of 1910)–*

*---Ss.24 &26–Demand of amount from consumer on basis of Audit report/objection*

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*without issuing show cause notice to him or joining him with proceedings to justify Audit report—Validity—Audit report would neither be binding on consumer nor could he be held responsible for fault of department. ”*

Hence the recovery of Rs.520,913/- cannot be effected from the respondent on the basis of audit note.

iv. Since the defectiveness of the meter was observed by MEPCO on 05.07.2013 and the new healthy meter was installed on 01.08.2013, therefore it would be fair to charge the electricity bill for the period 05.07.2013 to 01.08.2013 as per clause 4.4(e) of CSM. Charging for the disputed period would be based on the following two methods, whichever is of higher consumption.

(i). Method-I: to be charged for the period 05.07.2013 to 01.08.2013 as per corresponding consumption of previous year i.e. 05.07.2012 to 01.08.2012.

(ii). Method-II: to be charged for the period 05.07.2013 to 01.08.2013 as per average consumption of last eleven months i.e. August 2012 to June 2013.

8. The appeal is disposed of in above terms.

Muhammad Qamar-uz-Zaman  
Member

Nadir Ali Khoso  
Convener

Muhammad Shafique  
Member

Dated: 29.11.2017

