



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

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No. NEPRA/AB/Appeal-066/POI-2018/ 2248-2252

December 14, 2018

1. M/s. Sardar (Ex-Nasuha) Flour Mills  
Muhammad Yousaf Shahani,  
(Present Owner, Occupier Consumer),  
Through Nazar Hussnain,  
S/o. Atta Muhammad Shahani, Real Brother,  
Quetta Road, Dera Ghazi Khan
2. Chief Executive Officer,  
MEPCO Ltd,  
MEPCO Complex, Khanewal Road,  
Multan
3. Sardar Mazhar Abbas Mahar  
Advocate High Court  
45-Zakariya Block, District Courts,  
Multan
4. Sub Divisional Officer (Op),  
MEPCO Ltd,  
Quetta Road Sub Division,  
Dera Ghazi Khan
5. Electric Inspector  
Multan Region,  
249-G, Shah Ruken-e-Alam Colony,  
Phase II, Multan

Subject: **Appeal Titled MEPCO Vs. M/s Sardar Flour Mills Against the Decision Dated 30.08.2017 of the Provincial Office of Inspection to Government of the Punjab Multan Region, Multan**

Please find enclosed herewith the decision of the Appellate Board dated 13.12.2018, regarding the subject matter, for information and necessary action accordingly.

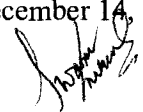
**Encl: As Above**

(Ikram Shakeel)

No. NEPRA/AB/Appeal-066/POI-2018/ 2253

December 14, 2018

Forwarded for information please.

  
Assistant Director  
Appellate Board

✓ 1. Registrar



# National Electric Power Regulatory Authority

## Before Appellate Board

In the matter of

### Appeal No.066/2018

Multan Electric Power Company Limited

.....Appellant

Versus

M/s. Sardar (Ex-Nasuha) Flour Mills, Muhammad Yousaf Shahani,  
(Present owner, Occupier Consumer) (Through Nazar Hussain) S/o Atta  
Muhammad Shahani, Real Brother, Quetta Road, Dera Ghazi Khan .....Respondent

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,  
TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997  
AGAINST THE DECISION DATED 30.08.2017 PASSED BY PROVINCIAL  
OFFICE OF INSPECTION MULTAN REGION, MULTAN**

For the appellant:

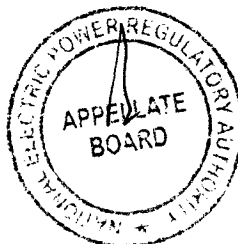
Sardar Mazhar Abbas Advocate  
Mr. Jabbar Hussain

For the respondent:

Mr. Yaseen

## DECISION

1. Facts, in brief, are that the respondent is an industrial consumer of MEPCO bearing Ref No.27-15226-280300 having a sanctioned load of 455 kW under the B-2(b) tariff. TOU billing meter of the respondent was found 33.03% slow by metering and testing (M&T) MEPCO on 20.02.2014, hence the detection bill amounting to Rs.1,178,770/-

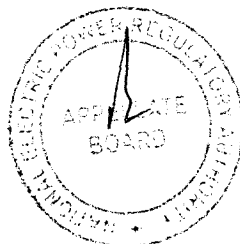




## National Electric Power Regulatory Authority

for 46,333 units (off peak=42,021 peak=4,321)/776 kW MDI for the period April 2013 to February 2014 (11 months) was charged to the respondent on account of 33.03% slowness of the meter on 25.03.2014. Multiplication factor (MF) of the respondent was enhanced from 160 to 238.91 due to 33.03% slowness of the meter by MEPCO w.e.f March 2014 and onwards. Afterwards, the defective meter of the respondent was replaced with a new meter by MEPCO vide meter change order (MCO) dated 05.12.2014.

2. The respondent being aggrieved with the above billing, initially filed a civil suit before the Senior Civil Judge, Dera Ghazi Khan on 24.03.2014, which subsequently was dismissed by the honorable Judge vide order dated 05.05.2015 relying upon the case law reported as PLD 2012 SC 371. The respondent approached the Provincial Office of Inspection (POI) on 27.01.2016 and assailed the detection bill of Rs.1,182,762/-. In his application, the respondent averred that the payment of Rs.527,854/- was made against the above said detection bill. During the pendency of case before POI, the respondent challenged the bill for February 2016 on the plea that the factory remained operative only for one day but MEPCO charged such high MDI of 608 kW. Another detection bill of Rs.276,465/- for the cost of peak 37,270 units less charged during the period October 2014 to December 2015 was debited to the respondent as per Audit Note No.04 dated 08.04.2016, which was also disputed before POI. The matter was disposed of by POI vide its decision dated 30.08.2017 with the following conclusion:

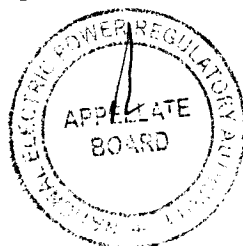




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*“Keeping in view all the above narrated facts of the case and summing up all the above observation & conclusions, this forum declares the charging of (i) detection bill of 42021 (O) & 4321 (P) {Total=46333} KWh units & 776 KW MDI for the period 04/2013 to 02/2014 (11 months) & (ii) detection bill on the basis of Audit Note No.04 dated 08.04.2016 on disputed meter No.90713 Make MTL and (iii) 608-kW MDI for 02/2016 as null, void and of no legal effect. Respondents are directed to withdraw the same and change revised detection for period from 11/2013 to 02/2014 on the basis of 33.03% slowness and charge 360-kW MDI for 02/2016. The petitioner’s account be overhauled accordingly.”*

3. Subject appeal has been filed against the decision dated 30.08.2017 of POI (hereinafter referred to as the impugned decision) before NEPRA in which MEPCO inter alia, contended that the meter of the respondent was found 33.03% slow during M&T checking dated 30.02.2014, hence the respondent was charged the detection bill of Rs.1,178,770/- for 46,333 units (off peak=42,021 peak=4,321)/776 kW MDI for the period April 2013 to February 2014 (11 months) and further bills with enhanced MF=238.91 on account of 33.03% slowness of the meter. As per MEPCO, 608 kW MDI was correctly charged in February 2016 as recorded by the meter during the said month. According to MEPCO, the audit department vide Audit Note No.04 dated 08.04.2016 pointed out less charging of units in peak hours, therefore another detection bill of Rs.276,465/- for the cost of peak 37,270 units less charged during the period October 2014 to December 2015 was debited to the respondent. MEPCO declared all the above said bills as justified and payable by the respondent. MEPCO pointed out that

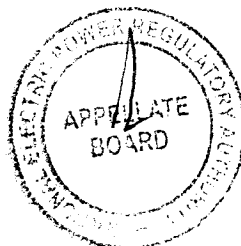




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the POI has no jurisdiction to adjudicate the instant matter and matter exclusively falls in the domain of a civil court. According to MEPCO, POI failed to observe the case in letter and spirit and rendered the impugned decision based on surmises and conjectures. MEPCO also prayed for condonation of delay in filing the appeal.

4. Notice of the appeal was issued to the respondent for filing reply/para-wise comments, which were filed on 16.10.2018. The respondent pleaded for dismissal of the appeal on the ground of limitation and pointed out that copy of the impugned decision dated 30.08.2017 was received by MEPCO on 16.10.2017 against which the appeal was filed before NEPRA on 02.03.2018 after lapse of 85 days. The respondent rebutted the version of MEPCO and contended that POI is authorized to decide the disputes of metering equipment in pursuance of the judgment reported in PLD 2012 SC 371. The respondent commented that defective/slow meter was neither checked in his presence nor produced before POI, hence charging the detection bill of Rs.1,178,770/-for 46,333 units (off peak=42,021 peak=4,321)/776 kW MDI for the period April 2013 to February 2014 (11 months) and further bills with enhanced MF=238 on account of 33% slowness of the meter is violative of provision of CSM. As per respondent, charging of 608 kW MDI in February 2016 does not correspond to the sanctioned load of 455 kW as no extension in load was made. According to the respondent, the detection bill of Rs.276,465/- for peak 37,270 units less charged during the period October 2014 to December 2015 charged on the recommendation of audit department is illegal, unjustified as declared by the honorable Lahore High Court Lahore vide various

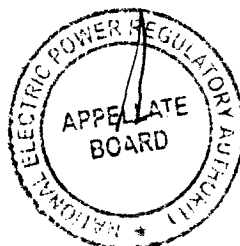




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judgments including 2014 MLD 1253.

5. After issuing notice, hearing of the appeal was conducted in Multan on 16.10.2018 in which Sardar Mazhar Abbas advocate represented the appellant MEPCO and Mr. Yaseen appeared as representative for the respondent. Learned counsel for MEPCO reiterated the same arguments as contained in memo of the appeal and prayed for setting aside the impugned decision. Conversely, the representative for the respondent reiterated the same stance as taken in the reply/para-wise comments to the appeal and pleaded for upholding the impugned decision.
6. Arguments heard and the record perused. It is observed as under:
  - i. There is no force in the objection of MEPCO regarding the jurisdiction of POI as the instant matter pertains to the billing due to a defective meter and POI has the jurisdiction to entertain the instant matter u/s 38 of NEPRA Act, 1997.
  - ii. As regards the point of limitation, it is observed that the impugned decision was announced by POI on 30.08.2017, copy of the same was obtained by MEPCO on 16.10.2017 and the appeal against the same was filed before NEPRA on 02.03.2018. i.e., after lapse of 137 days. The appeal may be preferred to NEPRA within 30 days under Section 38(3) of NEPRA Act, 1997, obviously, the instant appeal is time barred by 107 days. MEPCO in its application for condonation of delay has not given adequate reasons for the delay. The appeal being time-barred is liable to be dismissed on this ground alone.





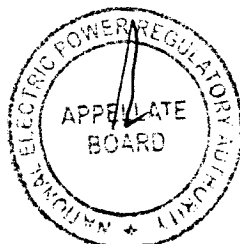
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iii. As far as the merits of the case are concerned, the following bills were challenged before the POI:-

- a) detection bill of Rs.1,178,770/- for 46,333 units (off peak=42,021 peak=4,321)/776 kW MDI for the period April 2013 to February 2014 (11 months) debited on 33.03% slowness of the meter
- b) Bill for the cost of 608 kW MDI charged in February 2016.
- c) the detection bill of Rs.276,465/- for the cost of peak 37,270 units less charged during the period October 2014 to December 2015 debited vide Audit Note No.04 dated 08.04.2016.

Charging the bill at (a) for eleven months on account of 33.03% slowness of the meter is violation of clause 4.4 of Consumer Service Manual (CSM), therefore the same is liable to be declared null and void as already determined in the impugned decision. We are inclined to agree with the analysis of POI that the meter became 33.03% slow w.e.f November 2013 and onwards, hence the respondent is obligated to pay 33.03% slowness for the period November 2013 to February 2014 as concluded by POI.

As regards the bill as per (b), In order to ascertain the reasoning of the bill at (b)MDI chart of the respondent is given below:



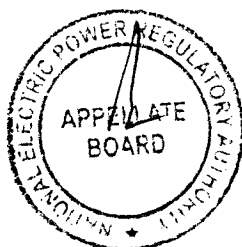


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MDI Chart					
Year	2012	2013	2014	2015	2016
Month	MDI	MDI	MDI	MDI	MDI
January	0	254	195	288	0
February	0	300	214	360	608
March	0	227	323	360	7
April	0	179	323	416	6
May	0	171	323	336	6
June	0	120	294	336	0
July	0	13	263	320	20
August	274	3	234	320	305
September	274	56	265	320	323
October	-	267	265	342	319
November	149	171	265	320	329
December	222	195	265	0	326

Above MDI chart indicates that 608 kW MDI charged in February 2016 is much higher than the MDI recorded during the five years and the sanctioned load of 455 kW of the respondent. MEPCO even failed to provide the detection proforma to justify its contention to charge such high 608 kW MDI for February 2016. POI has rightly revised the bill for February 2016 for 360 kW MDI as recorded in February 2015.

As regards the bill at ©, the audit observation is internal matter between the DISCO and the audit department and the consumer cannot be held responsible for the payment of any detection bill on account of audit observation. Reliance in this regard is placed on the judgments 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 the detection bill of Rs.276,465/- for the cost of peak 37,270 units less charged during the period October 2014 to December 2015 debited vide Audit Note No.04







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dated 08.04.2016 is null and void as already declared by POI.

7. In consideration of what has been stated above, the appeal is dismissed.

Muhammad Qamar-uz-Zaman  
Member

Nadir Ali Khoso  
Convener

Muhammad Shafique  
Member

Dated: 13.12.2018

