



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

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No. NEPRA/AB/Appeal-071/POI-2018/ 2254-2258

December 14, 2018

1. Abdul Salam
S/o. Ghulam Haider,
Managing Director,
M/s Power Plus CNG Filling Station,
Kalal Colony, Taunsa,
Distt. Dera Ghazi Khan
2. Chief Executive Officer,
MEPCO Ltd,
MEPCO Complex, Khanewal Road,
Multan
3. Haroon Aziz Qazi
Advocate High Court
123-Old Block, District Courts,
Multan
4. Sub Divisional Officer (Op),
MEPCO Ltd,
Taunsa Sub Division,
Taunsa
5. Electric Inspector
Multan Region,
249-G, Shah Ruken-e-Alam Colony,
Phase II, Multan

Subject: **Appeal Titled MEPCO Vs. Abdul Salam Against the Decision Dated 21.02.2018 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

No. NEPRA/AB/Appeal-071/POI-2018/ 2259

Forwarded for information please.

(Ikram Shakeel)

December 14, 2018


Assistant Director
Appellate Board

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Registrar



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. 071/ 2018

Multan Electric Power Company Limited

.....Appellant

Versus

Abdul Salam S/o Ghulam Haider, Managing Director M/s. Power Plus

CNG Filling station, Kalal Colony, Taunsa, District 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 21.02.2018 PASSED BY PROVINCIAL
OFFICE OF INSPECTION, MULTAN REGION, MULTAN**

For the appellant:

Mian Haroon Aziz Advocate

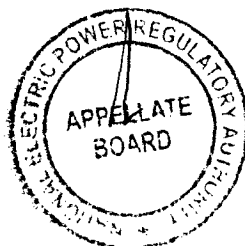
Mr. Iqbal SDO

For the respondent:

Nemo

DECISION

1. Brief facts of the case are that the respondent is a commercial consumer (CNG Station) of MEPCO bearing Ref No.27-15262-0126403 with a sanctioned load of 141 kW under the A-2(c) tariff. Metering equipment of the respondent was checked by MEPCO on 05.11.2012 and reportedly, the Time of Use (TOU) billing meter was found 39.03% slow. MEPCO charged the detection bill for October 2012 and the onwards bills with enhanced multiplication factor (MF)=65.61 to the respondent on account of 39.03%

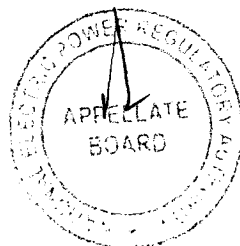




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slowness of the meter. Defective TOU billing meter of the respondent was replaced with the^a new meter by MEPCO in January 2015. Subsequently, the audit department vide Audit Note No.02 dated 24.02.2014 pointed out less charging of units during the months August 2012 & September 2012 due to 39.03% slowness of the meter. Consequently, the notice dated 15.09.2017 was issued to the respondent and the detection bill of Rs.407,705/- for 34,417 units (off peak=26,557, peak=7,860) for the period August 2012 & September 2012 was charged to the respondent @ 39.03% slowness of the meter and added in the bill of September 2017.

2. The respondent being aggrieved challenged the above detection bill before POI on 10.10.2017. The complaint of the respondent was decided by POI vide its decision dated 21.02.2018, wherein the detection bill of Rs.407,705/- for 34,417 units (off peak=26,557, peak=7,860) for the period August 2012 & September 2012 charged @ 39.03% slowness of the meter vide Audit Note No.02 dated 24.02.2014 was declared null and void.
3. The subject appeal has been filed against the decision dated 21.02.2018 of POI (hereinafter referred to as the impugned decision) before NEPRA in which MEPCO inter alia, contended that the connection of the respondent was checked by MEPCO on 05.11.2012 and the TOU billing meter was found 39.03% slow. As per MEPCO, the consumption data shows that the TOU billing meter became 39.03% slow in August 2012, hence the detection bill of Rs.407,705/- for 34,417 units (off peak=26,557, peak=7,860) for the period August 2012 & September 2012 was charged

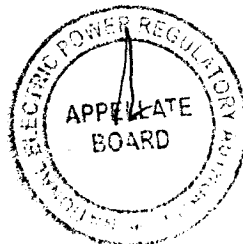




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to the respondent @ 39.03% slowness of the meter on the recommendation of audit department vide Audit Note No.02 dated 24.02.2014. According to MEPCO, the above mentioned detection bill is valid and justified, whereas the impugned decision for declaring the same as null & void is illegal, self-contradictory and vague. MEPCO finally prayed for setting aside the impugned decision. Notice of the appeal was issued to the respondent for filing reply/para-wise comments, which however were not submitted.

4. Hearing of the appeal was held in Multan on 16.10.2018 in which Mian Haroon Aziz advocate along with Mr. Iqbal SDO represented the appellant MEPCO and no one appeared for the respondent. Learned counsel for MEPCO reiterated the same arguments as given in memo of the appeal and contended that 39.03% slowness was observed in the TOU meter of the respondent during MEPCO checking dated 05.11.2012. Learned counsel for MEPCO further contended that the detection bill of Rs.407,705/- for 34,417 units (off peak=26,557, peak=7,860) for the period August 2012 & September 2012 charged to the respondent @ 39.03% slowness of the meter on the recommendation of the audit department is justified and payable by him.
5. Arguments heard and the record was examined. The respondent challenged the detection bill of Rs.407,705/- for 34,417 units (off peak=26,557, peak=7,860) for the period August 2012 & September 2012 charged by MEPCO @ 39.03% slowness of the meter on the basis of Audit Note No.02 dated 24.02.2014 before POI. To verify the



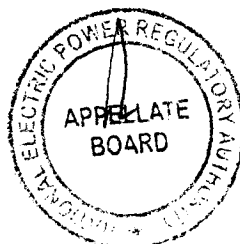


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justification of the above detection bill, the consumption data is tabulated below:

Consumption Data							
Year 2011	Undisputed actual consumption		Year 2012	Disputed actual consumption		Consumption with enhanced MF=65.61	
Month	Units	MDI	Month	Units	MDI	Units	MDI
Aug-11	30,080	154	Aug-12	25,520	158	-	-
Sep-11	35,120	158	Sep-12	28,080	149	-	-
Oct-11	30,120	160	Oct-12	17,680	145	29,000	238
Nov-11	42,960	150	Nov-12			26,000	141
Dec-11	34,640	147	Dec-12			35,758	152

Above table indicates that the consumption in terms of units/MDI recorded during the disputed months i.e. August 2012 & September 2012 is compatible with the consumption of the corresponding undisputed months of the previous year i.e. 2011. However it is observed that the consumption in terms of units for October 2012 is drastically declined in comparison with the consumption of October 2011, this establishes that the meter was functioning correctly during the months August 2012 & September 2012 and became 39.3% slow w.e.f October 2012 and onwards. Hence there is no justification to charge any detection bill for August 2012 and September 2012. Furthermore, charging any detection bill on the basis of audit observation is unjustified as it is an internal matter between the DISCO and Audit Department and the respondent cannot be held responsible for payment of the same. In this regard, reliance is placed on the cases reported in 2014 MLD 1253 titled M/s. Mehmood Textile Mills v/s MEPCO and 2008 YLR 308 titled WAPDA v/s Fazal Karim. It is relevant to mention that the claim of MEPCO is even time-barred by more than three years under Limitation Act, 1908. In this regard, reliance is placed on the Lahore High Court, judgment dated 30.11.2015 in





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respect of writ petition No.17314-2015 titled “Muhammad Hanif v/s NEPRA and others”, which is reproduced below:

“-the period of three years for filing an application applies when the right to apply accrues as prescribed in Article 181 of Limitation Act, 1908.”

In view of above, we are inclined to agree with the determination of POI that the detection bill of Rs.407,705/- for 34,417 units (off peak=26,557, peak=7,860) for the period August 2012 & September 2012 charged by MEPCO @ 39.03% slowness of the meter on the basis of Audit Note No.02 dated 24.02.2014 is unjustified and the same should be declared null and void.

6. Forgoing in view, we do not find any illegality in the impugned decision, which is maintained and consequently, the appeal stands dismissed.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Dated: 13.12.2018

