



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

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No. NEPRA/AB/Appeal-112/POI-2018/1042-1046

May 10, 2019

- 1 M/s. Gulshan Ice Factory
Through Hannan Ahmed,
S/o. Munir Ahmed,
Lalli Lal Road, Layyah
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,
2nd Sub Division,
Layyah
5. Electric Inspector
Multan Region,
249-G, Shah Ruken-e-Alam Colony,
Phase II, Multan

Subject: Appeal Titled MEPCO Vs. M/s. Gulshan Ice Factory Against the Decision Dated 27.02.2018 Provincial Office of Inspection to Government of the Punjab Multan Region, Multan

Please find enclosed herewith the decision of the Appellate Board dated 08.05.2019, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

No. NEPRA/AB/Appeal-112/POI-2018/1047
Forwarded for information please.

(Ikram Shakeel)

May 10, 2019

Assistant Director
Appellate Board

1. Registrar



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. 112/2018

Multan Electric Power Company Limited (MEPCO)Appellant

Versus

M/s. Gulshan Ice Factory, Through Hannan Ahmed S/o Munir Ahmed,
Real son of Consumer, Lalli Lal Road, LayyahRespondent

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,
TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997
AGAINST THE DECISION DATED 27.02.2018 PASSED BY PROVINCIAL
OFFICE OF INSPECTION MULTAN REGION MULTAN**

For the appellant:

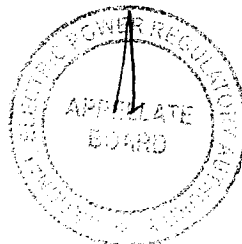
Sardar Mazhar Abbas Advocate
Hafiz Ali Hassan Javaid SDO

For the respondent:

Mr. Hannan Ahmed

DECISION

1. As per facts of the case, the respondent is an industrial consumer (Ice factory) of MEPCO bearing Ref No.27-15732-1011001 having a sanctioned load of 75 kW under the tariff B-2b. As per data retrieval report, the automatic meter reading (AMR) meter of the respondent was 32.93% slow w.e.f 10.05.2017 and onwards. After issuing notice dated 27.10.2017 to the respondent, the detection bill of Rs.804,522/- for 41,609 units/103 kW MDI for the period 10.05.2017 to 02.10.2017 (5 months) was debited by MEPCO in the bill for October 2017.
2. Being aggrieved with the above detection bill, the respondent filed a complaint before





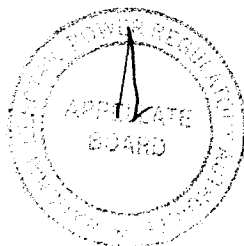
National Electric Power Regulatory Authority

the Provincial Office of Inspection (POI) on 14.11.2017. POI decided the complaint of the respondent vide its decision dated 27.02.2018 with the following conclusion:

“Summing up all the above-narrated observations & conclusion, it is held that:-

- (i) The kWh & kW MDI part of the disputed meter was not 32.93% slow during the period from 06/2017 to 08/2017 due to make & break mode of damaged CT and meter became 32.935% slow from billing month 09/2017 to onwards.*
- (ii) The respondents are directed to:-*
 - a. Withdraw the detection bill charged from 10.05.2017 to 02.10.2017 along with current bills from 06/2017 to 09/2017.*
 - b. Charge revise bills (i) for 06/2017 & 08/2017 on the basis of 100% of corresponding previous consumptions for 06/2016 & 08/2016, (ii) for 07/2017 (charged for 50 days) be charged by enhancing the bill for corresponding previous bill of 07/2016 (30 days) for kWh consumption to the tune of 67% to adjust the effect of increase in billing days from 30 to 50 & (iii) for 09/2017 till MCO @ 32.93% slowness.*
 - c. Proceed for replacement of defective/slow meter in compliance of Clause 4.4 (e) of NEPRA approved Consumer Service Manual, 2010 and overhaul the account of the consumer/petitioner including FPA & PM relief from 06/2017 to 09/2017 proportionately and accordingly.”*

3. Through the instant appeal, MEPCO has assailed the afore-referred decision (hereinafter referred to as the impugned decision) before NEPRA. In its appeal, MEPCO inter-alia contended that the AMR meter was found 32.93% slow by M&T MEPCO; that the detection bill of Rs.804,522/- for 41,609 units/103 kW MDI for the period June 2017 to October 2017 was charged to the respondent as per Consumer Service Manual (CSM); that POI failed to see the case in true perspective and has no jurisdiction in the instant case and that; the impugned decision is against the facts and law and liable to be set

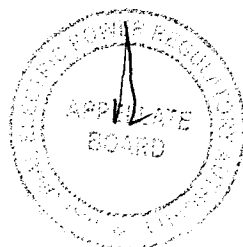




National Electric Power Regulatory Authority

aside.

4. Notice of the appeal was issued to the respondent for filing reply/para-wise comments, which were filed on 15.02.2019. In his reply, the respondent raised the preliminary objection regarding the limitation and contended that the appeal is badly time barred being filed after expiry of 30 days. On merits, the respondent repudiated the version of MEPCO and stated that the unilateral checking of the meter was carried out by MEPCO and the detection bill for a period of 10.05.2017 to 02.10.2017 (3.75 months) was charged on account of the slowness of the meter in violation of clause 4.4 of CSM. The respondent opposed the version of MEPCO regarding the jurisdiction of POI and submitted that the POI is empowered to hear and decide the dispute of metering, billing, and collection of tariff in pursuance of Section 38 of NEPRA Act, 1997. Reliance in this regard was placed on the judgment reported in PLD 2012 SC 371.
5. After issuing notices to both the parties, the hearing of the appeal was held in Multan on 12.04.2019, which was attended by both the parties. Learned counsel for the appellant MEPCO reiterated the same arguments as contained in the memo of the appeal and argued that charging the detection bill of Rs.804,522/- for 41,609 units/103 kW MDI for the period 10.05.2017 to 02.10.2017 due to 32.93% slowness of the meter observed on 02.10.2017 is justified and payable by the respondent. Learned counsel for MEPCO submitted that the impugned decision for declaring the above bills as null and void is illegal, unjustified and liable to be withdrawn. On the ground of limitation, learned counsel for MEPCO informed that the filing of the appeal was delayed due to the





National Electric Power Regulatory Authority

departmental process and prayed for condonation of the delay in the interest of justice.

On the other hand, the respondent appearing in person supported the impugned decision and prayed for its maintainability. He also pointed out that the appeal was time barred.

6. Arguments heard and perused the record placed. Following are our observations:

i. As far 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 and billing dispute under section 38 of NEPRA Act, 1997. The objection of MEPCO in this regard is devoid of force, therefore overruled.

ii. Regarding the point of limitation, it is observed that the copy of the impugned decision dated 27.02.2018 was obtained by MEPCO on 22.03.2018 but the appeal against the same was filed before NEPRA on 14.05.2018 after the lapse of 76 days. Obviously, the appeal filed before NEPRA is time-barred in pursuance of Section 38 of NEPRA Act, 1997. MEPCO failed to provide any justification for the delay in filing the appeal, hence the application for condonation of the delay is rejected and consequently the appeal is dismissed being barred by time.

Muhammad Qamar-uz-Zaman
Member

Nadir Ali Khoso
Convener

Muhammad Shafique
Member

Dated: 08.05.2019

