



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

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No. NEPRA/Appeal/078/POI/2020/1047

December 28, 2021

1. Abdul Shakoor,
S/o. Pir Bakhsh,
R/o. Jando Morh,
Tehsil & District Lodhran
2. Chief Executive Officer,
MEPCO Ltd,
MEPCO Complex, Khanewal Road,
Multan
3. Waqi Hussain Malik,
Advocate High Court,
44-Aziz Block, District Courts,
Multan
4. Sub Divisional Officer (Op),
MEPCO Ltd,
Rural Sub Division,
Lodhran
5. POI/Electric Inspector,
Multan Region,
249-G, Shah Ruken-e-Alam Colony,
Phase II, Multan

Subject: **Appeal Titled MEPCO Vs. Abdul Shakoor Against the Decision Dated 24.02.2020 Provincial Office of Inspection to Government of the Punjab Multan Region, Multan**

Please find enclosed herewith the decision of the Appellate Board dated 08.12.2021, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(Ikram Shakeel)
Deputy Director (M&E)/
Appellate Board

Forwarded for information please.

Director (IT) –for uploading the decision on NEPRA website



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. 078/POI-2020

Multan Electric Power Company Limited

.....Appellant

Versus

Abdul Shakoor S/o Pir Baksh, R/o Jando Morh,
Tehsil & District Lodhran

.....Respondent

APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 24.02.2020 PASSED BY PROVINCIAL OFFICE OF INSPECTION MULTAN REGION, MULTAN

For the Appellant:

Mr. Waqi Hassan Advocate
Mr. M. Arshad SDO

For the Respondent:

Mr. Abdul Shakoor

DECISION

1. As per facts of the case, the Respondent is an agricultural consumer of the Multan Electric Power Company Limited (MEPCO) having Ref No.29-15422-0713101 with sanctioned load of 19 kW under the D-1(b) Tariff. The defective meter of the Respondent was replaced with a new meter on 30.04.2019 and it was sent for checking to the Metering and Testing (M&T) MEPCO laboratory. Later on, a detection bill of Rs.118,892/- for 11,816 units for the period November 2018 to February 2019 four (4) months was charged to the Respondent by the MEPCO in May 2019 on account of pending units. Subsequently, the M&T MPECO vide report dated 15.11.2019





National Electric Power Regulatory Authority

declared the display of the meter as vanished along with the upset date and time.

2. Being dissatisfied, the Respondent filed a complaint before the Provincial Office of Inspection, Multan Region, Multan (the POI) on 20.06.2019 against the charging of the above detection bill. The POI disposed of the matter vide decision dated 24.02.2020, wherein the detection bill of Rs.118,892/- for 11,816 units for the period November 2018 to February 2019 four (4) months charged by the MEPCO was cancelled and the MEPCO was directed to charge the revised bill for April 2019 on DEF-EST code as per Clause 4.4 of the Consumer Service Manual (CSM). The MEPCO was further directed to overhaul the billing account of the Respondent.
3. Being aggrieved with the decision dated 24.02.2020 of the POI (hereinafter referred to as the impugned decision), the MEPCO has filed the instant appeal before the NEPRA. In its appeal, the MEPCO contended that the detection bill of Rs.118,892/- for 11,816 units for the period November 2018 to February 2019 four (4) months was charged to the Respondent in May 2019 on account of pending units as observed on the defective meter. The MEPCO termed the above-said detection bill as justified and payable by the Respondent. The MEPCO opposed the impugned decision, inter alia, on the following grounds; (1) the POI had failed to observe the case in letter and spirit and the policy formulated in the CSM and passed the impugned decision on surmises and conjectures; (2) the POI did not decide the matter within statutory period of ninety (90) days, which is violative of Section 26(6) of the Electricity Act, 1910; (3) the matter falls within the domain of Civil Court and the POI has no lawful jurisdiction ; (4) the POI neither applied the judicious mind nor considered the facts while deciding



National Electric Power Regulatory Authority

the case; and (5) the impugned decision may be set aside. In his application for the condonation of delay, the MEPCO stated that the copy of the impugned decision was received on 09.03.2020. Whereas the Honorable Lahore High Court through notifications dated 27.03.2020 and 17.04.2020 held that the litigation in the courts or any legal forum will be deemed as closed due to the lockdown of COVID-19 for the period 24.03.2020 to 20.04.2020, hence the appeal filed before the NEPRA is within limitation. The Appellant finally prayed for the condonation of the delay in the interest of justice.

4. Notice of the appeal was sent to the Respondent for filing reply/para-wise comments, which were filed on 18.08.2020. In his reply, the Respondent opposed the contentions of the MEPCO regarding charging the detection bill of Rs.118,892/- for 11,816 units for the period November 2018 to February 2019 four (4) months and submitted that the MEPCO has charged 31,385 units in excess as compared to the final reading of the disputed removed meter retrieved by the M&T MEPCO. The Respondent defended the impugned decision for declaring the above detection bill as null and void and termed it as justified and correct. As per Respondent, the MEPCO violated Clause 4.4(e) of the CSM and charged the abovementioned detection bill for a longer period instead of feeding the DEF-EST code. According to the Respondent, the POI decided the matter under Section 38 of the NEPRA Act 1997 and the decision by the POI was rendered after the one-twenty (120) days due to the delay in M&T checking on 15.11.2019. The Respondent opposed the version of the MEPCO and contended that the POI has exclusive jurisdiction to decide the instant dispute as per the judgment





National Electric Power Regulatory Authority

of the Honorable Supreme Court of Pakistan reported in PLD 2012 SC 371. The Respondent finally prayed for the dismissal of the appeal.

5. Hearing of the appeal was held at the NEPRA Regional Office Multan on 26.10.2021 in which both the parties were in attendance. In response to the issue of limitation, Learned counsel for the MEPCO informed that the Honorable Lahore High Court through notifications dated 27.03.2020 and 17.04.2020 held that the litigation in the courts or any legal forum will be deemed as closed due to the lockdown of COVID-19 for the period 24.03.2020 to 20.04.2020, hence the delay in filing the appeal before the NEPRA occurred due the COVID-19 lockdown may be condoned. Learned counsel for the MEPCO reiterated the same arguments as given in memo of the appeal and averred that 11,816 units were found less charged during the M&T MEPCO checking dated 15.11.2019, therefore, the detection bill of Rs.118,892/- for 11,816 units for the period November 2018 to February 2019 four (4) months was charged to the Respondent. As per learned counsel for the MEPCO, the above detection bill charged to the Respondent is in line with the observation reported in the M&T data retrieval report dated 15.11.2019. Learned counsel for the MEPCO finally prayed for setting aside the impugned decision on the grounds that it was decided after the ninety (90) days as allowed in Section 26(6) of the Electricity Act 1910. On the other hand, the Respondent appearing in person repudiated the contentions of learned counsel for the MEPCO and argued that neither prior notice was served nor he was associated during the M&T MEPCO checking, as such he is not responsible to pay the detection bill of Rs.118,892/- for 11,816 units for the period November 2018 to February 2019





National Electric Power Regulatory Authority

four (4) months charged by the MEPCO on account of pending units since the disputed meter was under the custody of the MEPCO and the meter data retrieval report is bogus. The Respondent finally prayed for the maintainability of the impugned decision.

6. Arguments were heard, the record was perused and our observations are as under:
- i. Regarding the point of limitation, we are convinced with the arguments of learned counsel for the MEPCO that the delay in filing the appeal before the NEPRA occurred due to the COVID-19 lockdown in the country for the period 24.03.2020 to 20.04.2020. Hence the application for the condonation of the delay in filing the appeal is accepted and consequently, the appeal is acknowledged to be decided on merits.
 - ii. At addressing the preliminary objection of MEPCO regarding the failure of POI in deciding the matter within ninety (90) days under Section 26(6) of the Electricity Act, 1910, it may be noted that the said restriction of the time limit is inapplicable for the POI established under Section 38 of the NEPRA Act, 1997. The same has already been held by the Honorable Lahore High Court in the following cited judgments, PLJ 2017-Lahore-627 and PLJ-2017-Lahore-309. As such the objection of MEPCO in this regard carries no weight, hence rejected.
 - iii. MEPCO raised another objection that the instant matter falls within the domain of Civil Court and the POI has no jurisdiction to adjudicate the instant matter. It is





National Electric Power Regulatory Authority

noted that the matter pertains to the billing due to a defective meter, therefore the POI is empowered to entertain such disputes pursuant to Section 38 of the NEPRA Act, 1997. Moreover, the honorable Supreme Court of Pakistan vide judgment reported in PLD 2012 SC 371 authorized the POI to adjudicate disputes of such nature. Hence objection of MEPCO in this regard is not valid and dismissed.

- iv. It is observed that the detection bill of Rs.118,892/- for 11,816 units for the period November 2018 to February 2019 four (4) months charged by the MEPCO on account of pending units, however, the disputed meter was neither produced before the POI for verification of the pending units nor was the data retrieval done in the presence of the Respondent. After the removal of the defective billing meter of the Respondent in May 2019, the MEPCO kept the same in its custody for a period of more than six (6) months till the data retrieval on 15.11.2019. Moreover, the above detection bill was charged beyond two (2) months, which is inconsistent with Clause 4.4 of the CSM. Furthermore, the period of the above detection is not relevant as the disputed meter of the Respondent was found defective in May 2019 but the period of detection bill was considered as November 2018 to February 2019. From the foregoing reasons, we hold that the detection bill of Rs.118,892/- for 11,816 units for the period November 2018 to February 2019 four (4) months charged by the MEPCO to the Respondent in May 2019 is unjustified, illegal and it is liable to be cancelled as already decided by the POI.

- v. Since the meter under dispute was found defective in May 2019, therefore the Respondent may be charged the detection bill for two (2) months i.e. March 2019





National Electric Power Regulatory Authority

and April 2019 as per Clause 4.4(e) of the CSM and the basis of charging the above detection bill be made on 100% consumption of the corresponding months of the previous year i.e. March 2018 and April 2018 or average consumption of last eleven months i.e. April 2018 to February 2019, whichever is higher. The impugned decision is liable to be modified to this extent.

7. In view of what has been stated above, we hold that the detection bill of Rs.118,892/- for 11,816 units for the period November 2018 to February 2019 four (4) months charged to the Respondent by the MEPCO is unjustified and the same is set aside. The Respondent should be charged the detection bill for two (2) months i.e. March 2019 and April 2019 and the basis of charging the said detection bill be made on 100% consumption of the corresponding months of the previous year i.e. March 2018 and April 2018 or average consumption of the last eleven months i.e. April 2018 to February 2019, whichever is higher. The billing account of the Respondent be overhauled after making adjustments of payments made against the above detection bill.

8. The appeal is disposed of in the above terms.

Abid Hussain
Member/Advisor (CÁD)

Nadir Ali Khoso
Convener/Senior Advisor (CAD)

Dated: 08.12.2021

