



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

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No. NEPRA/Appeal/007/POI/2020/ *1065*

January 03, 2022

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------|
| 1. Habib-ur-Rehman,
S/o. Muhammad Essa,
Through Abdul Malik, Representative,
R/o. Hotai Wala, Tehsil Taunsa Sharif,
District Dera Ghazi Khan | 2. Chief Executive Officer,
MEPCO Ltd,
MEPCO Complex, Khanewal Road,
Multan |
| 3. Executive Engineer (Operation),
MEPCO Ltd,
Taunsa Sharif Division,
Taunsa Sharif | 4. Sub Divisional Officer (Op),
MEPCO Ltd,
City Sub Division,
Taunsa Sharif |
| 5. POI/Electric Inspector,
Multan Region,
249-G, Shah Ruken-e-Alam Colony,
Phase II, Multan | |

Subject: **Appeal Titled MEPCO Vs. Habib-ur-Rehman Against the Decision Dated 30.09.2019 Provincial Office of Inspection to Government of the Punjab Multan Region, Multan**

Please find enclosed herewith the decision of the Appellate Board dated 24.12.2021, 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.007/POI-2020

Multan Electric Power Company Limited

.....Appellant

Versus

Habib-ur-Rehman S/o Muhammad Essa, Through Abdul Malik
R/o Hotai Wala, Tehsil Taunsa Sharif, District Ghazi Khan

.....Respondent

APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 30.09.2019 PASSED BY PROVINCIAL OFFICE OF INSPECTION MULTAN REGION MULTAN

For the Appellant:

Mr. Khalid Mahmood Revenue Officer
Mr. Mohsin Shahzad

For the Respondent:

Mr. Abdul Malik

DECISION

1. As per facts of the case, Mr. Habib-ur-Rehman, the Respondent is a domestic consumer of the MEPCO having connection bearing Ref No.05-15262-0170400 with sanctioned load of 1 kW and the applicable tariff is A-1. MEPCO charged the following detection bills to the Respondent on different causes of action:

Meter checking dated	Discrepancies	Detection bill
22.01.2018	Meter body found broken, running load =4.5 Amp.	First detection bill of Rs.2,258/- for 251 units for the period from October 2017 to December 2017 charged on the basis of 20% load factor of the connected load i.e.1 kW.
09.05.2018	Meter found the dead stop	Second detection bill of Rs.17,687/- for





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	running load =8 Amp.	1,064 units for the period from February 2018 to April 2018 on the basis of 20% load factor of the connected load i.e.3 kW.
30.07.2018	Meter found the dead stop, Theft of electricity through neutral	The third detection bill of Rs.13,209/- for 990 units for the period from July 2018 to September 2018 charged on the basis of 20% load factor of the connected load i.e.2.2 kW.
Jan-2019	The final reading of the removed meter	Fourth detection bill of Rs.2,288/- for 219 units for January 2019 charged as per the final reading.

2. Being dissatisfied, the Respondent filed an application before the Provincial Office of Inspection, Multan Region, Multan (the POI) on 07.03.2019 and assailed the abovementioned detection bills. The POI vide decision dated 30.09.2019 declared the afore-referred detection bills as null & void and the MEPCO was directed to afford credit of net 639 units excessively charged during the months i.e. October 2017 to December 2017, February 2018 to April 2018, July 2018 to September 2018, and January 2019.
3. Subject appeal has been filed against the decision dated 30.09.2019 of the POI (hereinafter referred to as the impugned decision) by the MEPCO before the NEPRA. In its appeal, the MEPCO opposed the impugned decision inter alia, on the following grounds; (1) the POI has no lawful jurisdiction to decide the theft case and the instant matter falls within the domain of the Civil Court; (2) the Representative for the Respondent has no locus standi as he is notorious tout having criminal record of theft of electricity; (2) the representative for the Respondent is habitual stealer of electricity and several FIRs are registered against him; (3) various complaint including the instant





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case were filed by the said tout before the POI; (4) the premises of the Respondent was checked time and again and the billing meter was found dead stop and the connected load noticed was higher than the sanctioned load; (5) the four detection bills [first detection bill of Rs.2,258/- for 251 units for the period from October 2017 to December 2017 charged on the basis of 20% load factor of the connected load i.e.1 kW, second detection bill of Rs.17,687/- for 1,064 units for the period from February 2018 to April 2018 on the basis of 20% load factor of the connected load i.e.3 kW, third detection bill of Rs.13,209/- for 990 units for the period from July 2018 to September 2018 charged on the basis of 20% load factor of the connected load i.e.2.2 kW, fourth detection bill of Rs.2,288/- for 219 units for January 2019 charged as per the final reading] charged by the MEPCO to the Respondent are justified; (6) nominal consumption was recorded even in the summer season despite the AC installed in the premises; (7) the POI afforded the relief to the Respondent beyond his prayer by considering the period October 2017 to January 2019; (8) the impugned decision was passed illegally with material irregularity; and (9) the impugned decision is liable to be set aside.

4. Notice for filing reply/para-wise comments to the appeal was issued to the Respondent, which were filed on 05.03.2020. In his reply, the representative for the Respondent asserted that he has legal rights to challenge the illegal, unlawful charging of impugned bills. The representative for the Respondent submitted that the POI has jurisdiction to decide the instant dispute in pursuance to the judgment of the Honorable Supreme Court of Pakistan reported in PLD 2012 SC 371. As per the representative





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for the Respondent, the impugned decision is legal, valid, and within four corners of law, since the MEPCO has violated Chapter 9 of the CSM. According to the representative for the Respondent, the POI has thoroughly examined the billing data with respect to the Respondent's connection. The representative for the Respondent prayed for the maintainability of the impugned decision.

5. After issuing notices to the parties, hearing of the appeal was held at the NEPRA Regional Office, Multan on 25.10.2021, which was attended by the MEPCO officials and a representative appeared for the Respondent. At the outset of the hearing, the Revenue Officer (RO) MEPCO averred that the dispute of billing was settled between the parties and the representative for the Respondent had submitted an affidavit in this regard, wherein he admitted the settlement of the disputed billing and not to contest the appeal. The RO MEPCO further submitted an application for acceptance of the appeal against the impugned decision along with the affidavit of the Representative for the Respondent. The RO MEPCO further informed that four detection bills were charged to the Respondent on different causes of action, which were paid without raising any objection. On the contrary, the representative for the Respondent negated the version of the MEPCO and argued that the affidavit submitted by the MEPCO was bogus. The representative for the Respondent contended that the MEPCO had taken his signature on the blank stamp paper with the assurance that the billing dispute be settled as per the impugned decision. The representative for the Respondent argued that the above detection bills were paid by the Respondent under protest to avoid disconnection of the electric supply of the premises. The representative for the Respondent finally prayed for the dismissal of the appeal.





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6. We have heard the arguments and examined the record placed before us. Following are our observations:

- i. MEPCO raised the preliminary objection that the instant matter falls within the domain of Civil Court and the POI has no jurisdiction to adjudicate the same matter. It is 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 overruled.
- ii. MEPCO claimed that the representative for the Respondent submitted an undertaking to pay the detection bills and not to contest the appeal. On the other hand, the representative for the Respondent rebutted the contentions of the MEPCO regarding the undertaking and prayed for the decision on merits instead of technical grounds. Before going into the merits of the case, the legitimacy of the declaration produced by the MEPCO needs to be decided. It is observed that Mr. Habib-ur-Rehman the Respondent died and Mr. Saleem Shahid son of the Respondent issued the Power of Attorney to Mr. Abdul Malik to plead the case before the NEPRA as representative for the Respondent. A perusal of the undertaking dated 23.12.2020 indicates that the said settlement with respect to the disputed bills was done by the same person with the MEPCO, which he subsequently denied. Therefore we cannot rely upon the incredible undertaking dated 23.12.2020 produced by the MEPCO by a person who was not authorized in





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this behalf and the plea of the MEPCO for mutual settlement is rejected.

iii. MEPCO debited the following four detection bills on different causes of action during the period October 2017 to January 2019. Thereafter, the disputed billing meter of the Respondent was replaced with a new meter by the MEPCO in January 2019.

- First detection bill of Rs.2,258/- for 251 units for the period October 2017 to December 2017 charged on the basis of 20% load factor of the connected load i.e.1 kW.
- Second detection bill of Rs.17,687/- for 1,064 units for the period from February 2018 to April 2018 on the basis of 20% load factor of the connected load i.e.3 kW
- The third detection bill of Rs.13,209/- for 990 units for the period from July 2018 to September 2018 charged on the basis of 20% load factor of the connected load i.e.2.2 kW.
- Fourth detection bill of Rs.2,288/- for 219 units for January 2019 charged as per the final reading.

iv. MEPCO alleged the tampering with the billing meter by the Respondent and charged the above detection bills based on the load factor of the connected load. However, the disputed billing meter of the Respondent was not produced before the POI for the checking. Moreover, the MEPCO did not regularize the illegally extended load by the Respondent as evident from the consumption data. It is further observed that the MEPCO did not follow the procedure for theft of electricity as laid down in Chapter 9 of the Consumer Service Manual (CSM). Under these circumstances, we hold that the four detection bills as per details given below charged by the MEPCO to the Respondent are unjustified and the same are





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cancelled.

- First detection bill of Rs.2,258/- for 251 units for the period from October 2017 to December 2017 charged on the basis of 20% load factor of the connected load i.e.1 kW.
- Second detection bill of Rs.17,687/- for 1,064 units for the period from February 2018 to April 2018 on the basis of 20% load factor of the connected load i.e.3 kW
- The third detection bill of Rs.13,209/- for 990 units for the period from July 2018 to September 2018 charged on the basis of 20% load factor of the connected load i.e.2.2 kW.
- Fourth detection bill of Rs.2,288/- for 219 units for January 2019 charged as per the final reading.

v. In case of a defective meter, the Respondent is liable to be charged the bills for the disputed months, i.e. October 2017 to December 2017, February 2018 to April 2018, July 2018 to September 2018, and January 2019 on DEF-EST Code as per Clause 4.4 of the CSM. The basis of charging the above-said bills be made on 100% of the consumption of the corresponding month of the previous year or average consumption of last eleven (11) months, whichever is higher. The impugned decision is liable to be modified to this extent.

7. In view of the above, we conclude as under:

- i. the detection bills [first detection bill of Rs.2,258/- for 251 units for the period from October 2017 to December 2017 charged based on 20% load factor of the connected load i.e.1 kW, second detection bill of Rs.17,687/- for 1,064 units for the period from February 2018 to April 2018 on the basis of 20% load factor of the connected load i.e.3 kW, third detection bill of Rs.13,209/- for 990 units for the



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period from July 2018 to September 2018 charged on the basis of 20% load factor of the connected load i.e. 2.2 kW, fourth detection bill of Rs.2,288/- for 219 units for January 2019 charged as per the final reading] charged by the MEPCO to the Respondent are unjustified and the same should be withdrawn.

- ii. The Respondent should be charged the bills for the disputed months, i.e. October 2017 to December 2017, February 2018 to April 2018, July 2018 to September 2018, and January 2019 on DEF-EST Code as per Clause 4.4 of the CSM and the basis of charging the above-said bills be made on 100% of the consumption of the corresponding month of the previous year or average consumption of last eleven (11) months, whichever is higher.
 - iii. The billing account of the Respondent may be overhauled accordingly.
8. The impugned decision is modified in the above terms.

Abid Hussain
Member/Advisor (CAD)

Nadir Ali Khoso
Convener/Senior Advisor (CAD)

Dated: 24.12.2021

