



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

NEPRA Office , Ata Turk Avenue (East), G5/1, Islamabad
Tel. No.+92 051 2013200 Fax No. +92 051 2600030
Website: www.nepra.org.pk E-mail: office@nepra.org.pk

No. NEPRA/Appeal/070/POI/2020/ 1066

January 03, 2022

1. Qaiser Zulfiqar,
S/o. Zulfiqar Khan,
Through Abdul Shakoor,
S/o. Ch. Naimat Ullah,
R/o. Chak No. 41/10-R,
Tehsil & District Khanewal
2. Chief Executive Officer,
MEPCO Ltd,
MEPCO Complex, Khanewal Road,
Multan
3. Sub Divisional Officer (Op),
MEPCO Ltd,
Civil Lines Sub Division,
Khanewal
4. POI/Electric Inspector,
Multan Region,
249-G, Shah Ruken-e-Alam Colony,
Phase II, Multan

Subject: Appeal Titled MEPCO Vs. Qaiser Zulfiqar Against the Decision Dated 22.10.2019 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. 070/POI-2020

Multan Electric Power Company Limited

.....Appellant

Versus

Qaiser Zulfiqar S/o Zulfiqar Khan, Through Abdul Shakoor,
S/o Ch. Naimat Ullah, R/o Chak No.41/10-R,
Tehsil & District Khanewal

.....Respondent

**APPEAL FILED UNDER SECTION 38(3) OF REGULATION OF GENERATION,
TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997
AGAINST THE DECISION DATED 22.10.2019 PASSED BY PROVINCIAL OFFICE
OF INSPECTION, MULTAN REGION, MULTAN**

For the Appellant:

Mr. Muhammad Awais SDO

Mr. Qaiser Shafiq

For the Respondent:

Mr. Abdul Shakoor

DECISION

1. Through this decision, an appeal filed by the Multan Electric Power Company Limited (hereinafter referred to as MEPCO) against the decision dated 22.10.2019 of the Provincial Office of Inspection, Multan Region, Multan (hereinafter referred to as the POI) is being disposed of.
2. The MEPCO is a licensee of the National Electric Power Regulatory Authority (hereinafter referred to as the NEPRA) for distribution of electricity in the territory





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specified as per terms and conditions of the license and the Respondent is its agricultural consumer bearing Ref No. 29-15913-0296800 with a sanctioned load of 19 kW under the D-2(b) tariff.

3. As per MEPCO, the billing meter of the Respondent became dead stop in April 2019 due to which the Respondent was charged less consumption during the months i.e. April 2019 and May 2019. Subsequently, the metering equipment of the Respondent was checked by the Metering and Testing (M&T) MEPCO on 08.06.2019 and reportedly, the discrepancy of the dead stop billing meter was confirmed. Therefore, a detection bill amounting to Rs.175,926/- for 20,006 units for the period April 2019 and May 2019 was charged by the MEPCO to the Respondent @ 60% load factor of the connected load i.e.29 kW, and added in June 2019. The defective billing meter of the Respondent was replaced with a new meter by the MEPCO on 12.07.2019.
4. Being aggrieved, the Respondent challenged the aforesaid detection bill before the POI vide an application on 19.07.2019. The POI disposed of the matter vide its decision dated 22.10.2019 with the following conclusion:

"Keeping in view all above aspects of the case and summing up the above observations and calculation, this forum declares the charging of current bills from 04/2019 to 07/2019 along with the detection bill for the cost pf 20006 units amounting to Rs.175,926/- for the period 04/2019 & 05/2019 as Null, void and without any legal effect. The Respondents are directed to withdraw the above-said detection and charge revised bills @ Clause 4.4(e) of the CSM, 2010 from 15.04.2019 to 12.07.2019 with appropriate estimated



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average @ DEF-EST code. The account of the petitioner may be overhauled accordingly."

**emphasis added*

5. Being dissatisfied with the decision of the POI dated 22.10.2019 (hereinafter referred to as the "impugned decision"), the MEPCO filed the subject appeal before the NEPRA on 06.02.2020. In its appeal, the MEPCO contended that the billing meter of the Respondent became defective (dead stop) in April 2019 and the Respondent was charged less consumption during the months i.e. June 2019 and July 2019 as compared to the consumption of December 2018 and March 2019. The MEPCO further contended that the same defect of the billing meter of the Respondent was observed during M&T checking dated 08.06.2019, therefore, a detection bill of Rs.175,926/- for 20,006 units for the period April 2019 and May 2019 was charged to the Respondent at the rate of 60% load factor of the connected load i.e. 29 kW. As per the MEPCO, the POI did not analyze the M&T checking report dated 04.07.2019, which indicates that the meter became defective in April 2019. According to the MEPCO, the impugned decision is against the facts and law and an outcome of non-reading/misreading of the evidence. The MEPCO finally prayed for setting aside the impugned decision.
6. Notice of the appeal was issued to the Respondent for filing reply/para-wise comments. In his reply, the Respondent contended that neither prior notice was served to him nor the alleged checking was carried out during his presence. The Respondent rebutted the version of the MEPCO and stated that the 20,006 units were





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mentioned in the detection proforma whereas the MEPCO charged 25,404 units+9,636 average units as per the PITC data. As per Respondent, the billing meter became defective (mute) on 15.04.2019 with total reading noted as 172,084 and the backup meter was working within BSS limits with a total reading of 193,680. According to the Respondent, the MEPCO is liable to refund total 44,598 units charged in excess as per breakup given below:

- 9,558 units excessively charged
- 9,636 average units,
- 20,006 detection units

7. Hearing of the appeal was fixed for 09.12.2021 at the NEPRA Regional Office Multan and notice thereof was served upon both parties. Regarding the preliminary question for limitation raised by this forum, the SDO MEPCO replied that the MEPCO initially filed the review petition before the POI on 27.12.2019 against the impugned decision dated 22.10.2019, which was returned by the POI on 08.01.2020 and the appeal was filed before the NEPRA on 06.02.2020. As regards the merits, SDO MEPCO submitted that the billing meter of the Respondent became defective on 15.04.2019 and it was replaced with a new meter on 12.07.2019, therefore, the detection bill of Rs.175,926/- for 20,006 units for the period April 2019 and May 2019 charged to the Respondent at the rate of 60% load factor of the connected load is justified and the Respondent is liable to pay the same. On the other hand, the





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Respondent rebutted the arguments of MEPCO and pleaded that the impugned decision was based on the facts, law and the same is liable to be upheld.

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

- i. Before going into the merits of the case, the point of limitation needs to be addressed. It is observed that the impugned decision was announced by the POI on 22.10.2019, copy of the same was obtained by the MEPCO on 28.10.2019. However, the MEPCO instead of filing the appeal before the NEPRA preferred a review petition before the POI on 27.12.2019. It is clarified that there is no provision in the Punjab (Establishment and Powers of Office of Inspection) Order, 2005 for the review petition against the final order of the POI. Therefore the POI vide letter dated 08.01.2020 returned the review petition of the MEPCO. Subsequently, the MEPCO filed an appeal before the NEPRA on 06.02.2020 against the impugned decision dated 22.10.2019. It has been held by the Honorable Courts in various judgements that a review is a substantial right and is not available to the parties unless it has been conferred by the law upon Court or Tribunal, No Court or Tribunal possess the inherent power to review its decree or order respectively unless such power is expressly granted by statute. Since there is no remedy of review available in the Punjab (Establishment and Powers of Office of Inspection) Order, 2005, the MEPCO could have approached the NEPRA in the appeal.





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- ii. The above scenario indicates that the MEPCO failed to file the instant appeal before the NEPRA within thirty (30) days of receipt of the impugned decision under Section 38 (3) of NEPRA Act 1997. The appeal filed by the MEPCO after the lapse of one hundred and seven (107) days is time-barred and even no sufficient reasons have been given by the MEPCO to justify the condonation of delay. It is concluded that the appeal filed before NEPRA is time-barred and liable to be dismissed on this ground alone.
9. Forgoing in consideration, the appeal is dismissed.

Abid Hussain
Member/Advisor (CAD)

Nadir Ali Khoso
Convener/Senior Advisor (CAD)

Dated: 24.12.2021

