



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

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No. NEPRA/Appeal/134/POI/2020/ //i 9

October 12, 2022

- | | |
|---|--|
| 1. Syed Shoukat Hussain,
S/o. Syed Buddan Shah,
R/o. Basti Nau, Nawab Pur Road,
Multan | 2. Chief Executive Officer,
MEPCO Ltd,
MEPCO Complex, Khanewal Road,
Multan |
| 3. Malik Muhammad Muzaffar Athangal,
Advocate High Court,
Seat No. 18-A, District Courts,
Multan | 4. Sub Divisional Officer (Operation),
MEPCO Ltd,
WAPDA Town Sub Division,
Multan |
| 5. POI/Electric Inspector,
Multan Region,
249-G, Shah Ruken-e-Alam Colony,
Phase II, Multan | |

Subject: **Appeal Titled MEPCO Vs. Syed Shaukat Hussain Against the Decision Dated 30.07.2020 Provincial Office of Inspection to Government of the Punjab Multan Region, Multan**

Please find enclosed herewith the decision of the Appellate Board dated 10.10.2022, 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.

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



National Electric Power Regulatory Authority

Before The Appellate Board

In the matter of

Appeal No.134/POI-2020

Multan Electric Power Company LimitedAppellant

Versus

Syed Shoukat Hussain S/o Syed Buddan Shah,
R/o Basti Nawab Pur Road, MultanRespondent

APPEAL U/S 38(3) OF THE REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997

For the Appellant:
Mr. Munwar Khaliq Advocate

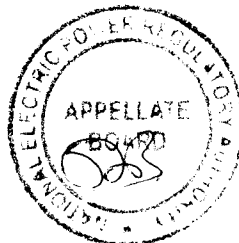
For the Respondent:
Syed Shaukat Hussain

DECISION

1. As per facts of the case, Syed Shaukat Hussain (hereinafter referred to as the “Respondent”) is a domestic consumer of Multan Electric Power Company Limited (hereinafter referred to as the “Appellant”) bearing Ref No.14-15175-8781805 U with a sanctioned load of 1 kW and the applicable Tariff category is A-1(a). The premises of the Respondent was checked by the Appellant on 30.04.2019 and it was alleged that the billing meter of the Respondent was found tampered (reversed) with mismatched serial number. As per the Appellant, the discrepancy of the mismatched serial number and tampering (reversed) in the impugned meter was confirmed during the Metering and Testing (M&T) checking dated 07.05.2019. The

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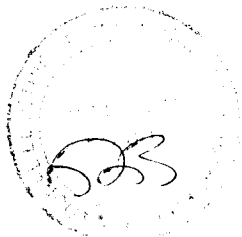




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Appellant initially issued a handmade detection bill (the “first detection bill”) of Rs.25,000/- to the Respondent against which he deposited an amount of Rs.22,000/- along with meter replacement cost on 17.05.2019. Later on, the Appellant charged another detection bill (the “second detection bill”) of Rs.70,222/- against 2,737 units for three (03) months for the period February 2019 to April 2019 to the Respondent based on 30% load factor of the connected load i.e. 5.11 kW.

2. Being aggrieved, the Respondent filed a complaint before the Provincial Office of Inspection, Multan Region, Multan (hereinafter referred to as the “POI”) and challenged the second detection bill. The complaint of the Respondent was disposed of by the POI vide the decision dated 30.07.2020, wherein the second detection bill of Rs.70,222/- against 2,737 units for three (03) months for the period February 2019 to April 2019 charged to the Respondent was cancelled and the Appellant was directed to charge the revised bill for net 1,423 units for the period February 2019 to April 2019 based on 20% load factor of the connected load i.e. 4.5 kW. The Appellant was further directed to overhaul the billing account of the Respondent and for adjustment of payments made against the second detection bill.
3. Subject appeal has been filed against the afore-referred decision dated 30.07.2020 of the POI by the Appellant before the NEPRA, wherein it is contended that the discrepancies of the mismatched serial number and reversing in the impugned meter were observed during the checking dated 30.04.2019, therefore the second detection bill of Rs.70,222/- against 2,737 units for three (03) months for the period



February 2019 to April 2019 was charged to the Respondent. The Appellant further contended that the POI failed to observe the case in letter and spirit and the policy formulated in the Consumer Service Manual 2010 (the "CSM-2010") and passed the impugned decision on surmises and conjectures. As per the Appellant, the POI did not decide the matter within ninety (90) days) from the date of receipt of the complaint as envisaged in Section 26(6) of the Electricity Act 1910, hence the impugned decision becomes functus, officio, void, ab initio, and coram non-judice, pursuant to the judgment reported in 2015 MLD 1307. According to the Appellant, the factual controversies were involved in this case and could only be resolved through the evidence, as such the matter exclusively falls within the domain of the Civil Court. The Appellant submitted that the above detection bill was assailed before the Civil Court Multan and the case is still under adjudication before the Civil Court, this fact was concealed by the Respondent from the POI. The Appellant finally prayed that the impugned decision is liable to be set aside.

4. Proceedings by the Appellate Board

4.1 Upon filing of the instant appeal, a Notice dated 05.01.2021 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days. The Respondent submitted a reply to the Appeal on 22.02.2021, wherein he contended that the Appellant conducted unilateral checking at the end of April 2019 wherein the baseless allegations of the illegal extension of load up to 5.1 kW and use of bogus meter were levelled. The Respondent further contended that the first



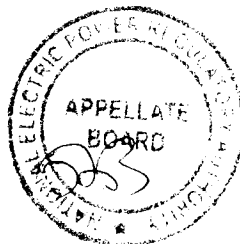
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detection bill of Rs.22,000/- and the meter replacement cost were paid but the Appellant illegally charged the second detection bill of Rs.70,222/- against 2,737 units for three (03) months for the period February 2019 to April 2019, which was assailed before the POI. As per Respondent, the POI vide impugned decision afforded some relief by the cancellation of the impugned bill but the Appellant did not implement the same to date. The Respondent finally prayed that the impugned decision be maintained in the best interest of justice.

5. Hearing

5.1 Hearing in the subject matter was initially fixed for 26.10.2021 at NEPRA Regional Office Multan and accordingly, the notices dated 15.10.2021 were sent to the parties (i.e. the Appellant and the Respondents) to attend the hearing. On the given date of hearing, the representative of the Appellant sought adjournment with the plea that the counsel engaged in the instant case is busy before the Lahore High Court Multan bench and he could not attend the Appellate Board hearing. In view of the above, the hearing was adjourned till the next date.

5.2 The hearing of the appeal was rescheduled for 09.12.2021 at NEPRA Regional Office, Multan for which notices dated 02.12.2021 were served to both the Appellant and the Respondent. On the given date of the hearing, the representative for the Appellant informed that the counsel engaged in the instant case is busy before the Lahore High Court Multan bench and he could not attend the Appellate Board hearing. He requested the adjournment which was allowed till the next date.



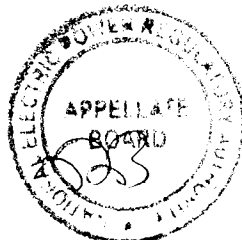


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5.3 After issuing notices dated 26.01.2022 to both parties, the appeal was heard at NEPRA Regional Office Multan on 03.02.2022 in which no one appeared for the Appellant and the Respondent appeared in person. Resultantly, the Appeal was dismissed due to non-prosecution under Regulation 11(1) of the NEPRA (Procedure for Filing Appeals) Regulations, 2012. The Appellant subsequently an application for restoration of the Appeal before the NEPRA on 30.03.2022, wherein the Appellant prayed that the non appearance before the Appellate Board was not intentional, hence the appeal be restored in the best interest of justice.

5.4 Lastly, notices dated 15.08.2022 were served to both parties and the appeal was heard at NEPRA Regional Office Multan on 23.08.2022, which was attended by the proxy counsel for the Appellant whereas the Respondent appeared in person. Proxy counsel for the Appellant sought adjournment on the same grounds that the counsel engaged in the instant appeal is busy before the other court and could not attend the hearing of the Appellate Board. The adjournment request of the proxy counsel of the Appellant was declined by this forum with the direction to submit the written arguments within seven days.

5.5 The Respondent reiterated the contentions as given in the reply to the appeal and argued that the allegation of the Appellant for use of a bogus and tampered meter is baseless as neither the checking was carried out in his presence nor the impugned meter was produced before the POI as material evidence. The Appellant opposed the charging of the second detection bill of Rs.70,000/- and submitted that the





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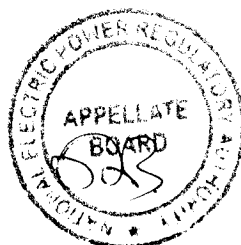
impugned decision for setting aside the impugned detection bill is correct. The

Respondent finally prayed for the dismissal of the appeal on grounds of limitation.

5.6 Subsequently, the Appellant submitted written arguments before the NEPRA in which the impugned decision was opposed, *inter alia*, on the grounds that the second detection bill of Rs.70,222/- against 2,737 units for three (03) months for the period February 2019 to April 2019 was debited to the Respondent on account of theft of electricity through the installation of a bogus meter (meter number mismatched with reversed terminals); that the Respondent concealed the facts that the matter was initially disputed before the Civil Court and still under the adjudication before the said forum; that the Civil court has exclusive jurisdiction in the instant matter; that the POI did not decide the fate of complaint within the specified limit of 90 days as envisaged in Section 26(6) of the Electricity Act 1910; that the Lahore High Court Lahore granted an exemption under the prevailing situation of the COVID-19; that the appeal filed before NEPRA is within time and the impugned decision is liable to be set aside.

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

6.1 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 30.07.2020, copy of the same was obtained by the Appellant on 16.09.2020 and the present appeal was preferred before the NEPRA on 09.11.2020 against the impugned decision dated 30.07.2020. As per section 38(3) of the NEPRA Act, the






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aggrieved person may file an appeal before NEPRA within 30 days' time.

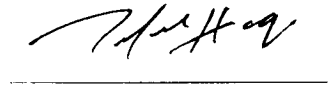
6.2 In his written arguments, the Appellant stated that the Lahore High Court Lahore granted an exemption under the prevailing situation of COVID-19. However, no such order of the honorable High Court was submitted by the Appellant in support of their contention.

6.3 As such the appeal was filed before the NEPRA on 09.11.2020 i.e. after a lapse of fifty-four (54) days) from the date of receipt of the impugned decision i.e. 16.09.2020 and no sufficient reasons have been given by the Appellant to justify the condonation of delay.

7. Forgoing in view, the appeal being barred by time; hence is dismissed.


Syed Zavar Haider
Member


Abid Hussain
Convener


Muhammad Irfan-ul-Haq
Member

Dated: 16/10/2020

