



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

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No. NEPRA/Appeal/060/2024/ 629

June 30, 2025

- | | |
|---|--|
| 1. Yousaf Hayat,
S/o. Khawaja Muhammad,
M/s. Sardaryab Flour Mills,
Peshawar Road, Charsadda
Cell No. 0311-9040600 | 2. Chief Executive Officer,
PESCO Ltd,
WAPDA House, Sakhi Chashma,
Shami Road, Peshawar |
| 3. Saeed Khan Akhunzada,
Advocate High Court,
Chamber No. 19, Muslim Block,
District Courts, F-8 Markaz,
Islamabad
Cell No. 0300-8597974 | 4. Muhammad Hanzala,
Advocate High Court,
Flat 02, Block 05, PHA Apartments,
G-10/2, Islamabad
Cell No. 0311-9636040 |
| 5. Executive Engineer (Operation),
PESCO Ltd,
Charsadda Division,
Charsadda | 6. Sub Divisional Officer (Operation),
PESCO Ltd,
Charsadda Town Sub Division,
Charsadda
Cell No. 0370-1340141 |
| 7. POI/Electric Inspector,
Peshawar Region,
Benevolent Fund Building,
3rd Floor, Near Jans Bakers,
Peshawar Cantt,
Phone No. 091-9211343 | |

Subject: Appeal No.060/2024 (PESCO vs. Yousaf Hayat) Against the Decision Dated 08.05.2024 of the Provincial Office of Inspection to Government of the Khyber Pakhtunkhwa Peshawar Region, Peshawar

Please find enclosed herewith the decision of the Appellate Board dated 30.06.2025 (06 pages), regarding the subject matter, for information and necessary action, accordingly.

Encl: As Above

(Ikram Shakeel)
Deputy Director
Appellate Board

Forwarded for information please.

1. Director (IT) –for uploading the decision of the Appellate Board on the NEPRA website



National Electric Power Regulatory Authority

Before The Appellate Board

In the matter of

Appeal No.060/POI-2024

Peshawar Electric Supply Company Limited

.....Appellant

Versus

Yousaf Hayat, S/o. Khawaja Muhammad, M/s. Sardaryab Flour Mills,
Peshawar Road, Charsadda

.....Respondent

APPEAL UNDER SECTION 38(3) OF THE REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997

For the Appellant:

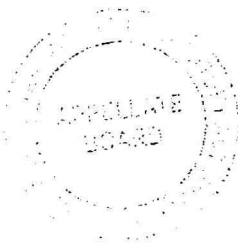
Mr. Saeed Khan Akhunzada Advocate
Mr. Raheel Ahmed RO

For the Respondent:

Mr. Muhammad Hanzala Advocate
Mr. Murshid Ali

DECISION

1. Brief facts of the case are that Mr. Yousaf Hayat (hereinafter referred to as the "Respondent") is an industrial consumer of Peshawar Electric Supply Company Limited (hereinafter referred to as the "Appellant") bearing Ref No.30-26141-0001704 having sanctioned load of 410 kW and the applicable tariff category is B-2(b). The metering equipment of the Respondent was checked by the M&T team of the Appellant on 24.01.2024 and reportedly the billing meter was found tampered with (intentionally 33% slow) due to the yellow phase being dead. Notice dated 02.02.2024 was issued to the Respondent regarding the recovery of 165,096 units. Subsequently, a detection bill of 899,620 units+3,042 kW MDI for thirty-three months i.e. 01.04.2021 to 09.07.2021, 24.07.2021 to 27.08.2021 and 09.09.2021 to 24.01.2024 was debited to the Respondent @ 33% slowness of the meter and added to the bill for April 2024.
2. Being aggrieved with the abovementioned actions of the Appellant, the Respondent approached the Provincial Office of Inspection, Peshawar Region, Khyber Pukhtunkhwa (hereinafter referred to as the "POI") on 22.04.2024 and challenged the above detection bill. The matter was decided by POI vide decision dated 08.05.2024, wherein the detection bill of 899,620 units+3,042 kW MDI for thirty-three months i.e. 01.04.2021 to 09.07.2021, 24.07.2021 to 27.08.2021 and 09.09.2021 to 24.01.2024 was declared null and void and the





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Appellant was allowed to debit the revised bill of net 80,883 units+210 kW MDI for two months i.e. December 2023 and January 2024.

3. Being dissatisfied, the Appellant has filed the instant appeal before NEPRA and assailed the decision dated 08.05.2024 of the POI (hereinafter referred to as the "impugned decision"). In its appeal, the Appellant opposed the maintainability of the impugned decision, *inter-alia*, on the following grounds that the impugned detection bill of 899,620 units+3,042 kW MDI for thirty-three months i.e. 01.04.2021 to 09.07.2021, 24.07.2021 to 27.08.2021 and 09.09.2021 to 24.01.2024 was debited to the Respondent on account of theft of electricity through tampering with the meter as observed on 24.01.2024; that the POI has not applied his mind to the facts that the Respondent was charged as per COSMOS data; that the CSM 2021 has not answered the question of burnt/damaged CTs of AMR meter as the CTs are fixed outside the metering equipment; that the POI has ignored the fact that subject assessment was vetted by the said forum prior communication to the Respondent and passed the impugned decision arbitrarily; and that the impugned decision is liable to be set aside.
4. Notice dated 12.07.2024 of the appeal was issued to the Respondent for filing reply/para-wise comment, which were filed on 24.07.2024. In the reply, the Respondent prayed for dismissal of the appeal *inter alia*, on the main grounds that the appeal is time-barred; that the affidavit suffixed with the appeal is not verified by the Oath Commissioner; that the impugned decision is in accordance with the provisions of the CSM-2021; that the NEPRA Authority vide order dated 13.06.2024 rejected the plea of the DISCOs for revision of Clause 4.3 of the CSM-2021; that if the Respondent was involved in the illegal abstraction of electricity as to why the Appellant did not initiate criminal proceedings; that the POI decided the matter as per Clause 4.3 of the CSM-2021; and that the impugned decision is liable to be maintained.

5. Hearing

- 5.1 Hearing of the appeal was conducted at NEPRA Head Office Islamabad on 14.04.2025, wherein both parties tendered appearance. Learned counsel for the Appellant contended that the Respondent was found involved in the illegal abstraction of electricity through deliberately tampering (one CT intentionally made defective) during M&T checking dated 24.01.2024. Learned counsel for the Appellant further contended that the impugned meter of the Respondent remained 33% slow during thirty-three months, therefore a detection bill of 899,620 units+3,042 kW MDI for thirty-three months i.e. 01.04.2021 to 09.07.2021,



11.6



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24.07.2021 to 27.08.2021 and 09.09.2021 to 24.01.2024 was debited to the Respondent to account for revenue loss sustained by the Appellant due to theft of electricity through tampering with the meter. As per learned counsel for the Appellant, the POI did not consider the real aspects of the case and erroneously declared the above detection bill as null and void and allowed the Appellant to recover 33% slowness of the impugned meter for two billing cycles only. Learned counsel for the Appellant finally prayed that the impugned decision is unjustified and liable to be struck down.

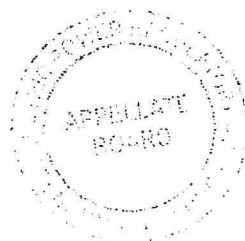
5.2 On the contrary, the learned counsel for the Respondent rebutted the version of the Appellant and averred that the impugned meter was functioning correctly till the last billing cycle before checking dated 24.01.2024 and no discrepancy whatsoever was pointed out by the Appellant during the monthly readings, hence there is no justification to debit detection bill on account of alleged theft of electricity. As per learned counsel for the Respondent, if presumed the Respondent was involved in dishonest abstraction of electricity through tampering with the meter as to why the Appellant failed to follow the procedure as laid down in Chapter 9 of the CSM-2021. According to the learned counsel for the Respondent, the Appellant even did not take legal proceedings against the Respondent as laid down in Chapter 9 of the CSM-2021. Learned counsel for the Respondent opposed the charging of the impugned detection bill of 899,620 units+3,042 kW MDI for thirty-three months i.e. 01.04.2021 to 09.07.2021, 24.07.2021 to 27.08.2021 and 09.09.2021 to 24.01.2024 and defended the impugned decision for cancellation of the same. He finally pleaded for dismissal of the appeal being barred by time.

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

6.1 Limitation:

While considering the preliminary objection of limitation raised by the Respondent, it is noted that the Appellant obtained the copy of the impugned decision dated 08.05.2024 on 23.05.2024 and filed the present appeal before the NEPRA on 14.06.2024, which is within time as given in Section 38(3) of the NEPRA Act. There is no force in the arguments of the Respondent that the time of limitation starts from the date of announcement. Reliance in this regard is placed on the judgment of the honorable Lahore High Court Lahore cited as *2016 YLR 1916*, wherein it was held that the POI is required to send a copy of the impugned decision to the parties and the period of limitation for filing the appeal will start from the date of receipt of the impugned decision. In view of the above, the objection of the Respondent regarding limitation is not valid and, therefore dismissed.

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6.2 Detection bill of 899,620 units+3,042 kW MDI for thirty three months i.e. 01.04.2021 to 09.07.2021, 24.07.2021 to 27.08.2021 and 09.09.2021 to 24.01.2024:

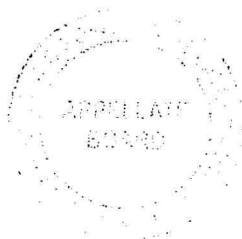
In the instant case, the Appellant claimed that M&T on 24.01.2024 detected that the impugned meter was intentionally tampered with (defective CT) and debited a detection bill of 899,620 units+3,042 kW MDI for thirty-three months i.e. 01.04.2021 to 09.07.2021, 24.07.2021 to 27.08.2021 and 09.09.2021 to 24.01.2024 to the Respondent @ 33% slowness of the impugned meter and added to the bill for April 2024.

6.3 Having found the above discrepancies, the Appellant was required to follow the procedure stipulated in Clause 9.2 of the CSM-2021 to confirm the illegal abstraction of electricity by the Respondent and thereafter charge the Respondent accordingly. However, in the instant case, the Appellant has not followed the procedure as stipulated under the ibid clause of the CSM-2021. From the submissions of the Appellant, it appears that the billing meter of the Respondent was checked and removed by the Appellant in the absence of the Respondent.

6.4 As per the judgment of the Supreme Court of Pakistan reported in *PLD 2012 SC 371*, the POI is the competent forum to check the metering equipment, wherein theft of electricity was committed through tampering with the meter and decide the fate of the disputed bill, accordingly. However, in the instant case, the Appellant did not produce the impugned meter before the POI for verification of the allegation regarding tampering with the impugned meter of the Respondent.

6.5 To further verify the contention of the Appellant regarding the illegal abstraction of electricity, the consumption data of connection of the Respondent as provided by the Appellant is examined in the table below:

Disputed period		Period after dispute	
Month	Units	Month	Units
Jun-21	32029	Feb-24	125195
Jul-21	54384	Mar-24	111755
Aug-21	57412	Apr-24	109963
Sep-21	61554	May-24	79386
Oct-21	74149	Jun-24	100918
Nov-21	43432	Jul-24	105899
Dec-21	32048	Aug-24	130433
Jan-22	33974	Sep-24	95822
Feb-22	30429	Oct-24	94643
Mar-22	26725	Nov-24	60736
Apr-22	58294	Dec-24	66516
May-22	66805	Jan-25	57291



M. Q.



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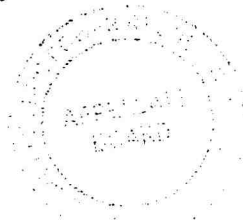
Jun-22	74880		
Jul-22	68915		
Aug-22	62512		
Sep-22	51787		
Oct-22	61101		
Nov-22	71640		
Dec-22	66024		
Jan-23	72904		
Feb-23	60788		
Mar-23	55994		
Apr-23	67042		
May-23	55307		
Jun-23	67830		
Jul-23	48014		
Aug-23	50917		
Sep-23	36141		
Oct-23	38134		
Nov-23	45789		
Dec-23	67894		
Jan-24	96323		
Average	55,974	Average	97,458

As evident from the above table, the average consumption of the Respondent significantly increased during the period after the dispute as compared to the average consumption of the Respondent during the disputed period. This indicates that the impugned meter could not record actual consumption during the disputed period. The COSMOS data as provided by the Appellant also reflects the slowness of the impugned meter, however, this does not tantamount to the Appellant to debit the detection bill for thirty-three months to the Respondent due to the negligence on their part. In the case of theft of electricity through tampering with the meter, the Respondent may be charged the detection bill maximum for six months as per Clause 9.2.3c(ii) of the CSM-2021.

6.6 In view of the foregoing discussion, we are of the considered view that the detection bill of 899,620 units+3,042 kW MDI for the periods from 01.04.2021 to 09.07.2021, 24.07.2021 to 27.08.2021 and 09.09.2021 to 24.01.2024 (33 months) charged to the Respondent is unjustified and the same is liable to be cancelled as already determined by the POI.

6.7 Since the impugned meter was found tampered during the M&T team checking dated 24.01.2024 of the Appellant and it is also confirmed through the analysis of consumption data as well as the COSMOS data, hence it would be fair and appropriate to debit the detection bill for six months retrospectively based on future consumption under Clause 9.2.3b(ii) of the

11.02





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CSM-2021 as no previous credible consumption is available. The calculation in this regard is done below:

Period: August 2023 to January 2024

		Units	MDI (kW)
A	To be charged	= average consumption. x No. of months = 97,458 x 06 = 584,748 units	= 308 x 06 = 1,848
B	Already charged	= 50917 + 36141 + 38134 + 45789 + 67894 + 96323 = 335,198	= 208 x 06 = 1,248
C	Net to be charged	= 584,748 - 335,198 = 249,550 units	= 1848 - 1248 = 600

The Respondent is liable to be charged the detection bill for net 249,550 units + 600 kW MDI for the period from August 2023 to January 2024 (six months) as calculated above. The impugned decision is liable to be modified to this extent.

7. In view of what has been stated above, it is concluded that the detection bill of 899,620 units + 3,042 kW MDI for thirty-three months i.e. 01.04.2021 to 09.07.2021, 24.07.2021 to 27.08.2021 and 09.09.2021 to 24.01.2024 is unjustified, and the same is cancelled. The Respondent may be charged the revised detection bill for net 249,550 units + 600 kW MDI for the period from August 2023 to January 2024 (six months) as per Clause 9.2.3b(ii) of the CSM-2021.
8. The impugned decision is modified in the above terms.

Abid Hussain
Member/Advisor (CAD)

Dated: 30-06-2025

Naweed Illahi Sheikh
Convener/DG (CAD)

Muhammad Irfan-ul-Haq
Member/ALA (Lic.)

