



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

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No. NEPRA/AB/Appeal-079/POI-2015/ 113-117

January 26, 2016

1. Muhammad Arshad Javaid Goraya
Al-Sardar Rice Mills,
Adda Siyoki, Tehsil Daska,
District Sialkot
2. The Chief Executive Officer
GEPCO Ltd,
Head Office, 565-A,
Model Town, G.T. Road,
Gujranwala
3. Saeed Ahmed Bhatti,
Advocate High Court,
2nd Floor, Akram Mansion,
Neela Gumbad, Lahore
4. Sub Divisional Officer (Opr),
GEPCO Ltd,
Sub Division No. 4,
Daska, District Sialkot
5. Electric Inspector
Gujranwala Region,
Munir Chowk, Near Kachehri Road,
Gujranwala

Subject: Appeal Titled GEPCO Vs. Muhammad Arshad Javaid Goraya Against the Decision Dated 30.06.2015 of the Electric Inspector/POI to Government of the Punjab Gujranwala Region, Gujranwala

Please find enclosed herewith the decision of the Appellate Board dated 26.01.2016, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(M. Qamar Uz Zaman)

No. NEPRA/AB/Appeal-079/POI-2015/ 118

January 26, 2016

Forwarded for information please.


Member Appellate Board

1. Registrar
2. Director (CAD)

CC:

1. Vice Chairman/Member (CA)

Registrar
By No. 1068
Date: 29/1/16



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-079/POI-2015

Gujranwala Electric Power Company Limited

.....Appellant

Versus

Muhammad Arshad Javaid Goraya, Al-Sardar Rice Mills, Adda Siyoki, Tehsil Daska, District Sialkot

.....Respondent

For the appellant:

Saeed Ahmed Bhatti Advocate

For the respondent:

Nemo

DECISION

1. Through this decision, an appeal filed by Gujranwala Electric Power Company Limited (hereinafter referred to as GEPCO) against the decision dated 30.06.2015 of Provincial Office of Inspection (POI) is being disposed of.
2. As per fact of the case, the respondent is an industrial consumer of GEPCO bearing Ref No. 28-12224-0004000 with a sanctioned load of 75kW under B-2 tariff. Meter of the respondent was checked by Metering and Testing (M&T) department GEPCO on 26.05.2005 and found 35.98% slow. A notice dated 14.06.2005 regarding the above discrepancy of the meter was issued by GEPCO to the respondent and a detection bill amounting to Rs. 47,447/- for 6,093 units/75 kW for the period May 2005 to August 2005 @ 35.98% slowness of the meter was charged to respondent. The multiplication factor (M.F) was raised from 40 to 62.48 for the future billing i.e. from September 2005 and onwards. A check meter was installed on 18.02.2006. As reported by GEPCO, comparison of the disputed billing meter and the check meter depicted that the billing meter was 48 % slow and therefore a notice dated 13.03.2006

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regarding this discrepancy was issued and billing of the respondent was shifted on the check meter. Second detection bill to the tune of Rs.38,038/- for 6,630 units for the period September 2005 to March 2006 was charged to the respondent to account for the difference of 35.98% to 48% slowness of the meter.

3. Being aggrieved with the aforementioned detection bills, the respondent challenged the same before the Civil Court Daska which was decreed on 26.09.2011 by the honorable court in favor of the respondent. GEPCO filed an appeal against the said order dated 26.09.2011 of the Civil Court Daska in the Court of Additional Session Judge Daska. The honorable Additional Session Judge Daska passed an order dated 29.03.2014 and the operative portion of which is reproduced below:

"In the present case disputed detection bill was issued to plaintiff/respondent on account of slowness of the meter installed at the Rice Mills of the respondent/plaintiff. Thus, meter installed there at was involved in dishonest consumption of electricity. As a result of which, the meter was be referred to electricity inspector before making assessment of detection bill."

4. Pursuant to the above order dated 29.03.2014 of the honorable Additional Session Judge Civil Court Daska, GEPCO filed an application dated 30.09.2014 before POI and inter-alia prayed as under:

"اندریں حالات استدعا کی جاتی ہے کہ سائل کو برطابق ریکارڈ بروئے حکم مورخہ 29.03.2014 بحکم ایڈیشنل اینڈ سیشن جج محمد اعجازیٹ صاحب کے مطابق از سر نو جائزہ لیتے ہوئے صارف کو دوبارہ Fresh Detection Bill جاری کئے جانے کا حکم صادر فرمایا جائے۔"

5. POI after conducted hearings and decided the matter vide its decision 30.06.2015 (hereinafter referred as the POI impugned decision) and concluded as under:

"Summing up the foregoing discussion it is held that the disputed matter became 35.98% slow with effect from 05.05.2005 (billing month 06/2005) onward till the replacement of the impugned meter in 03/2006 and no impact of 48% slowness appeared on the consumption recorded by the disputed meter; therefore, the impugned detection bill for 6093 units charged on the basis of 35.98% slowness from 05/2005 to 08/2005 and detection bill for 6630 units charged on the basis of difference of 35.98% and 48% slowness form 09/2005 to 03/2006 are void, unjustified and of no legal effect and the petitioner is not liable to pay the same. The

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respondents are directed to charge the 35.98% slowness from 06/2005 to 08/2005 whereas onward the respondents had already recovered the 35.98 % slowness with enhanced multiplying factor. The respondents are further directed to over-haul the account of the petitioner accordingly."

6. Being aggrieved with the impugned decision, GEPCO has filed the instant appeal under section 38(3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (hereinafter referred to as the Act). GEPCO in its appeal, inter-alia, raised the preliminary objection that the application dated 30.09.2014 filed before POI was disposed of vide its order dated 30.06.2015 after expiry of the statutory period of 90 days as envisaged under section 26(6) of the Electricity Act 1910. According to GEPCO, Electric Inspector was duty bound to refer the issue to provincial government after the expiry of said period as such the impugned decision was ex-facie coram non-judice ab initio and without jurisdiction.
7. The notice of the appeal was issued to the respondent for filing reply/parawise comments which were not submitted.
8. After issuing notice to both the parties, the appeal was heard in Lahore on 19.12.2015 in which Mr. Saeed Ahmed Bhatti Advocate represented the appellant GEPCO but there was no representation on the behalf of the respondent. The learned counsel for GEPCO repeated almost the same arguments as mentioned in the memo of the appeal and contented that the impugned decision was ex-facie coram non-judice as it was given after expiry of the mandatory period of 90 days as provided under section 26(6) of Electricity Act 1910. On merits the learned counsel pleaded that 35.98% slowness of the meter was observed on 26.05.2005 and subsequently 48% slowness was detected on 13.06.2006 during the checking conducted by M&T GEPCO. According to the learned counsel, 81.63% slowness was verified by POI during the joint checking of the disputed billing meter on 11.02.2015 and therefore the detection bill of Rs.47,447/- for the period May 2005 to August 2005 @ 35.98% slowness and the detection bill of Rs.38,038/- for September 2005 to March 2006 calculated on the basis of 48% slowness of the meter were justified and the respondent was liable to pay the same. He prayed for acceptance of the appeal.
9. We have heard arguments of the learned counsel for GEPCO and considered the



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record placed before us. Following are the observations:

- i. The respondent's meter was checked by M&T GEPCO on 26.05.2005 and found 35.98% slow. However the meter was not replaced and billing of the respondent continued on the basis of actual reading of the defective/slow meter till August 2005. Detection bill of Rs. 47,447/- for 6,093 units/75 kW for the period May 2005 to August 2005 was charged to the respondent due to 35.98% slowness of the meter. Subsequently billing was carried out with multiplication factor (M.F) enhanced from 40 to 62.48 regularly which continued till replacement of the defective meter in March 2006 and the payments were made by the respondent without any objection which establishes that the meter was admittedly 35.98% slow.
- ii. Consumption record of the respondent is tabulated below:

CONSUMPTION RECORDED								
Months	2005		2006		2007		2008	
	KWH units (M.F=40)	MDI	KWH units	MDI	KWH units	MDI	KWH units	MDI
Jan	7320	80	12966	61	2600	54	2920	51
Feb	4840	102	312	38	1720	47	2920	67
March	520	52	16635	66	5760	59	11480	50
April	3520	42	New meter		10000	65	10720	64
			13800	66				
May	10880	66	80	33	240	71	400	7
June	200	35	-	-	160	1	-	-
July	40	1	80	-	120	1	-	-
Aug	-1	-	-1	-	80	1	-	-
Sep	250 MF enhanced As 62.48	4	480	3	80	1	-	-
Oct	-	-	360	2	160	1	-	-
Nov	187	1	3520	2	680	10	-	-
Dec	6498	55	4280	60	6880	39	-	-

From the above table it may be observed that the consumption of 10,880 units recorded for May 2005 is the highest during the year 2005 which proves that the meter



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recorded correct consumption for May 2005. We agree with the determination of POI that the detection bill due to 35.98% slowness of the meter is not recoverable for May 2005. The respondent is liable to be charged detection bill @ 35.98 % slowness for June 2005 to August 2005.

- iii. The meter was checked by GEPCO on 18.02.2006 and found 48% slow. The meter was jointly checked by POI on 11.02.2015 and found 81.63% slow which shows that the defective meter gained slowness with the passage of time. Determination POI that meter was not 48 % slow till its replacement in March 2006 is not justified and therefore disagreed. GEPCO was duty bound to replace the defective meter but it failed to do so and continued billing on the defective meter which is violation of Consumer Services Manual (hereinafter referred to as CSM).
 - iv. Second detection bill Rs.38,038/- for 6,630 units for the period September 2005 to March 2006 was charged to the respondent due to 48% slowness of the meter. Since the checking was done by GEPCO on 27.02.2006, the respondent could have been charged detection bill for maximum period of two billing cycles in terms of class 4.4 (e) of the CSM. Accordingly the respondent is liable to be charged detection bill for 48% slowness of the meter for the consumption recorded in the months of January 2006 and February 2006 for which bills were issued in February 2006 and March 2006 respectively. Therefore the respondent is liable to be billed @ 35.98 % slowness from September 2005 to January 2006 and @ 48 % slowness for February 2006 and March 2006.
 - v. The detection bill of Rs. 47,447/- for 6,093 units for the period May 2005 to August 2005 @ 35.98 % slowness of the meter and the detection bill of Rs.38,038/- for the period September 2005 to March 2006 charged due to 48 % slowness of the meter are not justified and liable to be withdrawn as already determined in the impugned decision.
10. In view of the discussion in the proceeding paragraphs, it is concluded as under:
- i. The detection bill of Rs.47,447/- for 6,093 units/75 kW for the period May 2005 to August 2005 @ 35.98% slowness and the detection bill of Rs.38,038/- for 6,630 units for the period September 2005 to March 2006 @ 48% are not justified and the



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respondent is not liable to pay the same. Impugned decision to this extent is upheld.

ii. GEPCO is allowed to charge detection bill from June 2005 to August 2006 @ 35.98% slowness of the meter. (Refer para 9 (ii)). GEPCO is also allowed to charge detection bill from September 2005 to January 2006 @ 35.98 % slowness of the meter. (Refer para 9 (iv)). Impugned decision to this extent is also upheld.

iii. GEPCO is allowed to charge detection bill @ 48% slowness of the meter in the bills for February 2006 to March 2006. (Refer para 9 (iv)).

11. With the above observations, the appeal is disposed of and the impugned decision is modified in the above terms.

Muhammad Qamar-uz-Zaman
Member

Nadir Ali Khoso
Convener

Muhammad Shafique
Member

Date: 26.01.2015