



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

NEPRA Office, Atta 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/AB/Appeal-004/POI-2016/

1122-1126

September 02, 2016

1. Farrukh Shahzad,
S/o Muhammad Akram,
Galla Goga, Pehalwan Wala,
Jinnah Road, Gujranwala
2. 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,
GEPCO Ltd,
Baghbanpura Sub Division,
Near Aalam Chowk, Gujranwala
5. Electric Inspector,
Gujranwala Region,
Govt. of Punjab,
Munir Chowk, Near Kacheri Road,
Gujranwala

Subject: Appeal Titled GEPCO Vs. Farrukh Shahzad Against the Decision Dated 28.10.2015 of the Electric Inspector/POI to Government of the Punjab Gujranwala Region, Gujranwala

Please find enclosed herewith the Decision of the Appellate Board dated 02.09.2016, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(Ikram Shakeel)

No. NEPRA/AB/Appeal-004/POI-2016/

1127

September 02, 2016

Forwarded for information please.

Assistant Director
Appellate Board

1. Registrar
 2. Director (CAD)
- CC:
1. Member (CA)



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-004/POI-2016

Gujranwala Electric Power Company Limited

.....Appellant

Versus

Farukh Shahzad S/o Muhammad Akram,
Galla Goga, Pehalwan Wala, Jinnah Road, Gujranwala

.....Respondent

For the appellant:

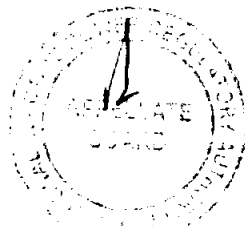
Mr. Saeed Ahmed Bhatti Advocate
Ch. Asghar Ali XEN

For the respondent:

Mr. Farukh Shahzad

DECISION

1. Through this decision, an appeal filed by Gujranwala Electric Power Company Limited (hereinafter referred to as GEPCO) against the decision dated 28.10.2015 of Provincial Office of Inspection, Gujranwala Region, Gujranwala (hereinafter referred to as POI) is being disposed of.
2. As per facts of the case, the respondent is an industrial consumer of GEPCO bearing Ref No. 27-12113-2917600 with a sanctioned load of 10 kW under B-1 tariff. Electricity meter of the respondent became defective and was replaced by GEPCO on 02.07.2013. Electricity meter was checked by Metering and Testing (M&T) GEPCO on 20.08.2013 and reportedly it was found dead stop/display washed out. After issuing notice dated 31.12.2013 regarding the above discrepancy, GEPCO charged a detection bill amounting to Rs. 445,461/- for 27,947 units for the period July 2013 to December 2013 (6 months) to the respondent in January 2014 on 50% load factor basis. The defective electricity meter was replaced on 27.12.2013. Responding to the petition dated 20.01.2014 of the respondent, the detection bill was revised by GEPCO to Rs. 364,551/- for 20,057 units in February 2014 on 40% load factor basis.



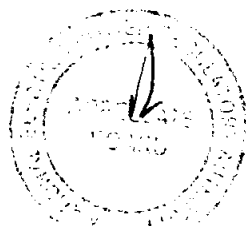


National Electric Power Regulatory Authority

3. Being aggrieved with the aforementioned detection bill, the respondent filed an application before POI on 21.02.2014 and stated that the electricity meter was checked by M&T GEPCO on 20.11.2013 on his request and was found working within BSS limit. Therefore the detection bill of Rs. 364,551/- for 20,057 units charged to the respondent in February 2014 was illegal, unjustified and the respondent was not liable to pay the same.
4. The matter was disposed of by POI vide its decision dated 28.10.2015 (hereinafter referred as the impugned decision), and concluded as under:

"For the reasons what has been discussed above, it is held that the impugned meter was defective during the disputed period from 07/2013 to 12/2013 and billing charged on the estimation and subsequent detection bill charged for 20063 units on 40% load factor are void, unjustified and of no legal effect therefore, the petitioner is not liable to pay the same. The respondents are directed to withdraw the charged detection of 20063 units and revise it for the cost of 9318 units for the same disputed period 07/2013 to 12/2013 on the basis of healthy undisputed consumption for the period 07/2012 to 12/2012. The respondents are further directed to over haul the account of the petitioner and the excess amount recovered be refunded to the petitioner."

5. Being dissatisfied 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 the as NEPRA Act 1997). It is contended by GEPCO that the impugned decision is illegal, void, without jurisdiction and same is liable to be set aside. According to GEPCO, the application was moved by the respondent on 21.02.2014 whereas the same was decided by Electric Inspector on 28.10.2015 after expiry of the statutory period of 90 days, which is violation of section 26 (6) of the Electricity Act 1910. GEPCO pleaded that the impugned decision was void and therefore may be set aside.
6. Notice of the appeal was issued to the respondent for filing reply/parawise comments which were filed on 29.02.2016. In his reply, the respondent contended that neither any notice was served to the respondent nor any inspection was carried out in his presence. The respondent submitted that the detection bill charged to the respondent on the basis of meter's defectiveness was against the policy as laid down in the Consumer Service Manual (CSM). The respondent defended the





National Electric Power Regulatory Authority

impugned decision and prayed for upholding the same.

7. After issuing notice to both the parties, hearing was conducted at Lahore on 15.07.2016 in which Mr. Saeed Ahmed Bhatti Advocate along with Ch. Asgar Ali XEN represented the appellant GEPCO and Mr. Farrukh Shahzad the respondent appeared in person. The learned counsel for GEPCO reiterated the same stance as taken in memo of the appeal and contended that the metering equipment of the respondent was checked by M&T GEPCO on 20.08.2013 which was found dead stop/display washed out and the connected load was 21.56 kW being higher than the sanctioned load of 10 kW. Learned counsel averred that after issuing notice, the respondent was charged the detection bill of Rs. 445,461/- for 27,947 units for the period July 2013 to December 2013 (6 months) in January 2014 on 50% load factor basis, which was revised to Rs. 364,551/- for 20,057 units on 40% load factor basis in February 2014 in response to the petition dated 20.01.2014 of the respondent. As per learned counsel for GEPCO, the detection bill charged to the respondent could not be based on the consumption recorded during the corresponding months of previous year as determined in the impugned decision due to enhancement of the connected load. Learned counsel for GEPCO pleaded for cancellation of the impugned decision being illegal and unjustified. Mr. Farrukh Shahzad the respondent in his rebuttal, denied the contentions of GEPCO for receipt of any notice for enhancement of the load and stated that the electricity meter was found okay till January 2014 as per GEPCO report dated 06.01.2014 and no detection bill could be charged for the period prior to January 2014. According to the respondent, the detection bill of Rs. 364,551/- for 20,057 units for the period July 2013 to December 2013 charged in February 2014 is not justified and he is not liable to pay the same. The respondent defended the impugned decision and prayed for its upholding.
8. We have heard arguments of both the parties and perused the record placed before us. It has been observed that:
 - i. The respondent's electricity meter was checked by M&T GEPCO on 20.08.2013 which was found dead stop with display washed out. The detection bill of Rs. 364,551/- for 20,057 units for the period July 2013 to December 2013 was charged to the respondent in February 2014 on 40% load factor basis.





National Electric Power Regulatory Authority

ii. Consumption data provided by GEPCO is tabulated as under:

Month	Units	Month	Units	Month	Units
January 2012	2173	January 2013	2508	January 2014	3390 MCO
February 2012	3828	February 2013	3489	February 2014	1109
March 2012	3849	March 2013	3599	March 2014	P. Disc
April 2012	3023	April 2013	3118		
May 2012	3280	May 2013	2261		
June 2012	4844	June 2013	2447		
July 2012	2250	July 2013	1709 MCO		
August 2012	3676	August 2013	2296		
September 2012	2569	September 2013	2670		
October 2012	4941	October 2013	230		
November 2012	2678	November 2013	2244		
December 2012	4677	December 2013	2324		

Consumption for the period i.e. July 2013 to December 2013 is disputed. From the analysis of above data, it is revealed that average consumption recorded was @ 3,269 units/ month during the period before dispute i.e. August 2012 to June 2013 (11 months) whereas the average consumption was recorded as 3,465 units/month during the corresponding months of the previous year i.e. July 2012 to December 2012. According to the clause 4.4 (e) of the Consumer Service Manual (CSM), where the electricity meter has become defective and is not recording the actual consumption, the basis of charging will be 100% of the consumption recorded in the same month of previous year or average of the last 11 months whichever is higher. POI has rightly determined that the respondent is liable to be charged on the basis of consumption of the corresponding months of the previous year i.e. July 2013 to December 2013 which is higher in the instant case. Obviously the detection bill of Rs. 364,551/- for 20,057 units for the period July 2013 to December 2013 charged in February 2014 on the basis of 40% load factor is null and void and the respondent is not liable to pay the same. There is no force in the argument of GEPCO that the consumption of the corresponding months of previous year should not be based for the detection bill due to extended load to 21.56 kW as the notice for enhancement of load was issued in 24.01.2014 and could not be enforced with retrospective effect. Therefore the respondent is liable to be billed net 9,318 units as determined in the impugned decision.

iii. Admittedly the application moved by the respondent was disposed of by POI vide the impugned decision dated 28.10.2015 much after the expiry of the statutory period of 90 days





National Electric Power Regulatory Authority

as pointed out by GEPCO. It is relevant to mention that the matter was adjudicated by POI under section 38 of the Act (not as Electric Inspector under section 26(6) of Electricity Act 1910) which does not impose any restriction of time limit upon POI for deciding the matter. We are not inclined to agree with the objection of the learned counsel for GEPCO regarding the decision of matter by Electric Inspector after the period of 90 days as specified in section 26 (6) of the Electricity Act 1910 being not relevant and therefore dismissed.

9. The upshot of above discussion is that the impugned decision is in accordance with facts and law which is upheld and resultantly the appeal is dismissed.

Muhammad Qamar-uz-Zaman
Member

Nadir Ali Khoso
Convener

Muhammad Shafique
Member

Date: 02.09.2016

