



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

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No. NEPRA/AB/Appeal-008/POI-2016/1135-1139 September 02, 2016

1. Muhammad Siddique,
S/o Gulzar Ahmed,
R/o Near Ex-Neelam Cinema,
Mohallah Daulatpura, Kamoke,
District 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,
Sub Division No. 1,
Kamoke, Distict Gujranwala
5. Electric Inspector,
Gujranwala Region,
Govt. of Punjab,
Munir Chowk, Near Kacheri Road,
Gujranwala

Subject: Appeal Titled GEPCO Vs. Muhammad Siddique Against the Decision Dated 26.11.2015 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.

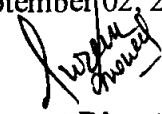
Encl: As Above

(Ikram Shakeel)

No. NEPRA/AB/Appeal-008/POI-2016/1140

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-008/POI-2016

Gujranwala Electric Power Company Limited

.....Appellant

Versus

Muhammad Siddique S/o Gulzar Ahmed, R/o Near Ex-Neelam Cinema,
Mohallah Daulatpura, Kamoke, District, Gujranwala

.....Respondent

For the appellant:

Saced Ahmed Bhatti advocate
Mr. Muhammad Ramzan SDO

For the respondent:

Sheikh Imran Mahfooz advocate
Mr. Muhammad Siddique

DECISION

1. This decision shall dispose of an appeal filed by Gujranwala Electric Power Company Limited (hereinafter referred to as GEPCO) against the decision dated 26.11.2015 of Provincial Office of Inspection, Gujranwala region, Gujranwala (hereinafter referred to as POI) under Section 38 (3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (hereinafter referred to as NEPRA Act 1997).
2. As per facts of the case, the respondent is an industrial consumer of GEPCO bearing Ref No. 27-12141-1544500 with a sanctioned load of 8kW under B-1 tariff. The electricity meter of the respondent was checked by Metering and Testing (M&T) GEPCO on 30.12.2014 and reportedly the meter was found 66.67% slow due to two phases (yellow & blue) dead stop. A notice dated 19.01.2015 was issued to the respondent and a detection bill of Rs. 127,061/- for 7,113 units for the period August 2014 to December 2014 (5 months) was





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debited to the respondent to account for the loss of energy due to 66.67% slowness of the meter. The respondent assailed the above detection bill before GEPCO which allowed three installment of the detection bill, out of which the respondent paid one installment of Rs. 42,253/- along with current bill of Rs.15,692/- in February 2015 under duress. The respondent received the bill of Rs. 60,653/- in March 2015, which contained the second installment as arrears but no payment was made by the respondent.

3. The respondent filed an application before POI on 24.03.2015 and challenged the aforementioned detection bill. Inspection of the defective meter was carried out by POI in M&T lab in presence of GEPCO officials on 11.08.2015 and 66.67% slowness of the meter was confirmed. POI disposed of the matter vide its decision dated 26.11.2015. The operative portion of which is reproduced below:

"For the reasons what has been discussed above, it is held that the impugned meter was correct till the billing month 09/2014 and it became 33.33% in changed with effect from 01/2015 to include 66.67% slowness and MCO had been fed in the bill of 04/2015. The impugned detection bill of 7,113 units charged for the period from 08/2014 to 12/2014 is void, unjustified and illegal and the respondents are directed to withdraw the impugned detection bill and revise and charge the detection on the basis of 33.33% slowness for 10/2014 and 66.67% slowness for 11/2014 to 12/2014. The respondents are directed to overhaul the account of the petitioner accordingly."

4. Being dissatisfied with the decision dated 26.11.2015 of POI (hereinafter referred as the impugned decision), GEPCO has filed the instant appeal under section 38(3) of NEPRA Act 1997. GEPCO contended that the detection bill of Rs.127,061/- for 7,113 units for the period August 2014 to December 2014 (5 months) charged to the respondent on the basis of 66.67% slowness of the meter was legal, valid and justified and the same was acknowledged by the respondent as correct. As per GEPCO, on the request of respondent, three installments of the detection bill were allowed out of which one installment of Rs. 42,253/- was paid by the respondent in February 2015 which established that the detection bill was not agitated by the respondent. GEPCO further submitted that the determination of POI in the impugned decision is illegal, void, without jurisdiction and same is liable to be set aside. According to GEPCO,



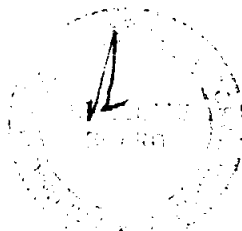


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the application was moved by the respondent on 24.03.2015 which was decided by POI on 26.11.2015 after expiry of the statutory period of 90 days as envisaged under section 26(6) of the Electricity Act 1910. GEPCO pleaded that the impugned decision is ex-facie coram non iudice, ab-initio void and liable to be set aside.

5. Notice of the appeal was issued to the respondent for filing reply/parawise comments which were filed on 13.05.2016. In his reply, the respondent contended that the detection bill of Rs. 127,061/- for 7,113 units for the period August 2014 to December 2014 (5 months) was not in accordance the provision of Consumer Service Manual (CSM). The respondent contended that no notice was served by GEPCO regarding the slowness of the electricity meter prior the M&T checking dated 30.12.2014, therefore the detection bill of Rs. 127,061/- for 7,113 units for the period August 2014 to December 2014 (5 months) charged to the respondent is void, illegal and the respondent is not liable to pay the same.

6. After issuing notice to both the parties, hearing was held at Lahore on 15.07.2016 in which Mr. Saeed Ahmed Bhatti advocate along with Mr. Muhammad Ramzan SDO represented the appellant GEPCO and Mr. Muhammad Siddique the respondent appeared in person along with Mr. Imran Mahfooz advocate. Learned counsel for GEPCO reiterated the same arguments as given in memo of the appeal and contended that the metering equipment of the respondent was checked by M&T GEPCO on 30.12.2014 and found 66.67% slow and the respondent was charged the detection bill of Rs. 127,061/- for 7,113 units for the period August 2014 to December 2014 (5 months) on the basis of 66.67% slowness of the meter. As per learned counsel for GEPCO, three installments of the detection bill were allowed out of which one installment of Rs. 42,253/- was paid by the respondent in February 2015 without any protest which proved that the detection bill was admitted by the respondent. According to GEPCO, 66.67% slowness of the electricity meter observed by GEPCO on 30.12.2014 was also confirmed by POI on 11.08.2015. Learned counsel submitted that the electricity consumption recorded after Meter Change Order (MCO) in April 2015 was higher which established that the actual consumption was not recorded by the defective meter during the disputed period i.e. August 2014 to December 2014 and therefore the respondent is liable to pay the detection bill.



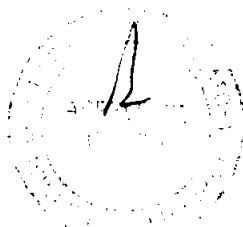


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Mr. Imran Mahfooz advocate learned counsel for the respondent, refuted the contentions of GEPCO and contended that the detection bill of Rs.127,061/- for 7,113 units for the period August 2014 to December 2014 (5 months) charged was agitated by the respondent before GEPCO but instead of rectifying the same, three installments were allowed and first installment of Rs.42,253/- was paid under protest. As per learned counsel the detection bill charged to the respondent was not justified and he was not liable to pay the same.

7. 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 30.12.2014 and reportedly 66.67% slowness of the meter was noticed with two phases (yellow & blue) dead stop. A detection bill of Rs.127,061/- for 7,113 units for the period August 2014 to December 2014 (5 months) charged on the basis of 66.67% slowness of the meter was assailed by the respondent before POI on 24.03.2015.
- ii. Charging the detection bill for 5 months to the respondent by GEPCO on the basis of defectiveness of the meter is not justified. According to the clause 4.4 (e) of the Consumer Service Manual (CSM), the charging of consumers on the basis of defective code where the electricity meter has become defective and is not recording the actual consumption will not be more than two billing cycles, 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. Therefore the detection bill of Rs.127,061/- for 7,113 units for the period August 2014 to December 2014 (5 months) charged to the respondent on the basis of 66.67% slowness is not as per provisions of CSM and liable to be withdrawn.
- iii. 66.67% slowness of the electricity meter was observed by M&T GEPCO on 30.12.2014 which was also confirmed by POI during checking dated 11.08.2015. Pursuant to clause 4.4(e) of CSM, the respondent is liable to be charged on the basis of DEF-EST code for November, 2014 and December 2014 (2 months). The impugned decision to this extent is liable to be modified.
- iv. Admittedly the application moved by the respondent was disposed of by POI vide the

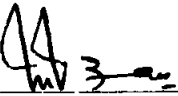





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impugned decision dated 26.11.2015 much after the expiry of the statutory period of 90 days as pointed out by GEPCO, but it is relevant to mention that the matter was adjudicated by POI under section 38 of NEPRA Act 1997 (not as Electric Inspector 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 invalidity of the decision by Electric Inspector after 90 days as specified in section 26 (6) of the Electricity Act 1910 being not valid and therefore it is dismissed.

8. From the discussion in foregoing paragraphs, it is concluded that:
- i. The detection bill of Rs.127,061/- for 7,113 units for the period August 2014 to December 2014 (5 months) charged to the respondent on the basis of 66.67% slowness of the meter is liable to cancelled and the respondent is not liable to pay the same. The impugned decision to this extent is maintained.
 - ii. The respondent is to be charged on the basis of DEF-EST code for November 2014 and December 2014 (2 months only). The impugned decision to this extent is modified.
9. The appeal is disposed of in above terms.


Muhammad Qamar-uz-Zaman
Member


Nadir Ali Khoso
Convener


Muhammad Shafique
Member

Date: 02.09.2016

