



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

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No. NEPRA/AB/Appeal-013/POI-2016/ 1574-1579

December 05, 2016

1. Pakistan Television Corporation Ltd,
Through its Director Administration/Company
Secretary, PTV Headquarters Office,
Constitution Avenue, Islamabad
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,
Pasrur, District Sialkot
5. Electric Inspector,
Gujranwala Region,
Govt. of Punjab,
Munir Chowk, Near Kacheri Road,
Gujranwala
6. Anwar Mahmood Butt,
Engineer Incharge,
PTV Re-Broad Casting Station (RBS),
Pasrur, District Sialkot

Subject: Appeal Titled GEPCO Vs. Pakistan Television Corporation Ltd Against the Decision Dated 30.04.2012 of the Electric Inspector/POI to Government of the Punjab Gujranwala Region, Gujranwala

Please find enclosed herewith the Decision of the Appellate Board dated 02.12.2016, regarding the subject matter, for information and necessary action accordingly.

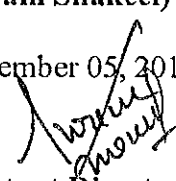
Encl: As Above

(Ikram Shakeel)

No. NEPRA/AB/Appeal-013/POI-2016/ 1580

December 05, 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-013/POI-2016

Gujranwala Electric Power Company Limited

.....Appellant

Versus

Pakistan Television Corporation Limited,
Through its Director Administration/Company Secretary,
PTV Head Quarters, Constitution Avenue, Islamabad

.....Respondent

For the appellant:

Mr. Saeed Ahmed Bhatti advocate
Mr. Khalil Ahmad Revenue Officer
Mr. Razzaq Ali SDO

For the respondent:

Mr. Ansar Mahmood Butt Engineer Incharge

DECISION

1. The respondent is a consumer of Gujranwala Electric Power Company (hereinafter referred to as GEPCO) bearing Ref No. 24-12441-0220500 with a sanctioned load of 50.kW. As per facts of the case the respondent received a detection/difference bill of Rs. 1,403,234/- along with the monthly bill for the period July 2005 to May 2009 due to change of tariff from B-1 to A-2 (c). The respondent being aggrieved filed an application before Provincial Office of Inspection, Gujranwala Region, Gujranwala (POI) and challenged the above mentioned detection/difference bill. The respondent inter alia, contended that GEPCO had no authority to charge the difference bill with retrospective effect to the respondent for the period from July 2005 to May 2009 as no notice was issued in this regard. The respondent contended that the impugned detection/difference bill was void, unjustified and illegal. POI disposed of the matter vide its decision dated 30.04.2012 with the following conclusion:

“In the light of above facts, it is held that the impugned amount Rs. 14,03,234/- charged as difference of tariff from B-1 to A-2 (c) for the period from 05/2005 to 05/2009





National Electric Power Regulatory Authority

added in the bill for 07/2011 is void, unjustified and of no legal effect; therefore, the petitioner is not liable to pay the same. However, tariff A-2 (c) is applicable with effect from 08/2009 when the first bill was issued on TOU meter. The respondents are further directed to over-haul the account of the petitioner and any excess amount recovered be adjusted in future bills."

2. Being dissatisfied with the POI decision dated 30.04.2012 (hereinafter referred to as the impugned decision), GEPCO filed an appeal before Advisory Board Govt. of Punjab Lahore (hereinafter referred to as the Provincial Advisory Board) on 27.07.2012. However GEPCO was advised on 04.11.2015 by the Provincial Advisory Board for filing the appeal before National Electric Power Regulatory Authority (hereinafter referred to as NEPRA) being the competent forum. The appeal dated 04.12.2015 was subsequently filed before NEPRA on 07.12.2015 under section 38 of NEPRA Act 1997. GEPCO submitted an application for condonation of the delay and pleaded that initially appeal against the impugned decision was filed before the Provincial Advisory Board on 27.07.2012 well within the prescribed limitation of 90 days as prescribed under section 36 of Electricity Act, 1910. According to GEPCO the appeal remained pending before the Advisory Board and GEPCO was informed vide letter dated 04.11.2015 for filing the same before NEPRA in view of insertion of sub section 3 in section 38 of NEPRA Act 1997. GEPCO pleaded that the delay committed was not intentional and therefore be condoned so as to avoid irreparable loss to public exchequer. Notice was issued to the respondent for filing reply/parawise comments which were however not filed.
3. After issuing notice to the parties, hearing of the appeal was held in NEPRA Office Lahore on 07.10.2016 in which both the parties participated. In response to the objection raised by the respondent in the outset of the hearing, the learned counsel for GEPCO was advised to justify the delay in filing the appeal before NEPRA. The learned counsel for GEPCO repeated the same arguments as given in memo of the appeal and application for condonation of the delay. Learned counsel contended that the impugned decision dated 30.04.2012 was received by GEPCO on 16.05.2012 and the appeal was initially filed before the Provincial Advisory Board on 27.07.2012 under section 36 of Electricity Act 1910 within the time limit of 90 days and subsequently on the direction of the Advisory Board the instant appeal was filed before NEPRA. Learned counsel for GEPCO prayed for condonation of the delay and decision of the appeal on merit otherwise irreparable loss would be caused to the public exchequer.



National Electric Power Regulatory Authority

4. We have heard arguments and examined the record placed before us. It is observed that the impugned decision was announced by POI on 30.04.2012, which was received by GEPCO on 16.05.2012 and the appeal was filed before the Provincial Advisory Board on 27.07.2012 after a lapse of 71 days of its receipt. Procedure for filing appeal has been laid down in the Punjab (Establishment and Power of Office of Inspection) Order, 2005 which is reproduced below:

10. Appeal:-

"An aggrieved person may file an appeal against the final order by the Office of Inspection before the Government or if the Government, by general or special order, so directs, to the advisory board constitute under Section 35 of the Electricity Act 1910, within 30 days, and the decision of the Government or advisory board, as the case may be, shall be final in this regard."

Although after insertion of sub section 3 in section 38 of NEPRA Act 1997 an appeal against decision of POI is competent before NEPRA within 30 days of its receipt but for the sake of arguments if we presume that the appeal was to be filed before the Provincial Advisory Board, then it may be noticed that the appeal was filed before that forum after time limit of 30 days and as such it is time barred even before the Provincial Advisory Board. There is no force in the application for condonation of the delay.

5. Foregoing under consideration we have reached to the conclusion that the appeal is time barred and dismissed accordingly.

Muhammad Qamar-uz-Zaman
Member

Nadir Ali Khoso
Convener

Muhammad Shafique
Member

Date: 02.12.2016