



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

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No. NEPRA/AB/Appeal-048/POI-2016/ 1514-1518

November 25, 2016

1. Muhammad Yousaf,
S/o Muhammad Afzal,
Iqra Silk Factory, Abadi Muhammad Bukhsh,
College 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,
Garjakhhi Gate Sub Division,
Near Alam Chowk Bye-Pass,
Gujranwala
5. Electric Inspector,
Gujranwala Region,
Govt. of Punjab,
Munir Chowk, Near Kacheri Road,
Gujranwala

Subject: Appeal Titled GEPCO Vs. Muhammad Yousaf Against the Decision Dated 27.01.2016 of the Electric Inspector/POI to Government of the Punjab Gujranwala Region, Gujranwala

Please find enclosed herewith the Decision of the Appellate Board dated 24.11.2016, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

No. NEPRA/AB/Appeal-048/POI-2016/ 1519
Forwarded for information please.

(Ikram Shakeel)

November 25, 2016


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-048/POI-2016

Gujranwala Electric Power Company Limited

.....Appellant

Versus

Muhammad Yousaf s/o Muhammad Afzal, Iqra Silk Factory,
Abadi Muhammad Bukhsh, College Road, Gujranwala

.....Respondent

For the appellant:

Mr. Saeed Ahmed Bhatti Advocate
Mr. Amjad Ansari Additional XEN

For the respondent:

Mr. Muhammad Yousuf

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 27.01.2016 of Provincial Office of Inspection/Electric Inspector, 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 the NEPRA Act 1997).
2. As per facts of the case, the respondent is an industrial consumer of GEPCO bearing Ref No. 27-12112-1003500 with a sanctioned load of 19kW under B-1b tariff. Electricity meter of the respondent was checked by Metering and Testing (M&T) GEPCO on 04.03.2013 and reportedly it was found defective with 33.33% slowness due to dead red phase. A notice dated 07.03.2013 was issued to the respondent by GEPCO regarding the above discrepancy and a detection bill of Rs. 105,238/- for 12,527 units for the period October 2012 to February 2013 (5 months) was debited to the respondent in March 2013 due to 33.33 % slowness of the meter. Simultaneously, Multiplication Factor (MF) was also raised to 1.5 by GEPCO for billing from March 2013 and onwards till the replacement of defective meter i.e. December 2014.





National Electric Power Regulatory Authority

3. Being aggrieved, the respondent filed an application dated 22.04.2013 before POI and challenged the detection bill of Rs. 105,238/- for 12,527 units for the period October 2012 to February 2013 (5 months) charged in March 2013. Defective meter of the respondent was checked by Assistant Electric Inspector of POI on 15.01.2015 and 33.33% slowness of the meter was confirmed due to dead red phase. POI disposed of the matter vide its decision dated 27.01.2016, 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 02/2013 and it became 33.33% slow with effect from 03/2013 (containing the consumption of 02/2013) onward till the shifting of billing on new meter in 12/2014 for which the respondents had already recovered the slowness with enhanced MF to 1.5; and the impugned detection bill for Rs.105,238/- charged by the respondents in the bill of 04/2013 for the months of 10/2012 to 02/2013 is void, unjustified and of no legal effect; therefore the petitioner is not liable to pay the same. The respondents are directed to withdraw the impugned detection bill and overhaul the account of the petitioner accordingly.”

4. Being dissatisfied with the decision dated 27.01.2016 of POI (hereinafter referred as the impugned decision), GEPCO has filed the instant appeal under section 38(3) of the NEPRA Act 1997. In its appeal, GEPCO contended that meter of the respondent was found 33.33% slow with dead red phase during M&T checking dated 04.03.2013 and a notice dated 07.03.2013 was issued to the respondent regarding the above discrepancy. According to GEPCO, the detection bill amounting to Rs. 105,238/- for 12,527 units for the period October 2012 to February 2013 (5 months) charged to the respondent in March 2013 due to 33.33% slowness was legal, valid, justified and the same is payable by the respondent. As per GEPCO, the application was moved by the respondent on 22.04.2013, which was decided by POI on 27.01.2016 much after expiry of the statutory period of 90 days as envisaged under section 26 (6) of the Electricity Act 1910, hence the impugned decision is liable to be set aside being void, ab-initio, without lawful authority, without jurisdiction.
5. Notice of the appeal was issued to the respondent for filing reply/parawise comments, which were filed on 27.04.2016. In his reply/parawise comments, the respondent contended that neither he was informed by GEPCO before alleged checking of the meter nor associated during checking of the disputed meter. As per respondent, charging of the detection bill for the period October 2012 to February 2013 (5 months) by GEPCO has no justification as the consumption was dropped from



National Electric Power Regulatory Authority

March 2013 due to slowness of the meter. Respondent further submitted that GEPCO was requested time and again for replacement of the defective meter but new meter was installed in December 2014 and the bills were charged with enhanced MF = 1.5 from March 2013 to December 2014. The respondent defended the impugned decision and prayed for upholding the same.

6. After issuing notice to both the parties, hearing of the appeal was held at Lahore on 07.10.2016 in which Mr. Saeed Ahmed Bhatti Advocate and Mr. Amjad Ansari Additional XEN represented the appellants GEPCO and Mr. Muhammad Yousuf the respondent appeared in person. 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 04.03.2013 and found 33.33% slowness due to red phase dead. As per learned counsel for GEPCO, the respondent was charged a detection bill of Rs. 105,238/- for 12,527 units for the period October 2012 to February 2013 (5 months) in March 2013 in order to recover the revenue loss sustained by GEPCO due to 33.33% slowness of the meter. Learned counsel submitted that the impugned decision for cancellation of the aforesaid detection bill is not based on facts and law and therefore liable to be set aside. On the other hand, the respondent averred the contention of GEPCO and contended that no any notice was served upon him before alleged checking dated 04.03.2013 nor was associated by GEPCO during inspection of the meter, therefore there is no justification to charge the detection bill for 5 months, which is violative of provisions of CSM. The respondent prayed for upholding the impugned decision.

7. We have heard arguments of both the parties and perused the record placed before us. It has been observed that:

- i. Admittedly the application moved by the respondent was disposed of by POI vide the impugned decision dated 27.01.2016 much after the expiry 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 the NEPRA Act 1997 (not as Electric Inspector under section 26(6) of Electricity Act 1910) which does not specify any time limit for POI in deciding the matter. Objection of GEPCO regarding maintainability of impugned decision announced by POI after expiry of 90 days is not valid, hence their plea in this regard is liable to be dismissed.
- ii. 33.33 % slowness of the meter was observed by GEPCO during M&T checking dated





National Electric Power Regulatory Authority

04.03.2013 and a new meter was installed in series with the defective meter on 12.12.2014, 33.33% slowness of the disputed meter was also confirmed by POI during its inspection carried out on 15.01.2015. The respondent challenged the detection bill of Rs. 105,238/- for 12,527 units for the period October 2012 to February 2013 (5 months) charged in March 2013 on 33.33% slowness basis before POI vide his application dated 22.04.2013.

- iii. Charging of the detection bill for five months by GEPCO on the basis of defectiveness of the meter is inconsistent with the provisions of Consumer Service Manual (CSM). Pursuant to clause 4.4 (e) of the 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 and 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. 105,238/- for 12,527 units for the period October 2012 to February 2013 (5 months) charged to the respondent on the basis of 33.33% slowness is not justified and liable to be withdrawn as determined in the impugned decision.
- iv. Comparison of the consumption between disputed and undisputed periods as per data provided by GEPCO is tabulated below:

Period	Normal Mode Average Units/Month	Detection Mode Average Units/Month
Period before dispute November 2011 to September 2012 (11 months)	6,816	-
Corresponding months of previous year October 2011 to February 2012 (5 months)	7,540	-
Disputed period October 2012 to February 2013 (5 months)	5,012	7,517

From the above table, it is analyzed that the consumption recorded @ 5,012 units/month in normal mode during the disputed period i.e. October 2012 to February 2013 is less than the consumption of 7,540 units/month and 6,816 units/month for the corresponding undisputed months of previous year and period before dispute respectively. This does not support the conclusion of POI that the meter was working correct till February 2013 and became defective in March 2013. Under these circumstances, the respondent is liable to be charged @ 7,540 units/month for two months only (January 2013 and February 2013) as recorded



National Electric Power Regulatory Authority

during the corresponding undisputed months of previous year. Impugned decision to this extent is liable to be modified.

8. In view of discussion in preceding paragraphs, we have reached to conclusion as under:
- i. There is no force in the objection of GEPCO for pronouncement of impugned decision after 90 days, hence the same is dismissed.
 - ii. Detection bill amounting to Rs. 105,238/- for 12,527 units for the period October 2012 to February 2013 (5 months) charged to the respondent in March 2013 on the basis of 33.33% slowness of the meter is null, void and the respondent is not obligated to pay the same. The impugned decision to this extent is maintained.
 - iii. The respondent should be charged @ 7,540 units/month for two months only i.e. January 2013 and February 2013 as recorded during the corresponding undisputed months of previous year. Impugned decision to this extent stands modified.
9. The appeal is disposed of in above terms.

Muhammad Qamar-uz-Zaman
Member

Nadir Ali Khoso
Convener

Muhammad Shafique
Member

Date: 24.11.2016

