



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-062/POI-2016/ *1581-1585*

December 05, 2016

1. Muhammad Arshad,
S/o Muhammad Sharif,
Gali Muhammad Masjid Wali,
Gala P.B. School Wala,
Hafizabad 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,
Gujranwala
5. Electric Inspector,
Gujranwala Region,
Govt. of Punjab,
Munir Chowk, Near Kacheri Road,
Gujranwala

Subject: Appeal Titled GEPCO Vs. Muhammad Arshad Against the Decision Dated 21.09.2011 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.

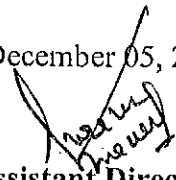
Encl: As Above

No. NEPRA/AB/Appeal-062/POI-2016/ *1588*

Forwarded for information please.

(Ikram Shakeel)

December 05, 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-062/POI-2016

Gujranwala Electric Power Company Limited

.....Appellant

Versus

Muhammad Arshad S/o Muhammad Sharif, Gali Muhammadi Masjid Wali,
Gala P.B. Model School Wala, Hafizabad Road, Gujranwala

.....Respondent

For the appellant:

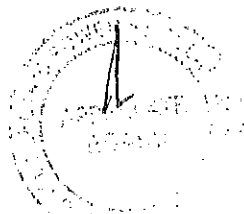
Mr. Saeed Ahmed Bhatti Advocate
Ch. Asghar Ali Add. XEN

For the respondent:

Nemo

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 21.09.2011 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. 28-2113-2609801 with a sanctioned load of 39 kW under B-2 tariff. Electricity meter of the respondent was checked by Metering and Testing (M&T) GEPCO on 20.04.2010 and reportedly it was found 33.33% slow due to yellow phase being dead. A notice dated 26.04.2010 was issued to the respondent by GEPCO regarding the above discrepancy and a detection bill of Rs. 116,781/- for 7,849 units/94 kW for the period December 2009 to March 2010 (4 months) was charged to the respondent in September 2010 due to 33.33% slowness of the meter. Multiplication Factor (MF) was also enhanced from 20 to 30 by





National Electric Power Regulatory Authority

GEPCO from April 2010 and onwards. Subsequently GEPCO filed an application before POI on 08.10.2010 for checking of the defective meter. POI checked the defective meter in presence of both the parties on 23.12.2010 and 33.33% slowness of the meter was confirmed due to one dead phase. The matter was disposed of by POI vide its decision dated 21.09.2011, the operative portion of which is reproduced below:

"In the light of above facts, it is held that the disputed meter was correct till 03/2010 and it became slow by 33.33% with effect from 04/2010 onward till its replacement and the detection bill for Rs.116,781/- charged retrospectively from 12/2009 to 03/2010, is void, unjustified and of no legal effect therefore the petitioner is not liable to pay the same. The respondents are directed to over haul the account of the petitioner and any excess amount recovered be refunded to the petitioner. They are further directed to replace the impugned defective meter by an accurate one immediately."

3. Being aggrieved with the decision of POI dated 21.09.2011 (hereinafter referred to as the impugned decision), GEPCO filed an appeal before Advisory Board Government of Punjab, Lahore (hereinafter referred to as the Advisory Board) on 17.12.2011. However the appeal was returned to GEPCO by the Advisory Board vide its decision dated 10.09.2015 with the direction to file the same before NEPRA being competent forum. GEPCO filed the appeal before NEPRA on 18.03.2016 under section 38 (3) of the NEPRA Act 1997. In its appeal, GEPCO contended that the detection bill amounting to Rs. 116,781/- for 7,849 units/94 kW for the period December 2009 to March 2010 (4 months) charged to the respondent in September 2010 due to 33.33 % slowness of the meter is justified and payable by the respondent. GEPCO pleaded that the impugned decision is illegal, unlawful, without jurisdiction and therefore liable to be set aside.
4. Notice of the appeal was issued to the respondent for filing the reply/parawise comments, which however were not filed.
5. After issuing notice to both parties, hearing of the appeal was held at Lahore on 21.11.2016 in which Mr. Saeed Ahmed Bhatti advocate along with Ch. Asghar Ali Add. XEN represented the appellatant GEPCO and no one entered appearance for the respondent. Learned counsel for



National Electric Power Regulatory Authority


GEPCO repeated the same arguments as contained memo of the appeal and contended that the metering equipment of the respondent was checked by M&T GEPCO on 20.04.2010 and found 33.33% slowness due to yellow phase dead. As per learned counsel for GEPCO, the respondent was charged a detection bill of Rs. 116,781/- for 7,849 units/94 kW for the period December 2009 to March 2010 (4 months) 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.

6. We have heard the argument and examined the record placed before us. It has been observed as under:
 - i. The impugned decision was announced by POI on 21.09.2011 and the appeal against the same was filed before the Advisory Board on 17.12.2011 after lapse of 87 days. Pursuant to the clause 10 of Punjab (Establishment and Powers of Office of Inspection) Order, 2005, an appeal against the decision of POI should be filed within 30 days but the appeal was filed after 87 days which was obviously time barred even before the Advisory Board if it is presumed to be a competent forum. The Advisory Board advised to GEPCO vide its decision dated 10.09.2015 for filing the same before NEPRA. However the appeal was preferred by GEPCO before NEPRA on 18.03.2016 after a period of 190 days since GEPCO had acquired knowledge on 10.09.2015 about NEPRA being the competent forum. Pursuant to section 38 (3) of the NEPRA Act 1997, an appeal has to be filed against the impugned decision within 30 days of its receipt but the appeal was filed before NEPRA after inordinate delay. The appeal is obviously time barred and liable to be dismissed on this ground.
 - ii. As regards merit of the case, we are inclined to agree with the findings of POI that the impugned meter of the respondent was working correctly till March 2010 and became 33.33% slow with effect from April 2010 and no detection bill is justified for retrospective period. Therefore the detection bill for Rs. 116,781/- for 7,849 units for the period December 2009 to March 2010 (4 months) is void, unjustified and of no legal effect and not payable by the respondent as determined in the impugned decision.




National Electric Power Regulatory Authority


7. In view of forgoing reasons, the impugned decision is maintained and the appeal is dismissed.



Muhammad Qamar-uz-Zaman
Member



Nadir Ali Khoso
Convener



Muhammad Shafique
Member

Date: 02.12.2016