



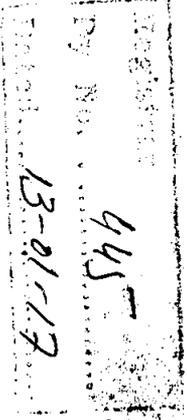
Before the Appellate Board  
National Electric Power Regulatory Authority  
(NEPRA)  
Islamic Republic of Pakistan

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No. NEPRA/AB/Appeal-075/POI-2016/ 035-040

January 11, 2017

1. Shahzada Najam-ul-Sahar,  
S/o Muhammad Akram Mughal,  
R/o 45-A, Bazar Area Cantt,  
Gujranwala
2. The Chief Executive Officer  
GEPSCO Ltd,  
Head Office, 565-A,  
Model Town, G.T. Road,  
Gujranwala
3. Muhammad Azam Khokhar  
Advocate High Court,  
10-Fatima Jinnah Chambers,  
Sessions Court, Gujrajwala
4. Saeed Ahmed Bhatti  
Advocate High Court,  
2<sup>nd</sup> Floor, Akram Mansion,  
Neela Gumbad, Lahore
5. Sub Divisional Officer,  
GEPSCO Ltd,  
Cantt Sub Division,  
Gujranwala
- Electric Inspector,  
Gujranwala Region,  
Govt. of Punjab,  
Munir Chowk, Near Kacheri Road,  
Gujranwala



Scanned and E-mailed to 15 Dec

Subject: Appeal Titled GEPSCO Vs. Shahzada Najam-ul-Sahar Against the Decision Dated 29.02.2016 of the Electric Inspector/POI to Government of the Punjab Gujranwala Region, Gujranwala

Please find enclosed herewith the Decision of the Appellate Board dated 10.01.2017, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(Ikram Shakeel)

No. NEPRA/AB/Appeal-075/POI-2016/ 041

January 11, 2017

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-075/POI-2016

Gujranwala Electric Power Company Limited

.....Appellant

Versus

Shahzad Najam-ul-Sahar, S/o Muhammad Akram Mughal,  
R/o 45-A, Bazar Area Cantt, Gujranwala

.....Respondent

For the appellant:

Mr. Saeed Ahmed Bhatti advocate  
Mr. Anees Ahmed SDO

For the respondent:

Mr. Muhammad Azam Khokar advocate

## 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 29.02.2016 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 a domestic consumer of GEPCO bearing Ref No. 08-12211-2197500 with a sanctioned load of 1 kW under A-1R tariff. Electricity meter of the respondent was checked by Regional Surveillance Team (RST) GEPCO on 21.08.2013 and allegedly it was found 90% slow and tampered through remote control device installed inside the meter for dishonest abstraction of electricity. A notice dated 21.08.2013 was issued to the respondent and FIR No. 442/2013 dated 22.08.2013 was registered by GEPCO against the respondent for theft of electricity. A detection bill amounting to Rs.275,000/- for 15,893 units for the period March 2013 to August 2013(6 months) was





## National Electric Power Regulatory Authority

charged in the bill of the respondent for August 2013 on the basis of 30% load factor of lighting load=5.794 kW and 50% load factor of Split AC load= 6.5 kW.

3. Being aggrieved, the respondent challenged the aforesaid detection bill before POI vide his application dated 22.08.2013. Subsequently the defective meter of the respondent was replaced by GEPCO in September 2013. The matter was disposed of by POI vide its decision dated 29.02.2016, the operative portion of which is reproduced below:

*"In the light of above facts, it is held that the actual consumption was not being recorded during the disputed meter from 03/2013 to 08/2013, whereas the impugned detection bill of Rs.275,000/- charged for 15,893 units against the above said disputed period is excessive, unjustified, void and of no legal consequence therefore the petitioner is not liable to pay the same. The respondents are directed to withdraw the impugned detection bill and charge revised detection on the basis of 1,030 units per month recorded during the corresponding months of succeeding years (03/2014 to 08/2014 & 03/2015 to 08/2015) against the disputed detection period from 03/2013 to 08/2013 after excluding the units already billed. The respondents are also directed to over-haul the account of the petitioner accordingly."*

4. GEPCO being dissatisfied with the decision of POI dated 29.02.2016 (hereinafter referred to as the impugned decision) has filed the instant appeal before NEPRA. In its appeal, GEPCO contended that the electricity meter of the respondent was checked by RST GEPCO on 21.08.2013 and the same was found 90% slow and tampered through a remote control device for dishonest abstraction of electricity. According to GEPCO, FIR No.442/2013 was registered against the respondent on 22.08.2013 and a detection bill amounting to Rs.275,000/- for 15,893 units for the period March 2013 to August 2013 (6 months) charged to the respondent on the basis of connected lighting and AC loads due to theft of electricity is legal, valid, justified and payable by the respondent. GEPCO pointed out that the application filed by the respondent before POI on 28.02.2012 was decided by POI on 29.02.2016 after the statutory period of 90 days as such the impugned decision is ex-facie coram non-judice, ab-initio void, without jurisdiction and liable to be set aside under section 26(6) of Electricity Act 1910.
5. Notice of the appeal was issued to the respondent for filing reply/parawise comments, which were filed on 07.12.2016. In his reply, the respondent denied the allegation of theft of electricity levelled by GEPCO and contended that neither any notice was served upon him nor





## National Electric Power Regulatory Authority

any inspection was carried out by GEPCO, which is violative of provisions of Consumer Service Manual. As per respondent, the detection bill charged @ 2,849 units per month during the disputed period i.e. March 2013 to August 2013 is excessive and unjustified. The respondent defended the impugned decision and pleaded for upholding the same.

6. After issuing notice to both parties, hearing of the appeal was held at Lahore on 09.12.2016 in which Mr. Saeed Ahmed Bhatti advocate along with Mr. Anees Ahmed SDO represented the appellant GEPCO and Mr. Muhammad Azam Khokhar advocate entered appearance for the respondent. Learned counsel for GEPCO raised preliminary objection regarding the jurisdiction of POI and contended that the electric inspector was not empowered to adjudicate upon the instant matter being a case of theft of electricity. Learned counsel for GEPCO asserted that pursuant to PLD 2012 Supreme Court 371, Electric Inspector has the jurisdiction to entertain billing disputes pertaining to theft of electricity committed by tampering with the electricity meter. The decision of honorable Supreme Court according to GEPCO counsel was for an Electric Inspector and not applicable to a POI. According to learned counsel for GEPCO, meter of the respondent was checked by GEPCO on 21.08.2013, which was found tampered and the respondent was found consuming electricity illegally. As per learned counsel for GEPCO, FIR No.442/2013 was registered against the respondent on 22.08.2013 and the respondent was found guilty and fine of Rs.5000/- was imposed by the Court. According to learned counsel for GEPCO, the detection bill amounting to Rs.275,000/- for 15,893 units for the period March 2013 to August 2013 (6 months) debited to the respondent due to theft of electricity is payable by the respondent. Learned counsel for GEPCO assailed the impugned decision and pleaded for its withdrawal. Conversely, the learned counsel for the respondent in his rebuttal averred that POI has jurisdiction to adjudicate upon the matter as theft of electricity through tampering of meter is alleged. Learned counsel for the respondent contended that the detection bill of Rs.275,000/- for 15,893 units for the period March 2013 to August 2013 charged to the respondent on the basis of load factor is violative of CSM and liable to be cancelled.
7. We have heard the argument and examined the record placed before us. It has been observed as under:
  - i. Preliminary objection raised by GEPCO regarding the illegality of the impugned decision dated 29.02.2016 pronounced by POI after a period of 90 days after its filing is not tenable



## National Electric Power Regulatory Authority

as the decision was rendered by the officer in his capacity as POI under section 38 of the NEPRA Act 1997, which does not impose any restriction of time limit.

- ii. Since the theft of electricity is alleged by means of tampering of the meter, POI/EI has the jurisdiction to adjudicate upon the instant matter. Reliance in this regard is placed on PLD 2012 Supreme Court 371, which is applicable in the instant matter. The objection of GEPCO regarding jurisdiction of POI is not sustainable.
- iii. The respondent was charged the detection bill of Rs.275,000/- for 15,893 units for the period March 2013 to August 2013 (6 months) due to alleged theft of electricity by means of tampering the meter.

Charging the detection bill beyond three billing cycles by GEPCO to the respondent is inconsistent with 9.1 c (3) of CSM, according to which, the respondent is liable to be billed maximum for three billing cycles, being a domestic consumer as nothing was placed before us by GEPCO to establish that the approval for charging the detection bill up-to six months was obtained from Chief Executive (or any officer authorized in this behalf) of GEPCO and any action was initiated against the officer in charge for not being vigilant enough. Under these circumstances, the detection bill of Rs.275,000/- for 15,893 units for the period March 2013 to August 2013 (6 months) charged to the respondent in August 2013 on the basis of 30% load factor of lighting load =5.794 kW and 50% load factor of Split AC load = 6.5 kW has no justification and liable to be cancelled as determined in the impugned decision.

- iv. The determination of POI for charging the detection bill @ 1,030 units/month for the period i.e. March 2013 to August 2013 (3 months) as recorded during the corresponding undisputed period i.e. March 2014 to August 2014 is not supported by the CSM, therefore liable to be withdrawn to this extent. We are inclined to agree with the stance of GEPCO that the respondent is liable to be charged the detection bill for three months only on the basis of connected load factor being a registered consumer as per procedure laid down in chapter 9 of CSM, since charge of theft of electricity was proved against the respondent.
- v. Assessment of the detection bill is made here as under;

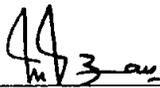




## National Electric Power Regulatory Authority

Detection units already charged for March 2013 to August 2013		Detection units to be charged for June 2013 to August 2013 as per CSM	
	Units		Units
2x Split Ac 1.5 Ton 1 x Window Ac 1.5 Ton Units charged for 4 months	5,840 + 3,650 = 9,490	(9,490 units) x 3 months 4 months	= 7,117
For lighting Load consumption charged for 6 months	= 7,608	(7,608 units) x 3 months 6 months	= 3,804
Total units charged	= 17,098	Total units to be charged	= 10,921
Units already charged in normal mode	= 1,205	Units already charged in normal mode	= 853
Net units chargeable	= 15,893	Net units chargeable	= 10,068

8. In view of forgoing reasons, we have reached to the conclusion as under;
- Objection of GEPCO regarding restriction of time limit of 90 days and jurisdiction of POI has no force and therefore rejected.
  - Detection bill amounting to Rs.275,000/- for 15,893 units for the period March 2013 to August 2013 (6 months) charged to the respondent in August 2013 on the basis of 30% load factor of lighting load =5.794 kW and 50% load factor of Split AC load =6.5 kW is void and not payable by the respondent. Impugned decision to this extent is maintained.
  - The respondent should be charged the detection bill for 10,068 net units for the period i.e. June 2013 to August 2013 and the consumer account of the respondent should be overhauled accordingly. Impugned decision to this extent is modified.
9. The appeal is disposed of in above terms.

  
Muhammad Qamar-uz-Zaman  
Member

  
Muhammad Shafique  
Member

  
Nadir Ali Khoso  
Convener

Date: 10.01.2017