



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

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No. NEPRA/AB/Appeal-071/POI-2016/ 605-6/0

April 27, 2017

1. M/s Supreme Gas Industries (Pvt.) Ltd,
Through Mian Abdul Aziz,
Director, 18-KM, Lahore Side,
Near Chianwali, G. T. Road,
Gujranwala
2. The Chief Executive Officer
GEPCO Ltd,
Head Office, 565-A,
Model Town, G.T. Road,
Gujranwala
3. Muhammad Azam Khokhar,
Advocate High Court,
10-Fatima Jinnah Chambers,
Session Courts, Gujranwala
4. Saeed Ahmed Bhatti
Advocate High Court,
2nd Floor, Akram Mansion,
Neela Gumbad, Lahore
5. Assistant Manager (Operation),
GEPCO Ltd,
Aiman Abad Sub Divison,
Gujranwala
6. Electric Inspector,
Gujranwala Region,
Govt. of Punjab,
Munir Chowk, Near Kacheri Road,
Gujranwala

Subject: Appeal Titled GEPCO Vs. M/s Supreme Gas Industries (Pvt.) Ltd Against the Decision Dated 09.02.2016 of the Electric Inspector/POI to Government of the Punjab Gujranwala Region, Gujranwala

Please find enclosed herewith the Decision of the Appellate Board dated 26.04.2017, regarding the subject matter, for information and necessary action accordingly.

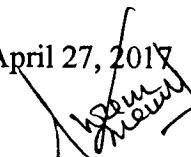
Encl: As Above

No. NEPRA/AB/Appeal-071/POI-2016/ 6/11

Forwarded for information please.

(Ikram Shakeel)

April 27, 2017


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-071/POI-2016

Gujranwala Electric Power Company LimitedAppellant

Versus

M/s Supreme Gas Industries (Pvt.) Ltd, Through Mian Abdul Aziz
Director 18-KM, Lahore side, Near Chianwali, G.T Road, Gujranwala

.....Respondent

For the appellant:

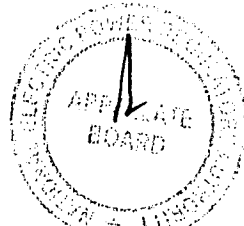
Mr. Saeed Ahmed Bhatti Advocate
Mr. Talal Arshad SDO

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 09.02.2016 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 an industrial consumer of GEPCO bearing Ref No.36-12134-0003100 with a sanctioned load of 710 kW under B-3(14) tariff.





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Both the TOU billing and backup meters of the respondent were found tampered, when checked by Metering and Testing (M&T) GEPCO on 13.03.2010. Metering equipment of the respondent was again checked by POI in presence of both the parties on 15.03.2010 and reportedly the security slips were found tampered and relay was found installed inside both the meters for illegal abstraction of electricity. FIR No. 135/2010 dated 15.03.2010 was registered with Police by GEPCO against the respondent for theft of electricity and a detection bill of Rs.11,445,136/- for 1,597,378 units (i) for the period December 2007 to October 2008(11 months) on the basis of average load and (ii) for the period October 2008 to February 2010 (17 months) on the basis of average MDI i.e. 429 kW was charged to the respondent.

3. Being aggrieved, the respondent initially filed a complaint before NEPRA and challenged the aforesaid detection bill, which was remanded by NEPRA to POI for further adjudication vide its letter No.TCD03/3861-2010 dated 16.09.2010. In response to the notice of POI regarding above complaint, GEPCO filed a reply before POI on 10.11.2010 and raised the objection regarding jurisdiction of POI. It was contended by GEPCO that the respondent was involved in dishonest abstraction of electricity as such POI has no jurisdiction. The matter was disposed of by POI vide its decision dated 15.12.2010 with the following conclusion:

"Since the dispute raised by the petitioner is over detection on account of dishonest abstraction of energy assessed under Section 26-A of the Electricity Act 1910, therefore this forum has no jurisdiction to adjudicate upon such particular





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matter of theft of energy and the complaint is filed due to lack of jurisdiction of this forum on the subject matter."

4. Being dissatisfied with the decision of POI dated 15.12.2010 (first impugned decision), the respondent has filed the review petition before POI on 17.04.2013 after a lapse of two years and four months and challenged the first impugned decision. POI passed an interim order dated 09.02.2016, the operative portion of which is reproduced below:

"Summing up the forgoing discussion, it established that the allegation leveled by respondents lead to allege the manipulation or tampering with disputed meter & its security slips etc. therefore the Electric Inspector has jurisdiction to adjudicate and decide the instant petition and the objection of the respondents is not sustainable under the law and is over-ruled. The case is adjourned to 01.03.2016."

5. Being aggrieved with the interim order dated 09.02.2016 of POI (impugned order), GEPCO has filed the instant appeal and contended that the respondent was involved in theft of electricity for which FIR No. 135/2010 dated 15.03.2010 was lodged and the respondent was convicted for the offense. According to GEPCO, POI has no jurisdiction to adjudicate the complaint of the respondent. As per GEPCO, an appeal against the first impugned decision was competent before NEPRA but it was not filed by the respondent as such the first impugned decision attained finality. Besides GEPCO averred that there was no provision of review for POI against its own decision.





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6. Notice of the appeal was issued to the respondent for filing reply/parawise comments, which were filed on 02.06.2016. In his reply, the respondent denied the allegation of theft of electricity levelled by GEPCO and contended that pursuant to PLD 2012 SC 371, POI is competent to hear and decide the complaints where theft of electricity through tampering is alleged. The respondent pleaded for upholding the impugned order and decision of the complaint by POI on merit.
7. After issuing notice to both parties, hearing of the appeal was held at Lahore on 10.03.2017 in which Mr. Saeed Ahmed Bhatti Advocate along with Mr. Talal Arshad SDO represented the appellant GEPCO and Mr. Muhammad Azam Khokhar Advocate entered appearance for the respondent. Both the advocates stuck on their stance as mentioned in their appeal and reply/parawise comments. Learned counsel for GEPCO pleaded that since no appeal was filed against the first impugned decision, the decision is final and the review filed by the respondent is against the law as there is no provision for the review in the Punjab (Establishment and Powers of Office of Inspection) Order, 2005. On the contrary, the learned counsel for the respondent defended the impugned order and prayed for upholding the same.
8. We have heard the argument and examined the record placed before us. We are convinced with the contention of GEPCO that an appeal is competent before NEPRA against the decision of POI within 30 days, which was not filed by the respondent. We are also in agreement with the arguments of GEPCO that there is no provision for review by POI against its own decision under Punjab (Establishment and Powers





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of Office of Inspection) Order, 2005. Hence the impugned order is liable to be set aside being void ab-initio and without lawful authority.

9. In view of above stated position, we have reached to the conclusion that the impugned order is illegal therefore set aside and accordingly the appeal is accepted.

Muhammad Qamar-uz-Zaman
Member

Nadir Ali Khoso
Convener

Muhammad Shafique
Member

Dated: 26.04.2017

