



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-092/POI-2016/ 266-271

February 22, 2017

1. M/s Agroman Crystal Rice Mills (Pvt.) Ltd,
Syed Nagar Alipur Chatha,
Tehsil Wazirabad, Distt. Gujranwala,
Through Khawaja Waseem Ahmed,
S/o Mian Barkat Ali,
R/o 121, Phase-I, Defence Colony,
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,
Sessions Court, Gujranwala
4. Saeed Ahmed Bhatti
Advocate High Court,
2nd Floor, Akram Mansion,
Neela Gumbad, Lahore
5. Sub Divisional Officer,
GEPCO Ltd,
Alipur Chatha Sub Division,
Alipur Chatha
6. Electric Inspector,
Gujranwala Region,
Govt. of Punjab,
Munir Chowk, Near Kacheri Road,
Gujranwala

Subject: Appeal Titled GEPCO Vs. M/s Agroman Crvstal Rice Mills (Pvt.) Limited
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 21.02.2017,
regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(Ikram Shakeel)

No. NEPRA/AB/Appeal-092/POI-2016/ 272

February 22, 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-092/POI-2016

Gujranwala Electric Power Company LimitedAppellant

Versus

M/s Agroman Crystal Rice Mills (Pvt.) Ltd, Syed Nagar Alipur Chatta,
Tehsil Wazirabad District Gujranwala, Through Khuwaja Waseem Ahmed,
S/o Mian Barkat Ali R/o 121, Phase-I, Defence Colony, GujranwalaRespondent

For the appellant:

Mr. Saeed Ahmed Bhatti Advocate
Mr. Sakandar Riaz SDO

For the respondent:

Mr. Muhammad Azam Khokhar 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 27.01.2016 of Provincial Office of Inspection/Electric Inspector, Gujranwala region, Gujranwala (hereinafter referred to as POI).
2. As per facts of the case, the respondent is an industrial consumer of GEPCO bearing Ref No. 28-12236-0001701 with a sanctioned load of 165kW under B-2 (12) tariff.





National Electric Power Regulatory Authority

Electricity meter of the respondent was checked by Metering and Testing (M&T) GEPCO on 13.02.2014 and reportedly it was running 33.33% slow due to read phase being dead. A notice dated 20.02.2014 was issued to the respondent by GEPCO regarding the above discrepancy and a detection bill of Rs.389,876/- for 12,800 units/95 kW MDI for the period November 2013 to January 2014 (3 months) was charged to the respondent in April 2014 due to 33.33% slowness of the meter. Multiplication Factor (MF) was also enhanced from 80 to 120 by GEPCO for the billing from February 2014 and onwards.

3. Being aggrieved, the respondent filed an application before POI on 21.05.2014 and challenged the detection bill of Rs.389,876/- for 12,800 units/95 kW MDI for the period November 2013 to January 2014 charged in April 2014. POI checked the defective meter in presence of both the parties on 11.12.2014 and observed 33.33% slowness of the meter due to one (red) dead phase. New check meter was installed by GEPCO on the premises of the respondent on 18.06.2015 and 33.33% slowness of the meter was confirmed by POI on 05.01.2016 during comparison of the check meter and disputed meter consumptions. The matter was disposed of by POI vide its decision dated 27.01.2016 with the following conclusion:

“For the reasons what has been discussed above, it is held that impugned meter was correct till 12/2013 and it became 33.33% slow with effect from 01/2014 onwards till the shifting of billing on check meter in 06/2015 and the impugned detection bill for Rs.3,89,876.40/- charged by respondents in the bill of 04/2013 for the months of 11/2013 to



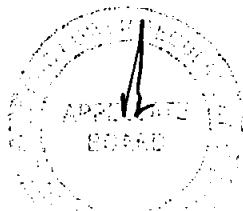


National Electric Power Regulatory Authority

01/2014 is void, unjustified and of no legal effect; therefore the petitioner is not liable to pay the same. The respondents are to withdraw the impugned detection bill and charge revised detection bill for 01/2014 on the basis of 33.33% slowness whereas onward the respondents had recovered the slowness with enhanced MF=120 till the shifting of billing on new meter. The respondents are also directed to overhaul the account of the petitioner and any excess amount recovered in future bills."

4. Being dissatisfied with the decision of POI dated 27.01.2016 (hereinafter referred to as the impugned decision), GEPCO filed the instant appeal before NEPRA on 16.05.2016 along with an application for condonation of the delay 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). In its appeal, GEPCO contended that the billing meter was found 33.33% slow during M&T checking on 13.02.2014, therefore a detection bill of Rs.389,876/- for 12,800 units/95 kW MDI for the period November 2013 to January 2014 charged to the respondent in April 2014 on the basis of 33.33% slowness was justified. GEPCO pointed out that the application was filed by the respondent before the Electric Inspector on 21.05.2014, whereas the same was decided on 27.01.2016 after the expiry of statutory period of 90 days as envisaged under Section 26(6) of Electricity Act 1910, therefore the impugned decision is void ab-initio and liable to be set aside.

5. Notice of the appeal was issued to the respondent for filing reply/parawise comments which were filed by the respondent on 04.10.2016. In its reply, the respondent inter alia raised the preliminary objection regarding limitation and contended that the copy of the impugned

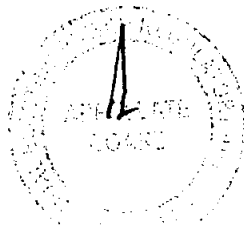




National Electric Power Regulatory Authority

decision dated 27.01.2016 was obtained by GEPCO on 08.02.2016, whereas the appeal against the same was filed before NEPRA on 16.05.2016 after 97 days of its receipt. According to the respondent, the appeal is not liable to be entertained being time barred. On facts, the respondent averred that the detection bill of Rs.389,876/- for 12,800 units/95 kW MDI for the period November 2013 to January 2014 due to alleged slowness is violative of the provisions of Consumer Service Manual (CSM). The respondent further contended that POI is empowered to make determination in the disputes over metering, billing and collection of tariff as prescribed under Section 38 of NEPRA Act 1997 with no specific time limit.

6. Hearing of the appeal was held on 10.02.2017 at NEPRA provincial office, Lahore and notice thereof was served upon both the parties. Mr. Saeed Ahmed Bhatti advocate along with Mr. Sakandar Riaz SDO appeared for the appellant GEPCO and Mr. Azam Khokhar advocate represented the respondent. At the outset of hearing, learned counsel for the respondent raised the preliminary objection and contended that the appeal is time barred and liable to be dismissed. The learned counsel for GEPCO rebutted the arguments of learned counsel for the respondent and contended that the impugned decision was not sent by POI to the respondent, therefore the appeal filed before NEPRA is within time and be decided on merit. Reliance is placed on Lahore High Court Lahore judgment dated 12.05.2016 in the matter FESCO vs. NEPRA and others. As regards the merits, learned counsel for GEPCO argued that 33.33% slowness of the meter was established by POI as well, therefore the detection bill of Rs.389,876/- for 12,800 units/95 kW MDI for the period November 2013 to



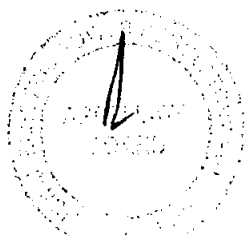


National Electric Power Regulatory Authority

January 2014 charged due to 33.33% slowness is justified and the respondent is responsible to pay the same. On the contrary, learned counsel for the respondent rebutted the arguments of GEPCO and pleaded that the impugned decision is based on facts and law and liable to be maintained.

7. Argument heard, record examined and following observed:

- i. As regards objection of GEPCO that the impugned decision pronounced after statutory period of 90 days under Section 26(6) of Electricity Act 1910 was invalid, the same was not pressed by the learned counsel for GEPCO during the hearing. Moreover the impugned decision was rendered by POI (not Electric Inspector) under Section 38 of NEPRA Act 1997 and as such the objection of GEPCO for limitation has no force and therefore dismissed.
- ii. Admittedly copy of the impugned decision was received by GEPCO on 08.02.2016 and the appeal against it was filed before the NEPRA on 16.05.2016 after a lapse of 97 days. It is therefore concluded that the appeal is time barred under Section 38 (3) of NEPRA Act 1997 and liable to be dismissed on this ground.
- iii. As regards merits of the case, it is rightly assessed by POI that the billing meter was recording correctly till December 2013 and became defective w.e.f January 2014. The respondent is liable to be charged the detection bill @33.33% slowness of the meter w.e.f January 2014 and onwards till the shifting of billing to the new meter. The detection bill of Rs.389,876/- for 12,800 units/95 kW MDI for the period November 2013 to January





National Electric Power Regulatory Authority

2014 charged to the respondent is void and not recoverable from the respondent as determined in the impugned decision.

8. Forgoing in consideration, the appeal is dismissed.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Dated: 21.02.2017

