



National Electric Power Regulatory Authority  
(NEPRA)  
Islamic Republic of Pakistan

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No. NEPRA/AB/Appeal-100/POI-2016/ 519 - 524

April 12, 2017

1. Abdul Aziz,  
S/o Muhammad Siddique,  
Siddique Street, Near By-Pass,  
Ferozwala Road, 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,  
Session Courts, Gujranwala
4. Saeed Ahmed Bhatti  
Advocate High Court,  
2<sup>nd</sup> Floor, Akram Mansion,  
Neela Gumbad, Lahore
5. Sub Divisional Officer,  
GEPSCO Ltd,  
Chaman Shgah Sub Divison,  
Gujranwala
6. Electric Inspector,  
Gujranwala Region,  
Govt. of Punjab,  
Munir Chowk, Near Kacheri Road,  
Gujranwala

Subject: Appeal Titled GEPSCO Vs. Abdul Aziz Against the Decision Dated 04.04.2012 of the Electric Inspector/POI to Government of the Punjab Gujranwala Region, Gujranwala

Please find enclosed herewith the Decision of the Appellate Board dated 07.04.2017, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

No. NEPRA/AB/Appeal-100/POI-2016/ 525  
Forwarded for information please.

(Ikram Shakeel)

April 12, 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-100/POI-2016

Gujranwala Electric Power Company Limited .....Appellant

Versus

Abdul Aziz S/o Muhammad Siddique, Siddiqui Street  
Near By pass, Ferozwala Road, Gujranwala .....Respondent

#### For the appellant:

Mr. Saeed Ahmed Bhatti Advocate  
Mr. QaisarFarooq SDO  
Mr. Hafeezullah Bajwa

#### For the respondent:

Mr. Muhammad Azam Khokhar advocate

### DECISION

1. Relevant facts leading to the disposal of this appeal are that the respondent's electricity meter became defective in December 2009 and the electricity bills for the period from December 2009 to May 2010 were charged by Gujranwala Electric Power Company Limited (hereinafter referred to as GEPCO) on estimated basis. Subsequently on the recommendation of Audit cell, as per Audit Note 199 & 200 dated 24.01.2011, the detection bill of Rs.119,590/-for 18,080 units less charged in

1



## National Electric Power Regulatory Authority

December 2009 and (ii) the detection bill of Rs.628,904/- for 88,520 units/20 kW for the period January 2010 to May 2010 on the basis of consumption of November 2009 were charged to the respondent.

2. The respondent assailed such action before the Provincial Office of Inspection (POI) which decided the matter on 04.04.2012 with the following conclusion:

*"In view of the above facts it is held that the impugned meter remained defective from 12/2009 to 05/2010 whereas the billing charged on estimated consumption and detection charges by Audit note No.199 & 200 dated 24.01.2011 for Rs.748,496/- are void, unjustified and of no legal effect therefore the petitioner is not liable to pay the same. The respondents are directed to revise the billing for the disputed months from 12/2009 to 05/2010 by charging the consumption recorded during the months from 12/2009 to 05/2010 by charging the consumption recorded during the corresponding months of the previous year i.e. 12/2008 to 05/2009. The respondents are further directed to over haul the account of the petitioner and excess amount recovered be refunded/adjusted in future billing."*

3. Hence this appeal has been filed by GEPCO with the contentions inter-alia that the detection bill of Rs.119,590/- vide Audit note 199 dated 24.01.2011 and the detection bill of Rs.628,904/- for 88,520 units/20 kW for the period January 2010 to May 2010 vide Audit note 200 dated 24.01.2011 charged to the respondent are

1



## National Electric Power Regulatory Authority

legal, valid, justified and payable by the respondent and that the impugned decision of POI is ex-facie coram, non iudice ab-initio void as it was given on 04.04.2012 after a period of 90 days of filing of the application by the respondent on 20.09.2011 as envisaged in Section 26 (6) of Electricity Act 1910.

4. Notice of the appeal was issued to the respondent for filing reply/parawise comments, which were filed by the respondent on 30.08.2016. In his reply, the respondent inter alia raised the preliminary objection regarding limitation and contended that the appeal is not liable to be entertained being time barred. On facts, the respondent averred that the meter became defective in December 2009 and the electricity bills for the period December 2009 to May 2010 were charged by GEPCO on estimated basis. As per respondent, on the basis of Audit recommendation vide Audit Note 199 and 200 dated 24.01.2011, the detection bill of Rs.119,590/- for 18,080 units less charged in December 2009 and the detection bill of Rs.628,904/- for 88,520 units/20 kW for the period January 2010 to May 2010 charged by GEPCO are illegal , unjustified and not payable by him. The respondent pointed out that the audit is an internal matter between DISCO and Audit department and the respondent is not responsible for any payment on the basis of audit notes.
5. After issuing notice to both the parties, hearing of the appeal was held on 10.03.2017 at NEPRA provincial office, Lahore. Mr. Saeed Ahmed Bhatti advocate

12



## National Electric Power Regulatory Authority

along with GEPCO officials appeared for the appellant GEPCO and Mr. Muhammad Azam Khokhar advocate represented the respondent. At the outset of hearing, learned counsel for the respondent raised the preliminary objection for limitation and contended that the appeal is time barred. Learned counsel for the respondent contended that the Audit Note is an internal matter between DISCO and the Audit party and the detection bills raised by GEPCO on audit recommendation are illegal. Learned counsel for the respondent pleaded that the impugned decision is based on facts and law and liable to be maintained. Conversely, the learned counsel for GEPCO rebutted the arguments of learned counsel for the respondent and pleaded that the impugned decision dated 04.04.2012 was received by GEPCO on 23.04.2012 and the appeal against the same was filed before the Advisory Board Government of Punjab Lahore (the Advisory Board) on 04.07.2012 within the time, which was returned by Advisory Board vide its decision dated 16.05.2016 with the direction to file the same before NEPRA being the competent forum. As per learned counsel for GEPCO, the appeal against the impugned decision was filed before NEPRA on 23.05.2016 and the delay caused in filing the same was not intentional and deliberate, which may be condoned. As regards the merits, learned counsel for GEPCO argued that the detection bill of Rs.119,590/- on account of 18,080 units less charged in December 2009 and the detection bill of Rs.628,904/- for 88,520 units/20 kW for the period January 2010 to May 2010 charged to the respondent on

1



## National Electric Power Regulatory Authority

the basis of Audit Notes 199 and 200 dated 24.01.2011 respectively are justified and the respondent is liable to pay the same.

6. Argument heard, record examined and following observed:

- i. As regards objection of GEPCO that the impugned decision given after statutory period of 90 days under Section 26(6) of Electricity Act 1910 is not valid for the reason that the impugned decision was rendered by the POI and not by Electric Inspector under Electricity Act, 1910. The time period may be relevant for Electric Inspectors but the same is not applicable for POIs.
- ii. Admittedly copy of the impugned decision was received by GEPCO on 23.04.2012 and the appeal against it was filed before the Advisory Board, Lahore on 04.07.2012, which was returned to GEPCO by the Advisory Board vide its decision dated 16.05.2016 with the direction to file the same before NEPRA being the competent forum, which was filed before NEPRA on 23.05.2016 within 7 days of the decision dated 16.05.2016 of the Advisory Board. Learned counsel for GEPCO has justified the delay in filing the appeal, as such the delay is liable to be condoned.
- iii. Pursuant to the decision of Lahore High Court, Lahore Judgment dated 25.09.2007, reported in 2008 YLR 308, we endorse the impugned decision to the extent that the Audit report is an internal matter between DISCO and the Audit



## National Electric Power Regulatory Authority

party and not binding upon the respondent. The detection bill of Rs.119,590/- for 18,080 units less charged in December 2009 and the detection bill of Rs.628,904/- for 88,520 units/20 kW for the period January 2010 to May 2010 are not payable by the respondent on the recommendation of the Audit party.

- iv. There is no controversy that the meter of the respondent remained defective and billing was done on estimated basis during the period December 2009 to May 2010, which was challenged by the respondent before POI.
- v. Consumption data as per record provided by GEPCO is given below:

Period Before Dispute		Dispute Period		Corresponding Period Before Dispute	
Month	Units Charged	Month	Units charged	Month	Units Charged
Jan-09	28,708	Dec-09	71,960	Dec-08	33,320
Feb-09	39,320	Jan-10	53,920	Jan-09	28,708
Mar-09	42,060	Feb-10	53,960	Feb-09	39,320
Apr-09	37,600	Mar-10	53,980	Mar-09	42,060
May-09	37,680	Apr-10	53,000	Apr-09	37,600
Jun-09	38,200	May-10	56,440	May-09	37,680
Jul-09	35,280				
Aug-09	38,160				
Sep-09	52,320				
Oct-09	56,600				
Nov-09	71,960				
<b>11 Months</b>	<b>477,888</b>	<b>6 months</b>	<b>343,260</b>	<b>6 months</b>	<b>218,688</b>
<b>Avg./month</b>	<b>43,444</b>	<b>Avg./month</b>	<b>57,210</b>	<b>Avg./month</b>	<b>36,448</b>

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## National Electric Power Regulatory Authority

- vi. From the above table, it emerges that the average consumption of 57,210 units/month charged by GEPCO in estimated mode during the disputed period i.e. December 2009 to May 2010 is much higher than the average consumption of 43,444 units/month and 36,448 units/month recorded in normal mode during the period immediately before the dispute and the corresponding period of the previous year respectively. Under these circumstances, the average consumption of 57,210 units/month charged by GEPCO in estimated mode during the disputed period i.e. December 2009 to May 2010 is unjustified and liable to be withdrawn as already determined in the impugned decision.
- vii. Similarly charging of 36,448 units/month as determined by POI for the disputed period i.e. December 2009 to May 2010 has no justification. It would be fair and appropriate to charge the detection bills @ 43,444 units/month for the disputed period December 2009 to May 2010 as recorded in normal mode during the period immediately before the dispute. Impugned decision to this extent is liable to be modified.
7. In view of above, it is concluded that:
- a. Objection of GEPCO regarding invalidity of the impugned decision given by POI after 90 days has no force and therefore dismissed.
  - b. There is no force in the contention of the respondent regarding limitation,





## National Electric Power Regulatory Authority

therefore the delay in filing the appeal is condoned.

- c. The detection bill of Rs.119,590/- for 18,080 units less charged in December 2009 and the detection bill of Rs.628,904/- for 88,520 units/20 kW for the period January 2010 to May 2010 charged on recommendation of Audit cell and the estimated units charged @ 57,210 units/month by GEPCO during the disputed period i.e. December 2009 to May 2010 are unjustified and therefore cancelled as already decided by POI.
  - d. The respondent should be charged @ 43,444 units/month for the disputed period i.e. December 2009 to May 2010. Impugned decision to this extent is modified.
8. The appeal is disposed of in above terms.

Muhammad Qamar-uz-Zaman  
Member

Nadir Ali Khoso  
Convener

Muhammad Shafique  
Member

Dated: 07.04.2017