



National Electric Power Regulatory Authority
(NEPRA)

Islamic Republic of Pakistan

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No. NEPRA/AB/Appeal-145/POI-2016/1429-1434

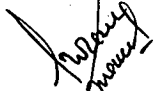
September 26, 2017

1. Haji Muhammad Saleem Khan,
House No. 127, Street No. 1,
Gujranwala Cantt
2. The Chief Executive Officer
GEPSCO Ltd,
Head Office, 565-A,
Model Town, G.T. Road,
Gujranwala
3. Saced Ahmed Bhatti
Advocate High Court,
2nd Floor, Akram Mansion,
Neela Gumbad, Lahore
4. Muhammad Azam Khokhar,
Advocate High Court,
10-Fatima Jinnah Chambers,
Session Courts, Gujranwala
5. Sub Divisional Officer,
GEPSCO Ltd,
Cantt Sub Division,
Near D. C. Colony,
Gujranwala
6. Electric Inspector,
Gujranwala Region,
Govt. of Punjab,
Munir Chowk, Near Kacheri
Road,
Gujranwala

Subject: Appeal Titled GEPSCO Vs. Haji Muhammad Saleem Khan Against the Decision Dated 30.06.2016 of the Electric Inspector/POI to Government of the Punjab Gujranwala Region, Gujranwala

Please find enclosed herewith the Decision of the Appellate Board dated 25.09.2017, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above


(Ikram Shakeel)

No. NEPRA/AB/Appeal-145/POI-2016/1435

September 26, 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-145/POI-2016

Gujranwala Electric Power Company LimitedAppellant

Versus

Haji Muhammad Saleem Khan,
House No.127,Street No.1, Gujranwala CanttRespondent

For the appellant:

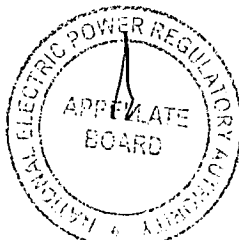
Mr. Saeed Ahmed Bhatti Advocate
Mr. Anees Ahmed SDO

For the respondent:

Mr. Muhammad Azam Khokhar
Advocate

DECISION

1. Through this decision, an appeal filed by Gujranwala Electric Power Company Limited (hereinafter referred to as GEPCO) against the decision dated 30.06.2016 of Provincial Office of Inspection, Gujranwala Region, Gujranwala (hereinafter referred to as POI) is being disposed of. As per facts of the case, the respondent is a domestic consumer of GEPCO bearing Ref No.14-12211-2247500 having a sanctioned load of 5kW and applicable tariff is A-1. The premises of the respondent was inspected by GEPCO on 23.08.2013 and allegedly the respondent was found involved in dishonest abstraction of electricity through supplying power to one phase of three phase meter with the neutral obtained from another

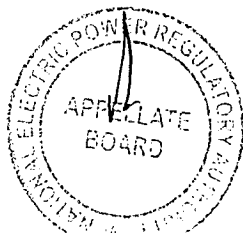




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single phase meter and the running load was noticed as 47 amp (9.729 kW). GEPCO lodged FIR No.444/2013 against the respondent for theft of electricity and a detection bill amounting to Rs.304,700/-for 20,315 units for the period March 2013 to August 2013 (6 months) was debited to the respondent on the basis of connected load. The respondent paid the said detection bill in two installments i.e. first installment of Rs.150,000/- and second installment of Rs.154,700/- but subsequently challenged the same before POI on 02.10.2013. The matter was disposed of by POI vide its decision dated 30.06.2016 (hereinafter referred as the impugned decision) whereby it was held that the detection bill amounting to Rs. 304,700/- charged as the cost of 20315 units for the period from 03/2013 to 08/2013 is void, unjustified and of no legal consequence; therefore the petitioner is not liable to pay the same.

2. This appeal has now been filed against the afore-referred decision by GEPCO under Section 38(3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (hereinafter referred to the as the NEPRA Act 1997). In the appeal, it is inter-alia contended by GEPCO that respondent was dishonestly abstracting the electricity, therefore supply of the respondent was disconnected and FIR No. 444/2013 was lodged against him; that the Special Judicial Magistrate WAPDA, Gujranwala vide order dated 10.04.2015 imposed a fine of Rs.7,000/- upon the respondent since the theft of electricity was conceded by the respondent.; that the detection bill of Rs.304,700/-for 20,315 units for the period March 2013 to August 2013 (6

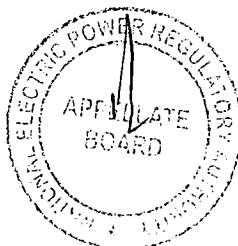




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months) was charged to the respondent in order to recover the revenue loss sustained by GEPCO, which was paid by the respondent in two installments without raising any objection; that being a case of theft, POI was not competent to decide the matter as envisaged under Section 26(A) of the Electricity Act 1910; and that the application was moved by the respondent on 02.10.2013 whereas the same was decided by Electric Inspector on 30.06.2016 after expiry of the statutory period of 90 days, which is violation of Section 26 (6) of the Electricity Act 1910.

3. Notice of the appeal was issued to the respondent for filing reply/parawise comments which were filed on 28.08.2017. In his reply, the respondent contradicted the version of GEPCO regarding the jurisdiction of POI and contended that POI is competent to adjudicate the instant matter being a billing dispute. The respondent averred that the comparison of average consumption of disputed period with the corresponding average consumption of previous year proves that the actual energy was recorded during the disputed period, hence the detection bill of Rs.304,700/-for 20,315 units for the period March 2013 to August 2013 is quite unjustified.
4. After issuing notice to both the parties, hearing of the appeal was conducted at NEPRA's Regional Office at Lahore on 15.09.2017 in which both the parties appeared. Learned counsel for GEPCO reiterated the same stance as taken in memo of the appeal and raised the preliminary objection regarding the

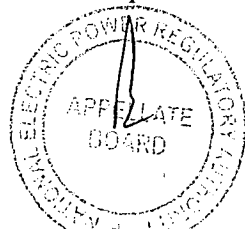




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jurisdiction of POI and contended that POI is not empowered to decide the instant matter being a theft case as envisaged in the judgment reported in PLD 2012 SC 371. As per GEPCO, the respondent was involved in theft of electricity by bypassing the meter, therefore FIR No.444/2013 was lodged against him and the subsequently offence of theft was also established. According to GEPCO, the detection bill of Rs.304,700/-for 20,315 units for the period March 2013 to August 2013 (6 months) charged to the respondent is justified and the respondent also paid the same without any protest. On the contrary, learned counsel for the respondent rebutted the contentions of GEPCO and submitted that allegedly the meter was found tampered, therefore POI has jurisdiction to decide the instant dispute pursuant to PLD 2012 SC 371. Learned counsel for the respondent averred that the average consumption of disputed months is higher than the average consumption of corresponding months of previous year, which proves that there was no theft of electricity. As per learned counsel for the respondent, there is no justification for charging the aforesaid detection bill and the payments against the said bill were made under coercion and liable to be adjusted.

5. Having the arguments of both the parties and perusal of the record it is observed that the objection of GEPCO regarding disposal of the complaint after statutory period of 90 days is irrelevant since the matter was adjudicated by the POI under Section 38 of the Act (and not an Electric Inspector under Section 26 (6) of Electricity Act 1910). The restriction of time, if any, may be relevant for the proceedings before the Electric Inspector under Electricity Act, 1910 and not





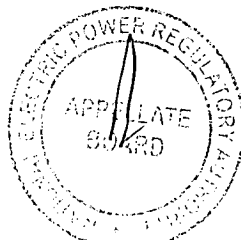
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before the POI under NEPRA Act, 1997. The objection of GEPCO is not valid and therefore is overruled. It is also a matter of record that:

- i. FIR No.444/2013 was registered and the detection bill of Rs.304,700/-for 20,315 units for the period March 2013 to August 2013 (6 months) was charged by GEPCO against the domestic connection. Since the theft of electricity has been alleged through tampering the meter, therefore POI is competent to adjudicate the matter as per decision of honorable Supreme Court reported in PLD 2012 Supreme Court 371.
- ii. As regard merit of the case, the respondent disputed the detection bill of Rs. 304,700/- for 20,315 units for the period March 2013 to August 2013 before POI on 02.10.2013. In order to assess the justification of aforesaid detection bill, comparison between consumption of the disputed and undisputed periods as provided by GEPCO is made below:

Period	Normal Mode Average Units/Month	Detection Mode Average Units/Month
Corresponding period before dispute Mar-2012 to Aug-2012	1,289	-
Period Before dispute Mar-2013 to Aug-2013	1,372	4,702
Corresponding period after dispute Mar-2014 to Aug-2014	2,148	-

It is evident from the above table that the detection bill charged @ 4,702 units/month during the disputed period is considerably higher than the consumption of 1,289 units/month and 2,148 units/month recorded in normal



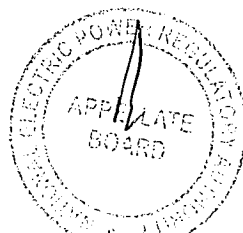


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mode during the corresponding undisputed periods before and after dispute respectively. Moreover charging the aforesaid detection bill for six months by GEPCO to the respondent without soliciting the approval from Chief Executive Officer of GEPCO is violative of clause 9.1c(3) of Consumer Service Manual (CSM). Hence the detection bill of Rs.304,700/-for 20,315 units for the period March 2013 to August 2013 (6 months) is not justified and the respondent is not liable to pay the same as determined in the impugned decision.

- iii. Pursuant to clause 9.1c (3) of CSM, the respondent being a domestic consumer is liable to be charged the detection bill for three billing cycles i.e. June 2013 to August 2013 if actual consumption is not recorded during this period. Consumption of corresponding months of previous years is also disputed by GEPCO, therefore it would be judicious to charge the detection bill for June 2013 to August 2013 on the basis of consumption of corresponding period after dispute i.e. June 2014 to August 2014 (if found higher), which is calculated below:

Period : June 2013 to August 2013 (3 months)	
Units to be charged as per June 2014 to August 2014	= 3,039 + 3,008 + 3,286 = 9,333 units
Units already charged	= 2,067 + 2,161 + 1,903 = 6,131 units
Net chargeable units	= Units to be charged – Units already charged = 9,333 units – 6,131 units = 3,202 units





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6. From what has been discussed above, it is concluded the detection bill charged by GEPCO as such is not correct and instead of the amount of Rs. 304,700/- for 20,315 units, the respondent should be charged 3,202 net units as detection bill for the disputed period of June 2013 to August 2013.
7. The impugned decision is modified accordingly.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Dated: 25.09.2017

