



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-100/2017/ *1063-1067*

June 21, 2018

1. Sanaullah Chattha
S/o Sardar Khan,
R/o. Manchar Chattha,
Tehsil Wazirabad, Distt. Gujranwala
2. Chief Executive Officer
GEPCO Ltd,
565-A, Model Town,
G. T. Road, Gujranwala
3. Saeed Ahmed Bhatti,
Advocate High Court,
Second Floor, Akram Mansion,
Neela Gumbad, Lahore
4. Sub Divisional Officer,
GEPCO Ltd,
Alipur Chattha Sub Division,
Alipur Chattha, Tehsil Wazirabad,
District Gujranwala
5. Electric Inspector,
Gujranwala Region,
Govt. of Punjab,
Munir Chowk, Near Kacheri Road,
Gujranwala

Subject: **Appeal Titled GEPCO Vs. Sanaullah Chattha Against the Decision Dated 28.02.2017 of the Provincial Office of Inspection to Government of the Punjab Gujranwala Region, Gujranwala**

Please find enclosed herewith the Decision of the Appellate Board dated 19.06.2018, regarding the subject matter, for information and necessary action accordingly.

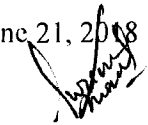
Encl: As Above

No. NEPRA/AB/Appeal-100/2017/ *1068*

Forwarded for information please.

(Ikram Shakeel)

June 21, 2018


Assistant Director
Appellate Board

✓ 1. Registrar



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. 100/2017

Gujranwala Electric Power Company Limited

.....Appellant

Versus

Sanaullah Chatta S/o Sardar Khan,
R/o Manchar Chatta, Tehsil Wazirabad, District Gujranwala

.....Respondent

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,
TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997
AGAINST THE DECISION DATED 28.02.2017 PASSED BY PROVINCIAL
OFFICE OF INSPECTION GUJRANWALAREGIONGUJRANWALA**

For the appellant:

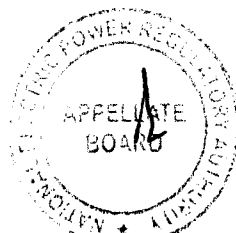
Mr. Saeed Ahmed Bhatti Advocate
Mr. Sakandar Riaz SDO

For the respondent:

Nemo

DECISION

1. Brief fact of the case are that the respondent is an agricultural consumer of the appellant GEPCO bearing Ref No.29-12236-2038203 with a sanctioned load of 7.46 kW and the applicable tariff is D-1b. Old meter of the respondent was replaced with the new meter by GEPCO due to 33.33% slowness vide meter change order (MCO) dated 28.12.2015 and was sent to metering and testing (M&T) laboratory on 14.03.2016, whereby it was declared tampered i.e. hole found in the meter body and blue phase current transformer wire broken vide checking report dated 28.03.2016. Notice dated 04.04.2016 was issued



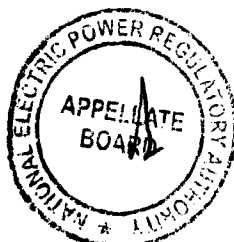


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to the respondent regarding the above discrepancy and FIR No.168/16 dated 16.04.2016 was registered against the respondent with the police for theft of electricity. Thereafter a detection bill of Rs.102,604/- for 9,832 units for the period January 2015 to June 2015 (6 months) was charged to the respondent by GEPCO on the basis of load factor and added in the bill for May 2016. The respondent challenged the above detection bill before Provincial Office of Inspection (POI) on 10.05.2016, which was decided by POI vide decision dated 28.02.2017, the operative portion of which is reproduced below:

“ In the light of above mentioned facts and laws on the part of the respondents, this forum has concluded that the disputed detection bill of 9832 units on load factor basis for the period from 01/2015 to 06/2015 is void, unjustified and of no legal effect; therefore the petitioner is not liable to pay the same. The respondents are directed to withdraw the impugned detection bill and revise it for the same detection period 01/2015 to 06/2015 on 33.33% slowness and overhaul the account of the petitioner.”

2. GEPCO has filed the instant appeal against the above mentioned decision on the grounds that the old meter of the respondent was replaced due to 33.33% slowness and was sent to M&T laboratory on 14.03.2016, whereby it was declared tampered for commissioning of theft of electricity vide checking report dated 28.03.2016 that the notice dated 04.04.2016 was served to the respondent, that FIR No.168/16 dated 16.04.2016 was lodged against him with the police for theft of electricity and that the detection bill of Rs.102,604/- for 9,832 units for the period January 2015 to June 2015 charged to the respondent is quite legal, valid and justified. As per GEPCO, POI has no jurisdiction to adjudicate the instant matter being a theft case in the light of judgments reported in PLD 2006 SC 378 and PLD 2012 SC 371. GEPCO further objected the sustainability of the impugned decision and averred that the same was decided by POI

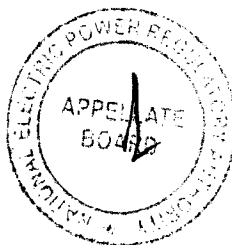




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after the expiry of statutory period of 90 days under Section 26(6) of Electricity Act 1910. The respondent was served notice for filing reply/parawise comments to the appeal, which however were not filed.

3. Hearing of the appeal was conducted in Lahore on 25.05.2018, wherein Mr. Saeed Ahmed Bhatti advocate along with GEPCO official appeared for the appellant GEPCO and no one represented the respondent. Learned counsel for GEPCO contended that the jurisdiction of POI is barred as the instant matter pertains to theft of electricity and was also decided after 90 days as prescribed in Electricity Act, 1910. Learned counsel for GEPCO reiterated the merits of the case as mentioned in memo of the appeal and contended that the detection bill of Rs.102,604/- for 9,832 units for the period January 2015 to June 2015 was charged to the respondent due to theft of electricity, whereas POI misinterpreted the provision of Consumer Service Manual (CSM) and allowed to charge the respondent as per clause 4.4 of CSM. Learned counsel for GEPCO prayed for revision of the detection bill on the basis of connected load instead of 33.33% slowness of the meter.
4. Arguments heard and the record placed before us perused. As far as the preliminary objection of GEPCO regarding failure of POI in deciding the matter within 90 days as envisaged in section 26(6) of Electricity Act, 1910 is concerned, it may be noted that the said period may be mandatory for an Electric Inspector functioning under the Electricity Act, 1910 and not binding for the Provincial Offices of Inspection (POI) established under section 38 of NEPRA Act, 1997. Reliance in this regard is placed on the Lahore





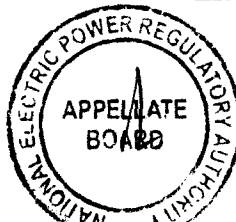
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High Court judgments cited as PLJ 2017-Lahore-627 and PLJ-2017- Lahore-309. Hence objection of GEPCO is invalid. There is no force in the objection raised by GEPCO regarding the jurisdiction of POI as the allegation of theft of electricity was levelled by GEPCO through tampering the meter. Honorable Supreme Court vide its judgment reported as 2012 PLD SC 371 held that POI has the jurisdiction in the dispute, where theft of electricity was committed through tampering the meter. It is relevant to place that the judgments cited in 2004 SCMR 1679 and PLD 2006 SC 328 have been discussed in PLD 2012 SC 371 and following conclusion was drawn:

“---Ss. 26(6) & 26-A---Detection bill, issuance of---Theft of energy by consumer, charge of--- Jurisdiction of Electric Inspector and Advisory Board---Scope---Electric Inspector for possessing special expertise in examining the working of metering equipment and other related apparatus had jurisdiction to entertain reference under S.26(6) of Electricity Act, 1910 only in case of dishonest consumption of energy by consumer through deliberate manipulation of or tampering with metering equipment or other similar apparatus---Electric Inspector would have no jurisdiction in matter of theft by means other than tampering or manipulation of metering equipment etc.”

The respondent assailed the detection bill of Rs.102,604/- for 9,832 units for the period January 2015 to June 2015 before POI. GEPCO is of the view that the old meter was tampered for stealing electricity, therefore the respondent was charged on the basis of load factor, whereas POI declared the old disputed meter 33.33% slow. Since the disputed period was confirmed by POI, hence only the accuracy of old meter needs to be examined. Consumption data as provided by GEPCO is tabulated below:

Period	Normal Mode Average Units/Month	Detection Mode Average Units/Month
Period before dispute July 2014 to December 2014 (06 months)	416	-
Disputed period January 2015 to June 2015 (6 months)	427	1,873
Period after dispute January 2016 to June 2016 (6 months)	541	-





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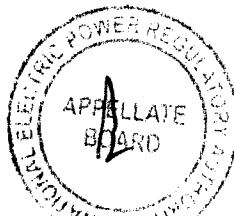
Above table indicates that the detection bill charged @ 1,873 units/month for the disputed period January 2015 to June 2015 is remarkably higher than the normal average consumption recorded during the periods before and after the dispute. In addition to that scrutiny of the detection proforma contradicts GEPCO's version for charging the detection bill as the units already charged were mentioned 1,406 instead of 2,563 units actually charged. The correctness of the detection bill become suspicious and could not be relied upon the same, hence the detection bill of 102,604/- for 9,832 units for the period January 2015 to June 2015 is liable to be set aside. After the installation of new healthy meter, considerable increase in normal average consumption is observed in the corresponding undisputed months of succeeding year i.e. 2016, which proves that the meter did not recorded correct consumption during the disputed period. Determination of quantum of consumption is calculated below in pursuance of chapter 9 of CSM.

Period: January 2015 to June 2015 (6 months)

- | | | |
|-------------------------------|--|------------------|
| • Total units to be charged | = load (kW) x No. of Hrs. x Load Factor x No. of Months
= 7.46 x 730 x 0.15 x 6 | 4,901 |
| • Total units already charged | = consumption of disputed months
= 150+310+246+200+636+1,021 | <u>(-) 2,563</u> |
| • Net units to be charged | | 2,338 |

The respondent is liable to be charged detection bill for 2,338 units for the period January 2015 to June 2015.

5. In view of what has been stated above, it is concluded that the detection bill of





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102,604/- for 9,832 units for the period January 2015 to June 2015 charged by GEPCO and impugned decision for charging detection bill @ 33.33 % slowness are not justified hence declared null and void. GEPCO is allowed to charge net 2,338 units as detection bill against the aforesaid disputed period.

6. Impugned decision is modified in above terms.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Dated: 19.06.2018

