



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. 016/2018

Gujranwala Electric Power Company Limited

.....Appellant

Versus

Muhamad Ashraf, S/o Ilam Din,
Near Jamia Masjid Noou-ul-Huda Lahoranwala,
Tehsil & Distt.Gujranwala, Connection at Muhallah
Mehtar pak, Sui Gas Road Gujranwala.

.....Respondent

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,
TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997
AGAINST THE DECISION DATED 27.09.2017 PASSED BY PROVINCIAL
OFFICE OF INSPECTION GUJRANWALA REGION GUJRANWALA**

For the appellant:

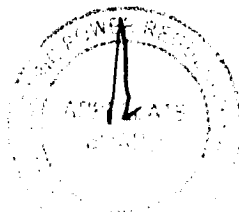
Mr. Mashkooor Haider Kazmi advocate
Mr. Mubashir Ahmed SDO

For the respondent:

Mr. Muhamamd Azam Khokhar advocate

DECISION

1. Briefly speaking, the facts of the case are that the respondent is an industrial consumer of GEPCO bearing reference No.24-1221 0134600 with sanctioned load 8 kW under B-1 tariff. Electricity meter of the respondent was checked by M&T GEPCO on 26.02.2016 in M&T lab and reportedly found dead stop with display washed out. A bill amounting to Rs.104,582/- was issued to the respondent in September 2016 which contained the detection bill of Rs. 101,675/- for 5403 units for the period October 2015 to March 2016.



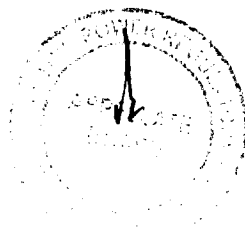


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2. Being aggrieved with the detection bill of Rs. 101,675/- for 5403 units for the period October 2015 to March 2016 and alleged excessive bills charged w.e.f. February 2016 to onwards, the respondent filed an application before Provincial Office of Inspection (POI) on 27.09.2016 who disposed of the application vide its decision dated 27.09.2017 and concluded as under:

"For the reasons what has been discussed above, it is held that impugned meter become defective in 02/2016 and after few days the new meter installed but in the billing the meter managed & shown MCO dated 12.08.2016; therefore, the reading index charged 2256 (for 08/2016) is the actual reading for consumption from 02/2016 to 08/2016 which is chargeable to the petitioner as such; whereas the impugned estimated billing charged from 02/2016 to 07/2016 and the impugned detection bill for Rs. 101,675/- from 10/2015 to 03/2016 are void, unjustified and of no legal effect and the petitioner is not liable to pay the same. The respondent are directed to withdraw the estimated billing from 02/2016 to 07/2016 and the impugned detection bill and charge revised billing got 2256 units from 02/2016 to 08/2016. The respondent are also directed to over haul the account of the petitioner and any excess amount recovered be refunded."

3. Instant appeal has been filed by GEPCO against the POI decision dated 27.09.2017 (hereinafter referred to as "the impugned decision"). In its appeal GEPCO inter-alia raised the preliminary objection regarding the announcement of the decision beyond the period of 90 days by POI after filing of the appeal by the respondent and stated that the same is ex-facie coram non-judice, ab-initio void and without jurisdiction as envisaged

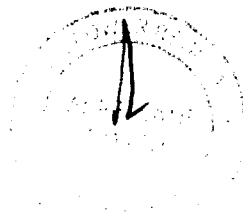




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under Section 26 (6) of the Electricity Act 1910. GEPCO also has raised the objection on jurisdiction of POI and averred that detection bill of Rs. 101,675/- was issued on account of dishonest abstraction of energy under Section 26-A of Electricity Act, 1910, therefore POI has no jurisdiction as per judgment dated 02.03.2006 of the honorable Supreme Court of Pakistan in the civil petition No. 2971-L/2004. GEPCO pleaded that the meter of the respondent was found defective during the checking by GEPCO team on 26.02.2016, therefore the meter was replaced and the old meter was sent to M&T lab for checking. According to the M&T report dated 18.04.2016 the meter's display was found washed out and dead stop. As per GEPCO the detection bill of Rs. 101,675/- for 5403 units for the period October 2015 to March 2016 was charged to the respondent in the bill of September 2016 on account of dishonest abstraction of the energy. GEPCO pleaded that to recover the loss of revenue, the above detection bill was charged to the respondent which is valid, justified and payable by the respondent.

4. Notice of the appeal was issued to the respondent for filing reply/parawise comments, which however were not submitted. Subsequently, hearing of the appeal was conducted in NEPRA Regional office Lahore, on 11.02.2019, in which both the parties appeared. Learned counsel for GEPCO reiterated the same stance as contained in the memo of the appeal. Learned counsel for GEPCO averred that the meter was found dead stop and display washed out M&T lab checking as such the detection bill of Rs. 101,675/- for 5403 units for the period October 2015 to March 2016 was debited to the respondent. Learned counsel for GEPCO prayed for declaring the impugned decision as illegal and acceptance of the appeal. On the contrary, learned counsel for respondent denied the





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allegation of theft and contented that no discrepancy was pointed out by GEPCO staff in its routine monthly meter readings; that the charging of Rs. 101,675/- for 5403 units for the period October 2015 to March 2016 is illegal; that the meter was replaced with the new meter in March 2016 but MCO was issued in August 2016; that the estimated billing was done from February 2016 to August 2016 and bills charged w.e.f. February 2016 to onwards on estimated basis are illegal and that the impugned decision is liable to be maintained.

5. Having heard the arguments and perusal of record, it is observed as under:-

- i) As regards the preliminary objection of GEPCO regarding failure of POI in deciding the matter within 90 days under Section 26 (6) of Electricity Act, 1910, it may be noted that the said restriction of the time limit is inapplicable for the POI established under Section 38 of the NEPRA Act 1997. Reliance in this regard is placed on Lahore High Court Judgments cited as PLJ 2017-Lahore-627 and PLJ-2017-Lahore-309. Objection of GEPCO in this regard carries no weight, hence dismissed.
- ii) It is contented by GEPCO that meter was found dead stop and display washed out but no responsibility has been assigned to the respondent for the defect, obviously the respondent is not involved in theft of electricity. Therefore, objection regarding jurisdiction of POI, being a case of theft of electricity is invalid, hence rejected.

6. On merits, it is observed that the meter of the respondent was checked by GEPCO on 26.02.2016 and reportedly it was found defective, but neither the respondent was associated in the checking nor the meter was produced before POI for checking.





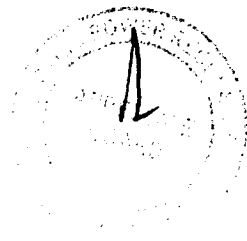
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Pursuant to Clause 4.4 of Consumer Service Manual (CSM), detection bill due to a defective meter could be charged maximum for two billing cycles, hence the detection bill of Rs. 101,675/- for 5403 units for the period October 2015 to March 2016 charged in September 2016 for the period of six months is violative of CSM. In view of such position the said detection bill is liable to be declared null and void as already determined by POI. However the respondent may be charged the detection bill for two billing cycles. Since the defect in the meter was noticed in February 2016, the respondent may be charged the detection bill for Jan 2016 and February 2016, if justified. For this purpose analysis of the consumption data is made as under:

Period	Average Units Charged in normal mode	Units charged in detection mode
Disputed period i.e. January 2016 and February 2016	534	1460
the undisputed period of corresponding months of the previous year i.e. January 2015 and February 2015	542	

From the above table, it is concluded that the normal consumption during the disputed period is equivalent to the consumption of the corresponding undisputed period, hence there is no justification of any detection bill for January 2016 and February 2016. This has settled the billing up to February 2016.

From the consumption data provided by GEPCO it is evident that the defective meter was replaced in March 2016. We are inclined to agree with the findings of POI that the consumption recorded during the period March 2016 to August 2016 are 2256 units. GEPCO has charged 3009 units to the respondent during the same period as per





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consumption data provided by GEPCO which are excessive. The respondent is liable to be billed for 2256 units during the period March 2016 to August 2016 as decided by POI.

7. No illegality or material irregularity has been pointed out in the impugned decision, which is upheld and consequently the appeal is dismissed.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Dated: 18.03.2019

