



Before the Appellate Board
National Electric Power Regulatory Authority
(NEPRA)
Islamic Republic of Pakistan

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No. NEPRA/AB/Appeal/175/2018/ 1206-12/0

June 10, 2019

1. Pervaiz Ahmad
S/o. Khursheed Ahmad,
Gala Bakar Mandi, Sheikhpura Road,
Gujranwala
2. Chief Executive Officer
GEPCO Ltd,
565-A, Model Town,
G. T. Road, Gujranwala
3. Saeed Ahmed Bhatti
Advocate High Court,
Akram Mansion, Neela Gumbad,
Lahore
4. Assistant Manager (Opr),
GEPCO Ltd,
Civil Lines Sub Division,
Gujranwala
5. Electric Inspector,
Gujranwala Region,
Govt. of Punjab,
Munir Chowk, Near Kacheri Road,
Gujranwala

Subject: Appeal Titled GEPCO Vs. Pervaiz Ahmad Against the Decision Dated 08.08.2018 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 30.05.2019, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

No. NEPRA/AB/Appeal/175/2018/ 1211

Forwarded for information please.

(Ikram Shakeel)

June 10, 2019

Assistant Director
Appellate Board

1. Registrar



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. 175/2018

Gujranwala Electric Power Company Limited

.....Appellant

Versus

Pervaiz Ahmed S/o Khursheed Ahmed, Gala Bakar Mandi,
Sheikhupura Road, Gujranwala

.....Respondent

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,
TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997
AGAINST THE DECISION DATED 08.06.2018 PASSED BY PROVINCIAL
OFFICE OF INSPECTION GUJHRANWALA REGION, GUJHRANWALA**

For the appellant:

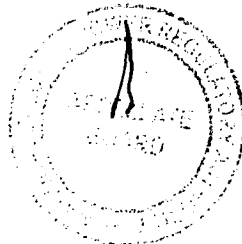
Mr. Saeed Ahmed Bhatti Advocate
Mr. Ahmed Ali SDO

For the respondent:

Nemo

DECISION

1. As per facts of the case, the respondent is an industrial consumer of GEPCO bearing Ref No.24-12122-1185201 with a sanctioned load of 24 kW under B-1b (09) tariff. GEPCO charged the detection bill of Rs.254,457/- for 710 kW MDI for the period May 2016 to May 2017 (13 months) to the respondent in October 2017 on account of the difference of tariff as per the recommendation of the Audit Department vide audit para No.68 dated 09.06.2017.

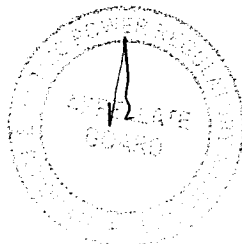




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2. Being aggrieved, the respondent approached the Provincial Office of Inspection (POI) on 24.10.2017 and agitated the bill of Rs.416,230/- of October 2017, which contained above detection bill. The premises of the respondent was checked by POI on 22.01.2018 in presence of both the parties, wherein the connected/installed load was noticed as 38.8 kW. GEPCO regularized the load of the respondent up-to 38 kW under the Tariff B-2(b) tariff. POI disposed of the matter vide its decision dated 08.08.2018, wherein the detection bill of Rs.254,457/- for 710 kW MDI for the period May 2016 to May 2017 was declared illegal and GEPCO was allowed to charge @ 39 kW MDI/month for the disputed period May 2016 to May 2017.

3. Being dissatisfied with the decision dated 08.08.2018 of POI (hereinafter referred as the impugned decision), GEPCO has filed the instant appeal, wherein it is contended that the Audit Department vide audit para No.68 dated 09.06.2017 pointed out the illegal extension of load on the basis of consumption data and recommended to recover the difference of tariff from B-1b to B-2b for the period May 2016 to May 2017. As per GEPCO, a notice dated 21.09.2017 was issued to the respondent regarding the said discrepancy and the detection bill of Rs.254,457/- for 710 kW MDI for the period May 2016 to May 2017 was charged to the respondent to recover the alleged loss sustained due to the illegal extension of the load. GEPCO termed the above bill as legal, valid, justified and as per Consumer Service Manual (CSM). GEPCO raised the objection for the jurisdiction of POI and stated that the application filed by the respondent on 24.10.2017 was decided by POI on 08.08.2018 much after expiry of the statutory period of 90 days, hence the impugned decision is liable to be set aside being

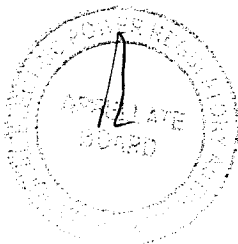




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void ab-initio, without jurisdiction as envisaged under Section 26(6) of the Electricity Act 1910. GEPCO submitted that POI did not consider the facts of the case and declared the detection bill of Rs.254,457/- for 710 kW MDI for the period May 2016 to May 2017 as void and unjustified, hence the impugned decision is liable to be set aside. Notice of the appeal was sent to the respondent for filing reply/para-wise comments, which however were not filed.

4. Hearing of the appeal was held at Lahore on 13.05.2019 in which learned counsel along with other official represented the appellant GEPCO and no one appeared for the respondent despite notice. Learned counsel for GEPCO reiterated the same arguments as given in memo of the appeal and contended that the respondent was using load beyond the sanctioned load of 24 kW, hence the detection bill of Rs.254,457/- for 710 kW MDI for the period May 2016 to May 2017 was charged to the respondent for change of tariff from B-1 to B-2 which is justified.
5. Arguments heard and record perused. As regards the preliminary objection of GEPCO regarding the failure of POI in deciding the matter within 90 days u/s 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 NEPRA Act, 1997. Reliance in this regard is placed on the Lahore High Court judgments cited as PLJ 2017-Lahore-627 and PLJ-2017-Lahore-309. As such the objection of GEPCO in this regard carries no weight, hence rejected.
6. The respondent assailed before POI the detection bill of Rs.254,457/- for



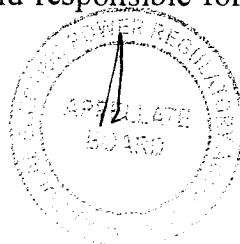


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710 kW MDI for the period May 2016 to May 2017 charged by GEPCO as per audit para No.68 dated 09.06.2017. GEPCO defended the charging of the impugned detection bill on the ground that the respondent was using the load beyond the sanctioned limit, which was above 25 kW and falls under the tariff B-2b. Table of MDI already charged by GEPCO to the respondent is constructed below:

Month	MDI (KW) charged
May-16	52
Jun-16	59
Jul-16	48
Aug-16	61
Sep-16	54
Oct-16	49
Nov-16	55
Dec-16	51
Jan-17	58
Feb-17	59
Mar-17	54
Apr-17	55
May-17	55
Total	710

POI during joint checking of the metering equipment of the respondent on 22.01.2018 verified the connected load of the respondent as 38.8 kW and no objection was raised by GEPCO on the said checking. Not only this, GEPCO also regularized the sanctioned load of the respondent for 38 kW w.e.f January 2018 and onwards. The above action of GEPCO indicates that the actual MDI was not recorded by the meter reader during monthly readings. Even otherwise, the audit observation is an internal matter between the GEPCO and the Audit Department and the respondent cannot be held responsible for payment of the same. In this regard,





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reliance is placed on the cases reported in 2014 MLD 1253 titled M/s. Mehmood Textile Mills v/s MEPCO and 2008 YLR 308 titled WAPDA v/s Fazal Karim. In view of above, the detection bill of Rs.254,457/- for 710 kW MDI for the period May 2016 to May 2017 charged by GEPCO to the respondent as per audit No.68 dated 09.06.2017 is unjustified and canceled as already decided by POI. Since the connected load of the respondent was noticed as 39 kW during POI joint checking, as such the respondent is obligated to pay the detection bill for the disputed period May 2016 to May 2017 on account of the difference of tariff from B-1b to B-2b @ 39 kW MDI/month as per installed load as already concluded by POI.

7. Foregoing in view, there is no reason to interfere with the impugned decision, the same is upheld and consequently the appeal is dismissed.

Muhammad Qamar-uz-Zaman
Member

Nadir Ali Khoso
Convener

Muhammad Shafique
Member

Dated: 30.05.2019

