



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

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No. NEPRA/AB/Appeal/142/2021/435

August 10, 2023

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| 1. Tanzeel-ur-Rehman,
S/o. Abdul Rauf,
R/o. House No. 104/17, Street No. 2,
Mohallah Main Bazar, Hafizabad,
District Hafizabad | 2. Chief Executive Officer,
GEPCO Ltd,
Head Office, 565-A, Model Town,
G. T. Road, Gujranwala |
| 3. Zafar Iqbal Assad,
Advocate High Court,
Chamber No. 32-A, Judicial
Complex, Jinnah Block, Hafizabad | 4. Saeed Ahmed Bhatti,
Advocate High Court,
66-Khyber Block, Allama Iqbal Town,
Lahore |
| 5. Sub Divisional Officer,
GEPCO Ltd,
Sub Division No. 2,
Hafizabad | 6. POI/Electric Inspector,
Gujranwala Region, Energy Department,
Govt. of Punjab, Munir Chowk,
Near Kacheri Road, Gujranwala |

Subject: **Appeal Titled Tanzeel-ur-Rehman Vs. GEPCO Against the Decision Dated 30.07.2021 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 10.08.2023, regarding the subject matter, for information and necessary action accordingly.

Encl: **As Above**

(Ikram Shakeel)
Deputy Director (AB)

Forwarded for information please.

1. Director (IT) –for uploading the decision on NEPRA website



National Electric Power Regulatory Authority

Before The Appellate Board

In the matter of

Appeal No.142/POI-2021

Tanzeel-ur-Rehman S/o Abdul Rauf, R/o. House No.104/17,
Street No.02, Mohallah Main Bazar,
Hafizabad, District Hafizabad

.....Appellant

Versus

Gujranwala Electric Power Company Limited

.....Respondent

APPEAL U/S 38(3) OF REGULATION OF GENERATION, TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997

For the Appellant:

Mr. Zafar Iqbal Advocate

For the Respondent:

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DECISION

1. Through this decision, the appeal filed by Mr. Tanzeel-ur-Rehman (hereinafter referred to as the "Appellant") against the decision dated 30.07.2021 of the Provincial Office of Inspection, Gujranwala Region, Gujranwala (hereinafter referred to as the "POI") is being disposed of.
2. Brief facts of the case are that the Appellant is an industrial consumer of Gujranwala Electric Power Company Limited (hereinafter referred to as the "Respondent") bearing Ref No.28-12245-10002900 with sanctioned load of 33 kW and the applicable Tariff category is B-2(b). Reportedly, the billing meter of the Appellant became defective in February 2018, hence it was replaced with a new meter by the Respondent in April 2018. The Respondent debited the estimated billing for the period from February 2018 to April 2018 to the Appellant due to a



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defective meter. Subsequently, the Audit department vide audit note No.07 dated 18.10.2018 pointed out less charging of units during the period from February 2018 and April 2018 and recommended charging 9,985 units to the Appellant. Accordingly, a detection bill of Rs.210,173/- for the cost of 9,985 units for two months i.e. February 2018 and April 2018 was debited to the Appellant by the Respondent.

3. Being aggrieved with the above-mentioned actions of the Respondent, the Appellant approached the POI and challenged the above detection bill and the bills from February 2018 to April 2018. The matter was disposed of by the POI vide the decision dated 30.07.2021, wherein the detection bill of Rs.210,173/- for the cost of 9,985 units for two months i.e. February 2018 and April 2018 was cancelled. The POI directed the Respondent to revise the bills for February 2018 and April 2018 as per the consumption of February 2017 and April 2017.
4. Through the instant appeal, the afore-referred decision dated 30.07.2021 of the POI has been impugned by the Appellant before the NEPRA. In its appeal, the Appellant objected to the maintainability of the impugned decision, *inter alia*, on the main grounds, (1) the billing meter remained accurate during the disputed period from February 2018 to April 2018, however, the Respondent debited the unjustified excessive bills during the above said period contrary to the snapshot readings by declared the accurate meter as defective with malafide intentions; (2) the Respondent did not produce the M&T checking report before the POI, who overlooked such valuable piece of evidence and erred in declaring the bills for February 2018 and April 2018; (3) the POI did not apply his judicious mind while passing the impugned decision; (4) the impugned decision to the extent of revision of bills of February 2018 and April 2018 as per consumption of corresponding

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months of the previous year are based on surmises and conjectures, and the same is liable to be set aside.

5. Proceedings by the Appellate Board

Upon filing of the instant appeal, a notice dated 03.12.2021 was sent to the Appellant for filing reply/para-wise comments to the appeal within ten (10) days, which however were not filed.

6. Hearing

6.1 Hearings of the appeals were conducted at Lahore on 13.10.2022 and 25.11.2022, which however were adjourned on the request of either the Appellant or the Respondent. Finally, hearing of the appeal was conducted at NEPRA Regional Office Lahore on 03.06.2023, which was attended by counsel for the Appellant, whereas again no one entered appearance for the Respondent. Learned counsel for the Appellant reiterated the same version as contained in the memo of the appeal and contended that the Respondent with malafide intentions charged the excessive bills for February 2018 to April 2018, in addition, the Respondent debited a detection bill of Rs.210,173/- for the cost of 9,985 units for two months i.e. February 2018 and April 2018 on the basis of alleged audit note. Learned counsel for the Appellant opposed the charging of the above detection bill with the plea that the audit is an internal affair between the Respondent and their audit department and the Appellant being a consumer cannot be held responsible for payment of any detection bill based on the recommendation of the audit department, reliance in this regard is placed on the various judgments of superior courts reported in 2008 YLR 308 and 2015 CLJ 581 (Lhr). As per the Appellant, the impugned decision for



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revision of the bills for February 2018 and April 2018 as per consumption of February 2017 and April 2017 is not based on merits and the same is liable to be set aside to this extent.

7. Arguments heard and the record perused. Following are our observations:

7.1 The Appellant challenged the following bills before the POI, which will be discussed separately in the below paragraphs;

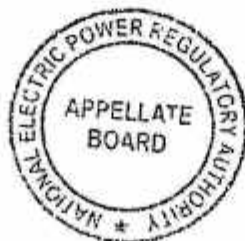
- Bills for the period from February 2018 to April 2018
- Detection bill of Rs.210,173/- for the cost of 9,985 units for two months i.e. February 2018 and April 2018 debited based on the audit note.

7.2 The bills for the period from February 2018 to April 2018

The impugned meter of the Appellant was found defective in February 2018 and it was replaced with a new meter vide meter change order (MCO) dated 25.04.2018. The Respondent debited the estimated bills from February 2018 to April 2018, which need to be scrutinized. Clause 4.4(e) of the CSM-2010 being relevant in the instant case is reproduced below:

(e) The charging of consumers on the basis of defective code, where the meter has become defective and is not recording the actual consumption will not be more than two billing cycles. The basis of charging will be 100% of the consumption recorded in the same month of the previous year or the average consumption of the last 11 months whichever is higher. Only the Authorized employee of GEPCO will have the power to declare a meter defective. However, the consumer has a right to challenge the defective status of the energy meter and the GEPCO will get the meter checked at the site with a check meter or a rotary sub-standard or digital power analyzer accompanied by an engineer of the metering and testing laboratory free of cost."

7.3 Above-referred clause of the CSM-2010 restricts the Respondent to charge the bills maximum for two months in case of a defective meter. However, in the instant, the Respondent charged the estimated bills from February 2018 to April 2018 without following the procedure as laid down in the above-referred clause of the CSM-



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2010. Therefore, the contention of the Appellant for recovery of estimated bills from February 2018 to April 2018 is correct and the said bills charged to the Appellant by the Respondent are declared null and void.

7.4 Since the meter under dispute became defective in February 2018 and was replaced with a new meter on 25.04.2018, therefore the Appellant is liable to be charged the revised bills for the period from February 2018 to April 2018 as per Clause 4.4(e) of the CSM. The impugned decision is liable to be modified to this extent.

7.5 As regards the detection bill of Rs.210,173/- for the cost of 9,985 units for two months i.e. February 2018 and April 2018 charged to the Appellant based on audit note No.07 dated 18.10.2018 concerned, it is clarified that the audit is an internal matter between the DISCO and its audit department and the Appellant being the consumer cannot be held responsible for the payment of any bill on the recommendation of audit department.

The honorable Lahore High Court in its judgment in the “Water and Power Development Authority, etc v. Umaid Khan” (1988 CLC 501) held that *no amount could be recovered from the consumer on the basis of the audit report as the audit affair is between the WAPDA and its audit department and no audit report could in any manner make consumer liable for any amount and the same could not bring about any agreement between the WAPDA and the consumer making consumer liable on the basis of so-called audit report.* The courts in similar cases relied on the same principle in cases reported cited as 2014 MLD 1253 and 2008 YLR 308.

7.6 In view of the foregoing discussion, we hold that the Rs.210,173/- for the cost of 9,985 units for two months i.e. February 2018 and April 2018 charged to the Appellant based on the Audit Note No.07 dated 18.10.2018 is illegal, unjustified,



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and the same is cancelled. The impugned decision is liable to be maintained to this extent.

8. Summing up the above discussion, it is concluded as under;


8.1 The bills for the period from February 2018 to April 2018 and the detection bill of Rs.210,173/- for the cost of 9,985 units for two months i.e. February 2018 and April 2018 charged to the Appellant by the Respondent are unjustified and the same are cancelled.


8.2 The Appellant may be charged the revised bills of February 2018 to April 2018 as per consumption of corresponding months of the previous year or average consumption of the last eleven months, whichever is higher as per Clause 4.4(e) of the CSM-2010.

8.3 The billing account of the Appellant be overhauled after adjusting payments made against the above detection bills.

9. The impugned decision is modified in the above terms.


Abid Hussain
Member


Muhammad Irfan-ul-Haq
Member


Naweed Illahi Sheikh
Convener

Dated: 10-08-2023

