



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

NEPRA Office , Ataturk Avenue (East), G5/1, Islamabad  
Tel. No.+92 051 2013200 Fax No. +92 051 2600030  
Website: [www.nepra.org.pk](http://www.nepra.org.pk) E-mail: [office@nepra.org.pk](mailto:office@nepra.org.pk)

No. NEPRA/Appeal/031/2023/3/6

March 11, 2024

- |  |  |
|--|--|
| 1. Ch. Imran Hayat,<br>S/o. Ch. Khalid Hayat,<br>M/s. Tricon Engineering,<br>Prame Kot, Hafizabad<br>Cell No. 0315-8459779 | 2. Chief Executive Officer,<br>GEPCO Ltd,<br>565-A, Model Town,<br>G. T. Road, Gujranwala  |
| 3. Saeed Ahmed Bhatti,<br>Advocate High Court,<br>66-Khyber Block, Allama Iqbal Town,<br>Lahore<br>Cell No. 0300-4350899   | 4. Muhammad Jalil Kamboh,<br>Advocate High Court,<br>110-Kiyani Chambers,<br>Session Courts, Gujranwala<br>Cell No. 0320-6301130         |
| 5. Sub Divisional Officer,<br>GEPCO Ltd,<br>Sub Division No. 2,<br>Hafizabad   | 6. POI/Electric Inspector,<br>Gujranwala Region,<br>Energy Department, Govt. of Punjab,<br>Munir Chowk, Near Kacheri Road,<br>Gujranwala |

**Subject:** **Appeal No.031/2023 (GEPCO Vs. Ch. Imran Hayat) Against the Decision Dated 30.11.2022 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 11.03.2024 (05 pages), regarding the subject matter, for information and necessary action accordingly.

**Encl: As Above**

  
**(Ikram Shakeel)**  
**Deputy Director**  
**Appellate Board**

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.031/POI-2023

Gujranwala Electric Power Company Limited

.....Appellant

Versus

Ch. Imran Hayat S/o. Ch. Khalid Hayat,  
M/s. Tricon Engineering, Prame Kot, Hafizabad

.....Respondent

### **APPEAL UNDER SECTION 38(3) OF THE REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997**

For the Appellant:

Mr. Saeed Ahmed Bhatti Advocate

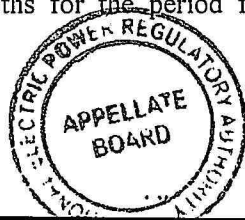
For the Respondent:

Mr. Muhammad Jalil Advocate

Ch. Imran Hayat

### **DECISION**

1. Briefly speaking, Ch. Imran Hayat (hereinafter referred to as the "Respondent") is an industrial consumer of Gujranwala Electric Power Company Limited (hereinafter referred to as the "Appellant") bearing Ref No.28-12245-198701 having a sanctioned load of 480 kW and the applicable tariff category is B-2(b). The billing meter of the Respondent was checked by the metering and testing (M&T) team of the Appellant on 21.01.2022, and reportedly it was found 33% slow due to one phase being dead. Notice dated 14.02.2022 was issued to the Respondent regarding 33% slowness of the meter and the Multiplication Factor (the "MF") of the Respondent was raised from 160 to 240 w.e.f January 2022 and onwards. Thereafter, a detection bill of Rs.5,633,219/- for 151,577 (OP=147,658+P=3,919) units+1,552 kW MDI for nine (09) months for the period from April 2021 to December 2021 was debited to the Respondent @ 33% slowness of the meter and added to the bill for March 2022.
2. Being aggrieved, the Respondent filed a complaint before the Provincial Office of Inspection, Gujranwala Region, Gujranwala (hereinafter referred to as the "POI"), and challenged the above detection bill and excessive MDI charged by the Appellant in March 2022. The complaint of the Respondent was disposed of by the POI vide decision dated 30.11.2022, wherein the detection bill of Rs.5,633,219/- for 151,577 (OP=147,658+P= 3,919) units + 1,552 kW MDI for nine (09) months for the period from April 2021 to December 2021 was



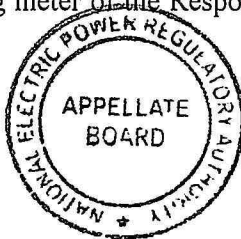


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cancelled. As per the POI decision, the Appellant was directed to refund 513 kW MDI being excessively charged to the Respondent in March 2022.

3. Being dissatisfied, the Appellant has filed the instant appeal before NEPRA and assailed the decision dated 30.11.2022 of the POI (hereinafter referred to as the "impugned decision"). In its appeal, the Appellant opposed the maintainability of the impugned decision on the grounds, *inter-alia*, that the impugned decision is against the law and facts of the case; that the POI misconceived and misconstrued the real facts of the case and erred in declaring the detection bill of Rs.5,633,219/- for 151,577 (OP=147,658+P=3,919) units+1,552 kW MDI for nine (09) months i.e. from April 2021 to December 2021 as null and void; that the POI failed to consider the consumption data in true perspective; that the POI failed to decide the matter within 90 days, which is violative of Section 26(6) of the Electricity Act, 1910; that the Respondent failed to serve notice to the Appellant prior filing complaint before the POI as per Section 24 of the Electricity Act, 1910; and that the impugned decision is liable to be set aside.
4. Notice dated 28.03.2023 of the appeal was issued to the Respondent for filing reply/para-wise comment, which were filed on 12.04.2023. In the reply, the Respondent prayed for dismissal of the appeal on the following grounds that the Appellant served a notice on 18.02.2022 regarding dishonest abstraction of electricity due to 33% slowness of the meter; that the Appellant with malafide intention issued another notice on 14.03.2022 regarding charging of the detection bill of Rs.5,633,219/- for 151,577 (OP=147,658+P=3,919) units+1,552 kW MDI for nine (09) months for the period from April 2021 to December 2021; that impugned meter was functioning correctly till December 2021 as evident from 480 kW MDI charged in the said month; that 1,068 kW MDI was charged in January 2022, whereas the premises never exceed 500 kW MDI; that 568 kW MDI was excessively charged by the Appellant; that Section 26(6) of the Electricity Act, 1910 is not applicable in the presence of Clause 4.3.3c(ii) of the CSM-2021; that the appeal is time-barred; and that the impugned decision is liable to be upheld.
5. **Hearing**

- 5.1 Hearing of the appeal was conducted at NEPRA Regional Office Lahore on 16.12.2023, wherein learned counsels appeared for both the Appellant and the Respondent. Learned counsel for the Appellant contended that the billing meter of the Respondent was found 33% slow during the M&T





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checking dated 21.01.2022, therefore the detection bill of Rs.5,633,219/- for 151,577 (OP=147,658+P=3,919) units+1,552 kW MDI for nine (09)months i.e. from April 2021 to December 2021 was debited to the Respondent due to 33% slowness of the meter. Learned counsel for the Appellant argued that the POI did not consider the real aspects of the case and erroneously declared the above detection bill as null and void. Learned counsel for the Appellant prayed that the impugned decision is unjustified and liable to be struck down.

5.2 Conversely, learned counsel for the Respondent repudiated the version of the Appellant and contended that the billing meter of the Respondent was functioning correctly till December 2021 and it became 33% slow in January 2022, hence the POI has rightly cancelled the impugned detection bill of Rs.5,633,219/- for 151,577 (OP=147,658+P=3,919) units+1,552 kW MDI for nine (09)months i.e. from April 2021 to December 2021. Learned counsel for the Respondent finally prayed for upholding the same.

6. Having heard the arguments and record perused. Following are our observations:

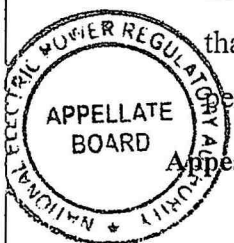
6.1 While addressing the preliminary objection raised by the Respondent for limitation, it is observed that the copy of the impugned decision was obtained by the Appellant on 20.02.2023 and the appeal was filed before the NEPRA on 10.03.2023, which is within 30 days from the date of receipt of the impugned decision as per Section 38(3) of the NEPRA Act. Hence the objection of the Respondent has no force and the same is rejected.

6.2 While addressing the objection of the Appellant regarding the jurisdiction of the POI, the Respondent filed his complaint before the POI on 18.04.2022 under Section 38 of the NEPRA Act. POI pronounced its decision on 30.11.2022 i.e. after the expiry of ninety (90) days from the date of receipt of the complaint. The Appellant has objected that the POI was bound to decide the matter within 90 days under Section 26(6) of the Electricity Act, 1910. In this regard, it is observed that the forum of POI has been established under Section 38 of the NEPRA Act which does not put a restriction of 90 days on POI to decide complaints. Section 38 of the NEPRA Act overrides provisions of the Electricity Act, of 1910. Reliance in this regard is placed on the judgments of the honorable Lahore High Court Lahore reported in *2017 PLJ 627 Lahore* and *2017 PLJ 309 Lahore*. Keeping in view the overriding effect of the NEPRA Act on the Electricity Act, 1910, and the above-referred decisions of the honorable High Court, the objection of the Appellant is dismissed.

6.3 As regards another objection of the Appellant for not issuing notice as per the Electricity Act, 1910 by the Respondent before filing a complaint to the POI, it is elucidated that the matter was adjudicated by the POI under Section 38 of the NEPRA Act, 1997 and as per procedure laid down in Punjab (Establishment and Powers of Office of Inspection)

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Order, 2005, which do not require for service of any notice before approaching the POI. The above objection of the Appellant is not valid and, therefore overruled.

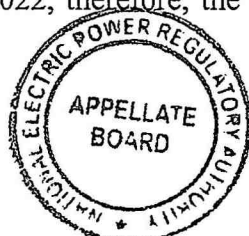
6.4 As per the M&T report dated 21.01.2022, one phase of the billing meter was found defective. Therefore, the Appellant charged a detection bill of Rs.5,633,219/- for 151,577 (OP=147,658+P=3,919) units+1,552 kW MDI for nine (09) months i.e. from April 2021 to December 2021 to the Respondent and enhanced MF from 160 to 240 kW w.e.f January 2022 and onwards. The Respondent challenged the above detection bill and the bill of March 2022 before the POI.

6.5 It is an admitted fact that the impugned meter of the Respondent was 33% slow due to one dead phase, hence only the period of slowness needs to be determined for which consumption data as provided by the Appellant is reproduced below:

Period before dispute		Disputed period		Period after dispute	
Month	Units	Month	Units	Month	Units
Apr-20	0	Apr-21	6720	Apr-22	40560
May-20	800	May-21	41760	May-22	55440
Jun-20	96000	Jun-21	45280	Jun-22	53040
Jul-20	46880	Jul-21	18560	Jul-22	31200
Aug-20	13280	Aug-21	56160	Aug-22	47760
Sep-20	98080	Sep-21	10080	Sep-22	8400
Oct-20	14240	Oct-21	0	Oct-22	39600
Nov-20	82240	Nov-21	60480	Nov-22	25920
Dec-20	39360	Dec-21	64160	Dec-22	22560
<b>Total</b>	<b>390880</b>	<b>Total</b>	<b>303200</b>	<b>Total</b>	<b>324480</b>

Examination of the above table, the total consumption recorded during the disputed period is much less than the total consumption of corresponding months of the periods before and after the dispute. However, Clause 4.3.3c(ii) of the CSM-2021 restricts the Appellant to recover their revenue loss by debiting the detection bill maximum for two months in case of slowness of the metering equipment. In view of the foregoing discussion, it is concluded that the detection bill of Rs.5,633,219/- for 151,577 (OP=147,658+P=3,919) units+1,552 kW MDI for nine (09) months i.e. from April 2021 to December 2021 charged to the Respondent is unjustified, and the same is cancelled. The impugned decision is liable to be maintained to this extent.

6.6 33% slowness in the impugned billing meter of the Respondent was observed by the M&T team of the Appellant on 21.01.2022, therefore, the Respondent is liable to be charged the





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revised detection bill for two billing cycles prior to checking dated 21.01.2022 after adding 33% slowness, according to Clause 4.3.3c(ii) of the CSM-2021.

6.7 Moreover, the bills w.e.f checking dated 21.01.2022 and onwards till replacement of the impugned meter are liable to be revised with enhanced MF=240 due to 33% slowness of the meter as per Clause 4.3.3c(i) of the CSM-2021. The impugned decision is liable to be modified to this extent.

7. In view of what has been stated above, it is concluded that:

7.1 the detection bill of Rs.5,633,219/- for 151,577 (OP=147,658+P=3,919) units+1,552 kW MDI for nine (09) months i.e. from April 2021 to December 2021 debited to the Respondent is unjustified and the same is cancelled.

7.2 The Respondent may be charged the revised detection bill for two billing cycles before checking dated 21.01.2022 due to 33% slowness of the meter as per Clause 4.3.3c(ii) of the CSM-2021.

7.3 Moreover, the bills w.e.f checking dated 21.01.2022 and onwards till replacement of the impugned meter be revised with enhanced MF=240 due to 33% slowness of the meter, under Clause 4.3.3c(i) of the CSM-2021.

7.4 The billing account of the Respondent be overhauled after making the adjustment of payments made against the impugned detection bill.

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

On leave

Abid Hussain  
Member/Advisor (CAD)

Dated: 11-03-2024

Naveed Illahi Sheikh  
Convener/DG (CAD)

Muhammad Irfan-ul-Haq  
Member/ALA (Lic.)

