



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 E-mail: office@nepra.org.pk

No. NEPRA/Appeal/018/2022/ 739

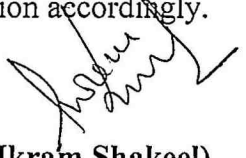
September 19, 2024

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| 1. Muhammad Afzal.
S/o. Fazal Elahi,
R/o. Mohallah Hassan Town,
Kacha Eminabad Road, Gujranwala | 2. Chief Executive Officer,
GEPCO Ltd, 565-A,
Model Town, G. T. Road,
Gujranwala |
| 3. Saeed Ahmed Bhatti,
Advocate High Court,
66-Khyber Block, Allama Iqbal Town,
Lahore
Cell No. 0300-4350899 | 4. Muhammad Azam Khokhar,
Advocate High Court,
10-Fatima Jinnah Chambers,
Session Courts, Gujranwala
Cell No. 0301-6434497 |
| 5. Sub Divisional Officer,
GEPCO Ltd,
Khiali Sub Division,
Gujranwala | 6. POI/Electric Inspector,
Gujranwala Region,
Energy Department, Govt. of Punjab,
Munir Chowk, Near Kacheri Road,
Gujranwala |

Subject: **Appeal No.018/2022 (GEPCO VS. Muhammad Afzal) Against the Decision Dated 30.11.2020 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 19.09.2024 (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.018/POI-2022

Gujranwala Electric Power Company Limited

.....Appellant

Versus

Muhammad Afzal S/o. Fazal Illahi,

R/o. Mohallah Hassan Town, Kacha Eminabad Road, Gujranwala

.....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

Mr. Zaccm Faiz Addl. Manager

For the Respondent:

Mr. Muhammad Azam Khokhar Advocate

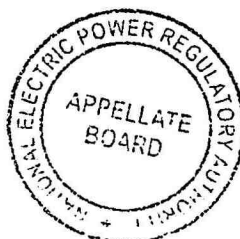
DECISION

1. As per the facts of the case, Muhammad Afzal (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.27-12133-2300200-U having sanctioned load of 34 kW and the applicable tariff category is B-2(b). The meter of the Respondent became defective in February 2014 and it was replaced with a new meter by the Appellant in July 2014. During M&T checking dated 08.01.2015 of the Appellant, the impugned meter was found the dead stop, therefore, a detection bill of Rs.386,211/- against 23,699 units for eleven (11) months i.e. February 2014 to December 2014 debited to the Respondent based on 30% load factor of the connected load i.e.11 kW and added to the bill for January 2015.
2. Being aggrieved, the Respondent initially filed a civil suit before the civil court and assailed the above detection bill. Subsequently, the Respondent withdrew the civil suit and filed a complaint before the Provincial Office of Inspection, Gujranwala Region, Gujranwala

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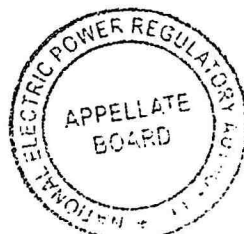
(hereinafter referred to as the "POI") on 02.05.2017 and challenged the arrears of Rs.523,899.75/- containing the above detection bill and the bills for the period from January 2015 to March 2015. The complaint of the Respondent was disposed of by the POI vide decision dated 30.11.2020, wherein the arrears of Rs.52,899.75/- were cancelled and the Appellant was directed to overhaul the billing account of the Respondent, accordingly.

3. Being dissatisfied, the Appellant has filed the instant appeal before NEPRA and assailed the decision dated 30.11.2020 of the POI (hereinafter referred to as the "impugned decision"). In its appeal, the Appellant opposed the maintainability of the impugned decision, *inter-alia*, on the following grounds 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 impugned arrears of Rs.523,899.75/- containing the impugned detection bill of Rs.386,211/- as null and void; that the POI miserably failed to analyze the consumption data in true perspective; that the POI has failed to decide the matter within 90 days as given in Section 26(6) of the Electricity Act 1910; that the complaint could not be entertained as no notice as required u/s 26(6) of Electricity Act 1910 was ever served upon the Appellants before filing the same and that the impugned decision is liable to be set aside.
4. Notice dated 09.02.2022 of the appeal was issued to the Respondent for filing reply/para-wise comment, which however were not filed. Subsequently, hearing of the appeal was conducted at NEPRA Regional Office Lahore on 02.03.2024, 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 defective in February 2014 and it was replaced with a new meter by the Appellant in July 2014, therefore a detection bill of Rs.386,211/- against 23,699 units for eleven (11) months i.e. February 2014 to December 2014 was debited to the Respondent on the basis of the connected load. 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. Learned counsel for the Respondent rebutted the version of the Appellant regarding the charging of the impugned detection bill, supported the impugned decision, and prayed for upholding the same.

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

5.1 Objection regarding the time limit for POI to decide the complaint:

As per the record, the Respondent filed his complaint before the POI on 02.05.2017 under



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Section 38 of the NEPRA Act. POI pronounced its decision on 30.11.2020 i.e. after 90 days 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 NEPRA 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, 1910. Reliance in this regard is placed on the judgments of the honorable Lahore High Court Lahore reported in *PLJ 2017-Lahore-627* and *PLJ-2017-Lahore-309*. 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 Respondent is dismissed.

5.2 Objection regarding prior notice before filing the complaint before the POI:

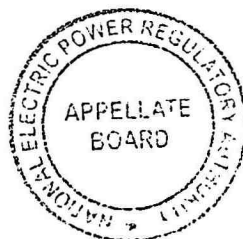
As regards another objection of the Appellant for not issuing notice as per the Electricity Act, 1910 by the Respondent before filing a complaint to the POI, it is elucidated that the matter was adjudicated by the POI under Section 38 of the NEPRA Act, 1997 and as per procedure laid down in Punjab (Establishment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

5.3 Detection bill of Rs.386,211/- against 23,699 units for eleven (11) months i.e. February 2014 to December 2014:

As per the available record, the billing meter of the Respondent was found defective during checking dated 08.01.2015, therefore a detection bill of Rs.386,211/- against 23,699 units for eleven (11) months i.e. February 2014 to December 2014 was debited to the Respondent on the basis connected load.

5.4 According to Clause 4.4 of the CSM-2010, the Appellant may charge the detection bill maximum for two months in case of a defective meter, whereas in the instant case, the impugned detection bill was debited for eleven months and the basis of the said detection bill was made on connected load, which is utter violation of the foregoing clause of the CSM-2010. The Appellant even failed to produce the impugned meter before the POI for verification of slowness.

5.5 To further check the authenticity of the above detection bill, the consumption of the Respondent for the disputed period i.e. February 2014 to December 2014 is compared below with the corresponding consumption of the previous year:





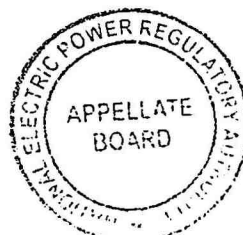
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Undisputed		Disputed period	
Month	Units	Month	Units
Feb-13	426	Feb-14	1015
Mar-13	727	Mar-14	883
Apr-13	514	Apr-14	137
May-13	401	May-14	688
Jun-13	199	Jun-14	76
Jul-13	296	Jul-14	0
Aug-13	910	Aug-14	0
Sep-13	841	Sep-14	0
Oct-13	1323	Oct-14	0
Nov-13	821	Nov-14	0
Dec-13	2019	Dec-14	0
Average	771	Average	254
Detection bill @ 2409 units per month			

The above consumption data shows that the normal average consumption of the disputed period is much less than the normal average consumption of corresponding months of the preceding year, which indicates that the impugned meter could not record actual consumption during the disputed period due to defectiveness. However, the detection bill charged @ 2,409 units per month has never been recorded in the undisputed period before the dispute. As such the detection bill of Rs.386,211/- against 23,699 units for eleven (11) months i.e. February 2014 to December 2014 charged by the Appellant to the Respondent is violative of the ibid clause of the CSM-2010 and the same is cancelled, which is also the determination of the POI.

5.6 Similarly, the Appellant debited the bills @ 2,409 units for January 2015 to March 2015 to the Respondent on the basis of connected load due to dead stop meter, which are not in line with the provisions of the CSM-2010. Hence the determination of the POI for cancellation of the said bills is correct and the same is liable to be maintained to this extent.

5.7 As evident from the above table, the impugned meter of the Respondent recorded healthy consumption till May 2014 and thereafter nil/minimum consumption was charged to the Respondent, which shows that the impugned meter became defective in June 2014. Subsequently, the electricity of the Respondent was disconnected by the Appellant in April 2015 due to default in making payment of the impugned bills. Therefore, it would be fair and appropriate to charge the bills from June 2014 to March 2015 on the DEF-EST code as per Clause 4.4(e) of the CSM-2010. The impugned decision is liable to be modified to this extent.





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6. Summing up the aforesaid discussion, it is concluded as under:
- 6.1 The detection bill of Rs.386,211/- against 23,699 units for eleven (11) months i.e. February 2014 to December 2014 as well as the bills for the period from January 2015 to March 2015 charged by the Appellant to the Respondent are violative of the ibid clause of the CSM-2010 and the same are cancelled.
- 6.2 The Appellant may be charged the revised bills for the period from June 2014 to March 2015 on the DEF-EST code as per Clause 4.4(e) of the CSM-2010.
- 6.3 The billing account of the Respondent may be overhauled, accordingly.
7. The impugned decision is modified in the above terms.

Abid Hussain
Member/Advisor (CAD)

Dated: 19-09-2024

Naweed Illahi Sheikh
Convener/DG (CAD)

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

