



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

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No. NEPRA/AB/Appeal-007/POI-2016/ 1128-1133 September 02, 2016

1. Asadullah Arshad,
S/o Arshad Raza,
R/o House No. 446/B,
Model Town, Gujranwala
2. Chief Executive Officer
GEPSCO Ltd,
Head Office, 565-A,
Model Town, G.T. Road,
Gujranwala
3. Saeed Ahmed Bhatti,
Advocate High Court,
2nd Floor, Akram Mansion,
Neela Gumbad, Lahore
4. Mirza Muhammad Kashif,
Advocate High Court,
14/1, Rehmat Block, Session Courts,
Gujranwala
5. Sub Divisional Officer,
GEPSCO Ltd,
Model Town Sub Division,
Gujranwala
6. Electric Inspector,
Gujranwala Region,
Govt. of Punjab,
Munir Chowk, Near Kacheri Road,
Gujranwala

Subject: Appeal Titled LESCO Vs. Asadullah Arshad Against the Decision Dated 29.07.2015 of the Electric Inspector/POI to Government of the Punjab Gujranwala Region, Gujranwala

Please find enclosed herewith the Decision of the Appellate Board dated 30.08.2016, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

No. NEPRA/AB/Appeal-007/POI-2016/ 1134
Forwarded for information please.

(Ikram Shakeel)

September 02, 2016


Assistant Director
Appellate Board

1. Registrar
2. Director (CAD)

CC:

1. Member (CA)



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-007/POI-2016

Gujranwala Electric Power Company Limited

.....Appellant

Versus

Asadullah Arshad S/o Arshad Raza, R/o House No. 446/B,
Model Town, Gujranwala

.....Respondent

For the appellant:

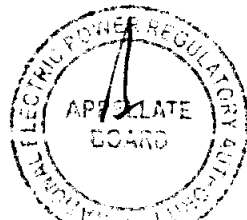
Saeed Ahmed Bhatti Advocate
Ch. Asghar Ali XEN

For the respondent:

Nemo

DECISION

1. Through this decision, an appeal filed by Gujranwala Electric Power Company Limited (hereinafter referred to as GEPCO) against the decision dated 29.07.2015 of Provincial Office of Inspection/Electric Inspector, Gujranwala Region, Gujranwala (hereinafter referred to as POI) is being disposed of.
2. As per facts of the case, the respondent is a domestic consumer of GEPCO bearing Ref No. 20-12111-0855500 with a sanctioned load of 1 kW under A-1 tariff. The premises of the respondent was inspected by GEPCO on 08.02.2013 and allegedly the respondent was found involved in dishonest abstraction of electricity and behavior of the meter was also noticed doubtful. A new electricity meter was installed on the premises of the respondent by GEPCO vide MCO dated 21.02.2013 and the disputed meter of the respondent was sent to M&T lab GEPCO for checking its accuracy, whereby the disputed meter was declared as defective with terminal strip tampered and reversed through block vide M&T report dated 26.02.2013. A





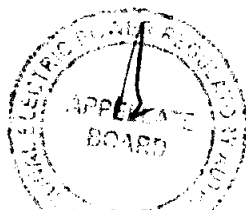
National Electric Power Regulatory Authority

notice dated 22.02.2013 was issued by GEPCO to the respondent regarding the said discrepancy and a detection bill amounting to Rs. 51,718/- for 3,174 units for the period August 2012 to January 2013 (6 months) was debited to the respondent in March 2013. The respondent made a payment of Rs. 25,000/- against the detection bill of Rs. 51,718/- under duress and gave undertaking to the effect that the remaining amount would be paid without challenging the matter before any other forum.

3. However the respondent was aggrieved and filed an application before POI on 12.06.2013 against the detection bill of Rs. 51,718/- for 3,174 units for the period August 2012 to January 2013 (6 months) charged by GEPCO in March 2013. The respondent contended that the submission of undertaking and payment of Rs. 25,000/- against the aforesaid detection bill was made under duress as GEPCO had threatened for disconnection of electric supply and registration of FIR. The respondent averred that the meter was healthy and recording the actual consumption of electricity during the disputed period and as such the detection bill is void, unjustified and liable to be cancelled. The complaint was disposed of by POI vide its decision dated 29.07.2015 (hereinafter referred as the impugned decision) with the following conclusion:

"In the light of above facts, it is held that the disputed detection bill for Rs.51,718/- charged for 3,174 units for the period from 08/2012 to 01/2013 is void, unjustified and of no legal effect; therefore the petitioner is not liable to pay the same. The respondents are directed to over-haul the account of the petitioner accordingly."

4. Being dissatisfied with the impugned decision, GEPCO has filed the instant appeal under section 38 (3) of the regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (hereinafter referred to as the NEPRA Act 1997). It is contended by GEPCO that the impugned decision is illegal, unlawful, void, ab-initio, without jurisdiction, without lawful authority and liable to be set aside. GEPCO submitted that being a case of theft of electricity, POI was not competent to decide the matter as envisaged in section 26 (A) of the Electricity Act 1910. According to GEPCO, the application was moved by the respondent on 12.06.2013 whereas the same was decided by Electric Inspector on 29.07.2015 after expiry of the statutory period of 90 days, which is violation of section 26(6) of the Electricity Act 1910.

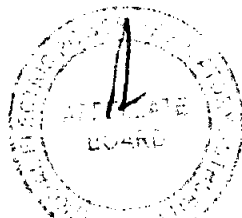




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According to GEPCO, the detection bill of Rs. 51,718/- for 3,174 units for the period August 2012 to January 2013 charged to the respondent in March 2013 was legal, valid and justified and the respondent is liable to pay the same.

5. Notice of the appeal was issued to the respondent for filing reply/parawise comments which were filed on 11.08.2016. In his reply, the respondent inter alia, denied allegations of dishonest abstraction of electricity and contended that the detection bill of Rs. 51,718/- for 3,174 units for the period August 2012 to January 2013 charged by GEPCO in March 2013 is void, without any justification and the respondent is not liable to pay the same. The respondent defended the impugned decision and pleaded for upholding the same.
6. After issuing notice to both the parties, hearing of the appeal was conducted in Lahore on 08.08.2016 in which Mr. Saeed Ahmed Bhatti Advocate along with Ch. Asghar Ali XEN represented the appellant GEPCO and no one appeared for the respondent. Learned counsel for GEPCO reiterated the same stance as taken in memo of the appeal and contended that the metering equipment of the respondent was checked by GEPCO on 08.02.2013, which was found doubtful and the electricity was being consumed illegally. The meter was sent to M&T lab GEPCO to ascertain its accuracy, whereby M&T GEPCO declared it as defective with terminal strip tampered and reversed through block vide its report dated 26.02.2013. Learned counsel averred that after issuing notice, the respondent was charged a detection bill of Rs. 51,718/- for 3,174 units for the period August 2012 to January 2013 (6 months) in March 2013 in order to recover the revenue loss sustained by GEPCO owing to theft of electricity by the respondent. As per learned counsel for GEPCO, the respondent confessed the theft of electricity, submitted an undertaking to this effect and accordingly made a payment of Rs. 25,000/- against the detection bill of Rs. 51,718/-. Learned Counsel for GEPCO reiterated his stance and contended that the impugned decision was not maintainable as it was rendered after the statutory period of 90 days as required under section 26 (6) of Electricity Act 1910 and also POI lacked jurisdiction being a case of theft of electricity. Learned counsel for GEPCO pleaded for cancellation of the impugned decision which in his opinion was illegal, void, unjustified and without lawful authority.





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7. We have heard arguments of GEPCO and perused the record placed before us. It has been observed that:
- As regards, the objection of GEPCO regarding disposal of the complaint after statutory period of 90 days, It is relevant to clarify that the matter was adjudicated by POI under section 38 of the Act (not as Electric Inspector under section 26(6) of Electricity Act 1910) which does not impose any restriction of time limit upon POI for deciding the matter. The objection of GEPCO is not valid and therefore liable to be dismissed.
 - Theft of electricity by the respondent was alleged by GEPCO but no FIR and other proceedings as required under law and Consumer Service Manual were initiated by GEPCO. Allegation of theft was not established against the respondent, therefore objection of GEPCO that jurisdiction of POI is barred being a theft case has no force and therefore liable to be dismissed.
 - Comparison of the consumption recorded between the disputed and undisputed periods as per consumption data provided by GEPCO is tabulated as under:

| Period | Normal Mode Average Units/Month | Detection Mode Average Units/Month |
|---|------------------------------------|---------------------------------------|
| Disputed period August 2012 to January 2013 | 446 | 975 |
| Period Before dispute September 2011 to July 2012(11 months) | 536 | - |
| Corresponding period of previous year August 2011 to January 2012 | 564 | - |

It is evident from the above table that the detection bill charged @ 975 units/month during the disputed period is considerably higher than the consumption of 536 units/month and 564 units/month recorded in normal mode in the periods before the dispute (last 11 months) and the corresponding months of previous year respectively. Therefore the detection bill of Rs. 51,718/- for 3,174 units for the period August 2012 to January 2013 (6 months) charged in March 2013 is not justified and the respondent is not liable to pay the same as determined in the impugned decision.





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- iv. From the above data, it is also observed that the consumption of electricity @ 446 units/month recorded during the disputed period August 2012 to January 2013 is lesser than the consumption of electricity recorded @ 564 units/month during the corresponding period before the dispute, which indicates that the meter of the respondent was not recording the actual consumption of electricity during the disputed period. Therefore it would be appropriate to charge the detection bill @ 564 units /month for the disputed period i.e. August 2012 to January 2013 to the respondent as recorded in the corresponding months of previous year i.e. August 2011 to January 2012 being undisputed. The impugned decision is liable to be modified to this extent.
8. In view of foregoing discussion, we have reached to the conclusion that:
- i. Detection bill amounting to Rs. 51,718/- for 3,174 units for the period August 2012 to January 2013 (6 months) charged to the respondent in March 2013 is declared null, void and the respondent is not liable to pay the same. The impugned decision to this extent is maintained.
- ii. The respondent is liable to be charged @ 564 units/month for the disputed period of August 2012 to January 2013. The impugned decision stands modified to this extent.
9. The appeal is disposed of in above terms.

Muhammad Qamar-uz-Zaman
Member

Nadir Ali Khoso
Convener

Muhammad Shafique
Member

Date: 30.08.2016