



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

NEPRA Office , Atta Turk 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/AB/Appeal-042/POI-2017/ 965-968

June 23, 2017

1. Imtiaz Ahmed,
S/o Iqbal Ahmed,
House No. 3/77,
Kiri Nawab Khan Road,
Shikarpur
2. Chief Executive Officer,
SEPCO Ltd,
SEPCO Headquarters,
Old Thermal Power Station,
Sukkur
3. Shabbir Ahmed Memon,
Advocate,
18/401, Molvi Jahan Khan Street,
Sukpul, Shikarpur
4. Executive Engineer (E),
SEPCO Ltd,
Operation Division,
Shikarpur

Subject: Appeal Titled SEPCO Ltd Vs. Imtiaz Ahmed Against the Decision Dated 09.12.2016 of the Electric Inspector/POI to Government of the Sindh Sukkur Region, Sukkur

Please find enclosed herewith the decision of the Appellate Board dated 23.06.2017, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

No. NEPRA/AB/Appeal-192/POI-2017/ 969
Forwarded for information please.

(Ikram Shakeel)

June 23, 2017

Assistant Director
Appellate Board

X. Registrar

CC:

1. Member (CA)



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-042/POI-2017

Sukkur Electric Supply Company LimitedAppellant

Versus

Imtiaz Ahmed S/o Iqbal Ahmed Changezi,
House No. 3/77, Kiri Nawab Khan Road, ShikarpurRespondent

For the appellant:

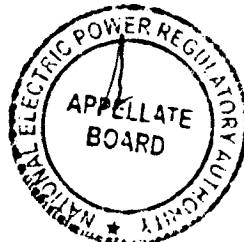
Mr. Shabeer Ahmed Advocate
Mr. Muhammad Khan XEN

For the respondent:

Mr. Imtiaz Ahmed

DECISION

1. Through this decision, an appeal filed by Sukkur Electric Supply Company Limited (hereinafter referred to as SEPCO) against the decision dated 09.12.2016 of Provincial Office of Inspection/Electric Inspector, Sukkur Region, Sukkur (hereinafter referred to as POI) is being disposed of.
2. Brief facts of the case are that the respondent is owner of ice factory and an industrial consumer of SEPCO bearing Ref No. 24-38232-0000021 with a sanctioned load of 68kW under B-1 tariff. As per version of the respondent, the excessive bills



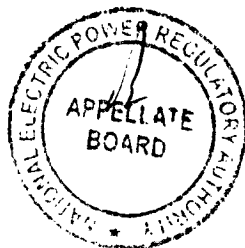


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for the period July 2007 to July 2008 were charged by SEPCO to him due to fastness of the meter, hence he primarily approached SEPCO for redressal of his grievance. In response SEPCO installed a check meter in series with the defective meter of the respondent on 02.07.2008 and subsequent comparison of consumption data of check and defective meters established the 33.41% fastness of the defective meter. An adjustment note to afford a credit of Rs.411,818/- for the period July 2007 to July 2008 was prepared by Executive Engineer SEPCO and submitted to Superintendent Engineer (SE)SEPCO Larkana but approval of the same is still awaited. Initially the disputed amount of Rs.411,818/- was placed in deferred column and later on transferred as arrears in the electricity bill.

3. Being aggrieved with the disputed arrears of Rs.411,818/-, the respondent filed an application before POI on 18.03.2016, which was decided by POI vide its decision dated 09.12.2016 with the following conclusion:

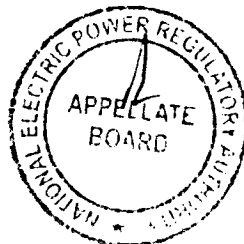
"In the light of above established findings, this Authority decides that the over charged excess amount calculated in adjustment note as Rs.411,818/- may be credited towards applicant's electricity account and adjusted against the future without any claim of late payment surcharges. Check meter may now declare as meter in place of defective energy meter, which may be removed immediately. Case decided in above terms stand dispose of from this office."





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4. Being dissatisfied with the decision of POI dated 09.02.2016 (hereinafter referred to as the impugned decision), SEPCO has filed the instant appeal before NEPRA under Section 38(3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (hereinafter referred to as NEPRA Act 1997). In its appeal, SEPCO contended that the respondent approached SEPCO in the Year 2008 and agitated the excessive bills for the period July 2007 to July 2008 due to the defective meter. As per SEPCO, a check meter was installed in series with the defective meter on 02.07.2008 and during subsequent checking dated 09.07.2008, 33.41% fastness of the defective meter of the respondent was established. SEPCO stated that an adjustment note of Rs.411,818/- against the excessive bills was prepared by XEN SEPCO and forwarded to SE SEPCO Larkana but the same was not approved. SEPCO pointed out that POI has no jurisdiction to decide the disputes of metering, billing and collection of tariff. SEPCO also raised the objection on the maintainability of the impugned decision under Section 26(6) of Electricity Act 1910 as it was announced by the Electric Inspector after 90 days.
5. Notice of the appeal was issued to the respondent for filing reply/parawise comments, which were filed by the respondent on 04.05.2017. In his reply, the respondent raised the preliminary objection regarding the limitation and contended that the appeal against the impugned decision dated 09.12.2016 was filed before NEPRA after a lapse

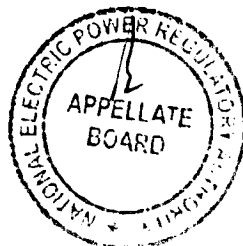




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of 76 days, therefore liable to be dismissed being time barred under Section 38 (3) of NEPRA Act 1997. On merits, the respondent submitted that 33.41% fastness of the defective meter was established, therefore an adjustment note of Rs.411,818/- was prepared by XEN SEPCO and forwarded to SE SEPCO Larkana for approval, in the mean while the deferred amount of Rs.411,818/- charged as arrears, which is not justified.

6. Hearing of the appeal was fixed for 05.06.2017 at Sukkur and notice thereof was served upon both the parties. On the date of hearing, Mr. Shabeer Ahmed advocate along with Mr. Muhammad Khan XEN appeared on behalf of SEPCO and Mr. Imtiaz Ahmed the respondent appeared in person. XEN SEPCO conceded that 33.41% fastness of the meter of the respondent was proved during M&T SEPCO checking dated 09.07.2008, therefore the case for adjustment of Rs.411,818/- was prepared and sent to SE SEPCO Larkana and it will be credited as soon as approval from the competent authority is accorded. The respondent defended the impugned decision and pleaded for upholding the same.
7. We have heard the argument and examined the record placed before us. Following are our observations:
 - i. As regards the preliminary objection of SEPCO regarding lack of jurisdiction of POI due to disposal of complaint after prescribed time limit of 90 days under

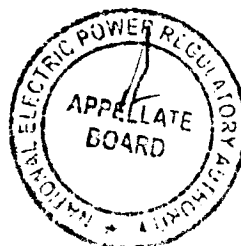




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section 26 (6) of Electricity Act 1910, the same has got no force at all because the decision was rendered by POI under section 38 (3) of NEPRA Act 1997 for which no time period for disposal of complaint is prescribed. It needs to be clarified that both the offices of Electric Inspector and Provincial Office of Inspection are two separate offices working under different legal framework. Office of Electric Inspector performs under the provisions of Electricity Act, 1910 whereas the office of POI has been established under NEPRA Act, 1997. It may also be relevant to mention here that NEPRA has got nothing to do with the decisions given by Electric Inspector under Electricity Act, 1910 rather it is the appellate authority against the decisions of POI established under the provisions of NEPRA Act, 1997. In this view of the matter, the objection of SEPCO has no legal basis and dismissed accordingly.

- ii. Pursuant to Section 38 of the NEPRA Act 1997, POI were setup by each provincial government and existing Electric Inspectors were conferred the powers of POI to make the determination in respect of the disputes over metering, billing and collection of tariff. Objection of SEPCO regarding jurisdiction of POI is devoid of force, therefore rejected.
- iii. The respondent raised the preliminary objection regarding limitation. It is noticed that the impugned decision was announced by POI on 09.12.2016, copy of the

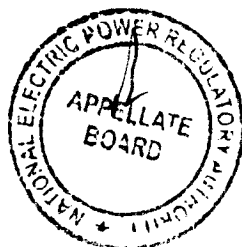




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same was obtained by SEPCO on 26.12.2016. The appeal filed before NEPRA on 24.01.2017 is within 30 days of the receipt of the impugned decision as envisaged under Section 38(3) of NEPRA Act 1997. Objection of the respondent in this regard carries no weight, therefore over ruled.

- iv. Regarding merits of the case, the respondent filed first application dated 13.06.2007 before XEN SEPCO and contended that his meter was fast and not recording the actual consumption. The respondent made a request that a check meter may be installed in series with the defective meter in order to ascertain the accuracy of the meter. A check meter was installed in series with the defective meter of the respondent on 02.07.2008 and 33.41% fastness of the meter was established during M&T checking dated 09.07.2008. It is admitted by SEPCO that due to 33.41% fastness of the meter, an adjustment note of Rs.411,818/- for the period July 2007 to July 2008 was prepared and forwarded to SE SEPCO Larkana for approval.
- v. Pursuant to clause 4.4 (d) of the Consumer Service Manual, if upon checking the meter is found to be recording beyond the permissible limits, the meter shall be change immediately and due credit be given for excessive units charged by DISCO w.e.f date of request filed by the consumer before DISCO. In the instant case, the application regarding fastness of the meter was filed by the respondent





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on 13.06.2007 and he is entitled for the credit due to 33.41% fastness of the meter w.e.f the date of application. Therefore it is concluded that the credit of Rs.411,818/- for the period July 2007 to July 2008 should be afforded to the respondent and the consumer's account of the respondent be overhauled accordingly as already determined in the impugned decision.

8. Forgoing in consideration, the appeal is dismissed.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Dated: 23.06.2017

