



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

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No. NEPRA/AB/Appeal-192/POI-2017/ *960-963*

June 23, 2017

1. Deedar Ali Jatoi,
Prop: Shah Rukh CNG Filling Station,
Near C&S Degree College,
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. Deedar Ali Jatoi Against the Decision Dated 07.07.2015 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/ *964*
Forwarded for information please.

(Ikram Shakeel)

June 23, 2017

Waqar Hussain
Assistant Director
Appellate Board

✓ Registrar

CC:

1. Member (CA)



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-192/POI-2016

Sukkur Electric Supply Company LimitedAppellant

Versus

Deedar Ali Jatoi, Prop: Shah Rukh CNG Filling Station,
Near C&S Degree College, ShikarpurRespondent

For the appellant:

Mr. Shabeer Ahmed Advocate
Mr. Muhammad Khan XEN

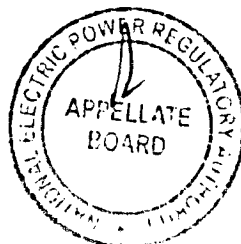
For the respondent:

Mr. Gul Muhammad

DECISION

1. Through this decision, an appeal filed by Sukkur Electric Supply Company Limited (hereinafter referred to as SEPCO) against the decision dated 07.07.2015 of Provincial Office of Inspection/Electric Inspector, Sukkur Region, Sukkur (hereinafter referred to as POI) is being disposed of.
2. SEPCO is a licensee of National Electric Power Regulatory Authority (hereinafter referred to as NEPRA) for distribution of electricity in the territory specified as per

Page 1 of 8

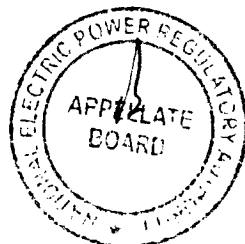




National Electric Power Regulatory Authority

terms and conditions of the license and the respondent is its commercial consumer (CNG station) bearing Ref No.24-37532-0008321 with a sanctioned load of 107.4 kW under A-2(b) tariff.

3. As per fact of the case, electricity meter of the respondent was checked by metering and testing (M&T) SEPCO on 26.02.2011 and reportedly it was found tampered (device installed inside the meter for theft of electricity) and the connected load was noticed as 134 kW being higher than the sanctioned load. New check meter was installed in series with tampered meter of the respondent by SEPCO in February 2011. As per SEPCO, 21,585 units were recorded by the check meter in February 2011, whereas the average consumption of 7,189 units/month for the period August 2009 to January 2011 was recorded by the tampered meter. After issuing notice dated 01.03.2011 to the respondent, the detection bill of Rs.2,200,367/- for 171,080 units for the period August 2009 to January 2011(18 months) was charged to the respondent by SEPCO. Initially the respondent approached SEPCO and made a request for revision of the aforesaid detection bill, consequently the detection bill was revised to Rs.1,750,048/- by SEPCO, which was paid by the respondent.
4. Being aggrieved with the aforesaid detection bill, the respondent filed an application before POI in May 2011 and contended that the detection bill of Rs.1,750,048/- charged by SEPCO be declared void and the payment already made against the aforesaid detection bill be refunded. POI disposed of the matter vide its decision



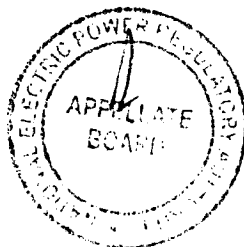


National Electric Power Regulatory Authority

dated 07.07.2015, the operative portion of which is reproduced below:-

“In the light of above findings, established in reference to the citations made from Consumer Service Manual and Complaint Handling procedure and Dispute Resolution Rules/instructions in pursuance of Section 21 of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997, read with Rule 9 of the NEPRA Licensing (Distribution) Rules, 1999, this Authority has come to the conclusion that the charging of detection for total period consists on (18) months from 08/2009 to 01/2011 stands unjustified. The concerned respondent SEPCO authorities are ordered to revise the detection up-to maximum period of six months from August 2010 to January 2011 on the basis of energy recorded through check meter during the month of February 2011 by adjusting the payment already made by the complainant, the rest of amount if stand credited with SEPCO may be adjusted in future billing. Case decided in above terms stand dispose of from this office.”

5. Being dissatisfied with the decision of POI dated 07.07.2015 (hereinafter referred to as the impugned decision), SEPCO initially filed an appeal before Secretary Energy Department Government of Sindh, Karachion 12.08.2015, which was returned to SEPCO by the said office vide its decision dated 05.08.2016 with the direction to file the same before NEPRA being the competent forum. Subsequently, SEPCO filed the appeal before NEPRA on 27.10.2016 under Section 38(3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (hereinafter

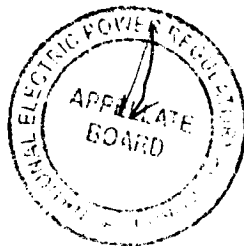




National Electric Power Regulatory Authority

referred to as NEPRA Act 1997). In its appeal, SEPCO stated that the premises of the respondent was inspected on 29.11.2010 and 26.02.2011 and on both the occasions, the respondent was found stealing electricity through the tampered meter. As per SEPCO, detection bill of Rs.2,200,367/- for 171,080 units for the period August 2009 to January 2011 was charged to the respondent in order to recover the revenue loss sustained due to theft of electricity. SEPCO further submitted that on request of respondent the aforesaid detection bill was revised to Rs.1,750,048/-, which was paid by the respondent without any protest. SEPCO finally prayed that the impugned decision may kindly be declared null and void.

6. A notice of the appeal was issued to the respondent for filing reply/parawise comments which were filed by the respondent on 01.02.2017. In his reply, the respondent rebutted the stance of SEPCO and contended that neither any notice was served upon him nor any inspection was carried out during their presence. The respondent also refuted the allegation of theft of electricity and stated that if any defect was detected by SEPCO during checking dated 29.10.2010 then why the installation of check meter was delayed by SEPCO till February 2011. According to the respondent, the detection bill of Rs.2,200,367/- for 171,080 units for the period August 2009 to January 2011 (18 months) charged by SEPCO is unjustified and in violation of Consumer Service Manual (CSM). As per respondent, initially he approached SEPCO for revision of the aforesaid detection bill, consequently the detection bill was revised to Rs.1,750,048/- by SEPCO, which was paid by the

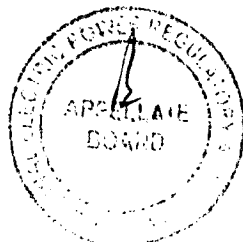




National Electric Power Regulatory Authority

respondent in order to avoid heavy financial loss and disconnection of electric supply. The respondent pointed out that the appeal against the impugned decision was not filed before NEPRA within stipulated time period. The respondent finally prayed that the impugned decision rendered by POI is in accordance with facts and law and liable to be maintained.

7. 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. Gul Muhammad represented the respondent. Learned counsel for SEPCO contended that the Electric Inspector failed to decide the matter within 90 days under section 26(6) of Electricity Act 1910, therefore the impugned decision is liable to be declared as null and void. Learned counsel for SEPCO further pleaded that it was established that meter of the respondent was tampered and not recording the actual consumption of electricity, therefore the detection bill of Rs.2,200,367/- for 171,080 units for the period August 2009 to January 2011 was charged to the respondent by SEPCO, which was revised to Rs.1,750,048/- by SEPCO and accordingly paid by the respondent without any protest. On the contrary, the representative for the respondent rebutted the argument of SEPCO and contended that neither notice was issued nor any inspection done in the presence of the respondent and the payment of revised detection bill of Rs.1,750,048/- was made under duress in order to avoid the disconnection of electric supply and consequential financial loss.





National Electric Power Regulatory Authority

8. We have heard the argument and examined the record placed before us. Following are our observations:

- i. It is observed that the impugned decision was announced by POI on 07.07.2015 and the appeal against the same was filed before the Secretary Energy Department, Government of Sindh Karachi on 12.08.2015 after lapse of 36 days. Pursuant to the clause 10 of Sindh (Establishment and Powers of Office of Inspection) Order, 2004, an appeal against the decision of POI is to be filed within 10 days. The appeal filed even before Secretary Energy Department, Government of Sindh Karachi was time barred. Secretary Energy Department, Government of Sindh Karachi vide its decision dated 05.08.2016 directed to file the appeal before NEPRA, which was filed on 27.10.2016 after lapse of 52 days. Hence the appeal before NEPRA has been filed after time limit as prescribed under Section 38 (3) of NEPRA Act 1997 and liable to be dismissed being time barred.
- ii. 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 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

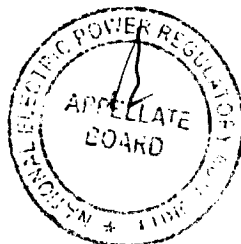




National Electric Power Regulatory Authority

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.

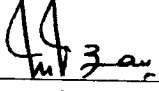
- iii. Regarding merits of the case, premises of the respondent was checked by M&T SEPCO on 26.02.2011 and allegedly the respondent was found involved in dishonest abstraction of electricity through the tampered meter, therefore the detection bill of Rs.2,200,367/- for 171,080 units for the period August 2009 to January 2011 was charged to the respondent by SEPCO, which was agitated by him before POI in May 2011. The service of any notice or checking in the presence of the respondent not proved.
- iv. Charging the aforesaid detection bill for 18 months to the respondent is not in line with chapter 9 of CSM. The respondent being a general supply consumer i.e. A-II is liable to be billed maximum for six billing cycles. POI has rightly determined in the impugned decision that the detection bill of Rs.2,200,367/- for 171,080 units for the period August 2009 to January 2011 charged to the respondent by SEPCO has no justification, therefore cancelled.






National Electric Power Regulatory Authority

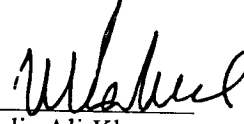
- v. Pursuant to clause 9.1c (3) of CSM, the respondent is obligated to pay the detection bill for six months only as already determined in the impugned decision.
- vi. The appeal is accordingly dismissed with directions to Appellant/SEPCO to adjust the already paid amounts by the respondent either through refund or adjustments in the future bills.



Muhammad Qamar-uz-Zaman
Member



Muhammad Shafique
Member



Nadir Ali Khoso
Convener

Dated: 23.06.2017

