



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

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No. NEPRA/AB/Appeal/134/2021/ 426

April 182, 2022

- |   |  |
|---|--|
| 1. Medical Superintendent,<br>District Headquarter Teaching Hospital,<br>District Gujranwala    | 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 | 4. Mehar Muhammad Saleem,<br>Advocate High Court,<br>117-3 <sup>rd</sup> Floor, Ch. Rehmat Ali Block,<br>Session Courts, Gujranwala      |
| 5. Deputy Manager Operation,<br>GEPCO Ltd,<br>Civil Lines Division,<br>Gujranwala               | 6. POI/Electric Inspector,<br>Gujranwala Region,<br>Energy Department, Govt. of Punjab,<br>Munir Chowk, Near Kacheri Road,<br>Gujranwala |

Subject: **Appeal Titled GEPCO Vs. Medical Superintendent DHQ Teaching Hospital Gujranwala Against the Decision Dated 30.09.2020 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 14.04.2022, regarding the subject matter, for information and necessary action accordingly.

**Encl: As Above**

**(Ikram Shakeel)**  
**Deputy Director (M&E)/**  
**Appellate Board**

Forwarded for information please.

1. Additional Director (IT) –for uploading the decision on NEPRA website



## National Electric Power Regulatory Authority

### Before Appellate Board

In the matter of

### Appeal No. 134/POI-2021

Gujranwala Electric Power Company Limited

.....Appellant

Versus

Medical Superintendent District Headquarter Teaching Hospital  
District Gujranwala

.....Respondent

### **APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 30.09.2020 PASSED BY PROVINCIAL OFFICE OF INSPECTION GUJRANWALA REGION, GUJRANWALA**

#### For the Appellant:

Mr. Saeed Ahmed Bhatti Advocate  
Mr. Zahir Hussain Soomro XEN

#### For the Respondent:

Mr. Muhammad Saleem Advocate  
Dr. Atique Ahmed AMS Services  
Mr. Sher Afgan Sub Engineer

### **DECISION**

1. As per facts of the case, the Respondent is a general consumer of the GEPCO bearing Ref No.28-12121-1776700 with a sanctioned load of 147 k W under the A-3(a) tariff category. The Respondent filed an application before the Provincial Office of Inspection, Gujranwala Region, Gujranwala (the POI) on 29.01.2020 and challenged the arrears of Rs.2,869,450/- for the period December 2016 to September 2019. Metering equipment of the Respondent was checked by the POI on 02.09.2020 in presence of both parties and



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the TOU billing meter was found 32.16% slow. The POI disposed of the matter vide decision dated 30.09.2020 with the following conclusion:

*"In the light of above facts, it is held:*

- i. *That the actual kWh reading index till MCO dated 03.09.2016 was 8588x80 Off Peak & 1867x80 Peak (total=19455x80) which is justified and correct whereas the excess reading charged as 245120 units excessively recovered is void, unjustified and of no legal effect therefore the petitioner is not liable to pay the same.*
- ii. *that actual reading mentioned in test check proforma dated 05.05.2017 as registered by the meter was 10965x80 O/peak & 2131x80 Peak (total 13097x80) which is justified and correct whereas the excess reading charged in MCO dated 05.05.2017 against the same removed meter as 13196 O/peak and 2437 Peak (Total=15633x80) causing 202880 units excessive, void, unjustified and of no legal effect, therefore, the petitioner is not liable to pay the same.*
- iii. *that on 02.09.2020 actual KWH reading index of the existing billing meter was found as 3184 O/peak & 608 Peak (total=3792x80) whereas the Respondents charged KWH reading 3405 O/P & 608 Peak (total=4013x80) in the bill of 08/2020 (reading noted down on 31.08.2020 causing 17680 units as.*
- iv. *that the present billing meter is 31.6% slow with effect from 02/2020 onward till its replacement for which respondents have already enhanced the multiplication factor. The respondents are directed to replace the above said defective meter by an accurate one immediately; and*
- v. *that the respondents are directed to overhaul the account of the petitioner and refund the petitioner the excess units charges and recovered (as mentioned in the foregoing operative paragraph-i, ii & iii) in future bill accordingly."*

2. Being dissatisfied with the decision dated 30.09.2020 of the POI (hereinafter referred to as the impugned decision), GEPCO has filed the instant appeal before the NEPRA. In its appeal, GEPCO prayed for setting aside the impugned decision, inter alia, on the following grounds; (1) the POI erred in holding that 245120 units were charged in excess



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till September 2016 as conducted in para No.8(i) and 202880 units excessively recovered as conducted in para No.8(ii) of the impugned decision, whereas the billing from December 2016 to September 2019 was effected correctly as per actual energy recorded by the billing meter; (2) the installation of the AMR meter has no sanctity in the eyes of law and Consumer Service Manual (CSM), as such the same could not be termed as the backup meter nor the consumption of the AMR meter could be made basis for the determination of billing; (3) the POI miserably failed to appreciate that the matter taken up earlier by the Director Technical Energy Department Lahore was resolved amicably on 10.07.2017 when a no billing dispute certificate was prepared and signed by both parties and the Respondent was satisfied with the assessment made till 10.07.2017, hence the Respondent has got no cause of action to approach the POI by filing petition on 29.01.2020; (4) the observation of the POI with regard to the non-pressing of the billing dispute certificate dated 10.07.2017 is absolutely incorrect and erroneous; (5) the POI failed to appreciate that the Respondent was estopped by his words and conduct to institute the instant petition which is hit by Article 114 of the Qanoon-e-Shahadat Order 1984; (6) the POI neither recorded the consumption data nor perused the relevant record/consumption data in true perspective and decided the application of the Respondent on mere surmises and conjectures; (7) the impugned decisions is ex-facie coram non-judice, ab-initio void and without jurisdiction as the POI has no jurisdiction to carry out the proceedings after the expiry of the mandatory period of 90 days as envisaged under Section 26(6) of the Electricity Act, 1910; and (9) the complaint could not be entertained as no notice as required under Section 26(6) of the Electricity Act.



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1910 was ever served upon the GEPCO prior to filing the same before the POI.

3. Notice of the appeal was sent to the Respondent for filing reply/para-wise comments, which however were not filed.
4. A hearing in the matter was held at the NEPRA Regional Office Lahore on 14.01.2022 in which learned counsel along with XEN GEPCO represented the Appellant and a counsel along with representatives appeared for the Respondent. At the beginning of the hearing, learned counsel for the GEPCO raised the preliminary objection that the Respondent vide the complaint dated 29.01.2020 raised the billing dispute before the POI for the period December 2016 to September 2019, which is beyond three years, as such the complaint of the Respondent is time barred and not maintainable as per the Lahore High Court Lahore judgment in the W.P.No.17314-2015. Learned counsel for the GEPCO averred that a Reconciliation Certificate dated 10.07.2017 was signed between both the parties and the dispute of billing was settled amicably till 10.07.2017. As per learned counsel for the GEPCO, difference of readings for one month was taken for all sixteen connections of the Respondent in pursuance to the directions of the Reconciliation Cell conveyed vide Minutes of Meeting dated 21.07.2017. According to the learned counsel for the GEPCO, analysis of billing data for the period October 2014 to June 2017 revealed that 9,891,074 units were to be charged whereas the Respondent was billed 7,417,697 units during the said period which were lesser than the consumption assessed. Learned counsel for GEPCO averred that the payments of the above-said bills were made by the Respondent without any objection, hence these cannot be agitated before the POI

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as the principle of estoppel applies in the instant case. Learned counsel for the GEPCO opposed the impugned determination and argued that the billing cannot be based on AMR meter and the impugned decision is liable to be struck down being incorrect, illegal, and unjustified. On the contrary, learned counsel for the Respondent rebutted the version of learned counsel for the GEPCO and stated that the Reconciliation Certificate dated 10.07.2017 is not valid as it is unilateral and GEPCO had not provided the same in original form. As per learned counsel for the Respondent, if the Reconciliation Certificate dated 10.07.2017 is original as to why learned counsel for the GEPCO did not press the fact before the POI, who rightly disallowed the same. Learned counsel for the Respondent defended the findings of the Director Reconciliation Cell Energy Department conveyed vide order dated 20.04.2018 and the impugned decision of POI and prayed for revision of the billing of the Respondent accordingly.

5. Arguments were heard and the record placed before us was perused. Following are our observations:

- i. As regards the preliminary objection of GEPCO regarding the failure of the POI in deciding the matter within 90 days under Section 26(6) of the Electricity Act, 1910, it may be noted that the said restriction of the time limit is inapplicable for the POI established under Section 38 of NEPRA Act, 1997. Reliance in this regard is placed on the Lahore High Court judgments cited as PLJ 2017-Lahore-627 and PLJ-2017-Lahore-309. As such the objection of GEPCO in this regard carries no weight, hence rejected.



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- ii. As regards another objection of the GEPCO 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 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 GEPCO is not valid, therefore overruled.
- iii. As far as the objection of GEPCO regarding the time-barred claim of the Respondent, it is observed that the Respondent raised the billing dispute for the period from December 2016 to September 2019 before the POI vide the application dated 29.01.2020. Before approaching the POI, the Respondent disputed the excessive billing before the GEPCO as well as the Director Technical Energy Reconciliation Cell, Lahore in the year 2017 but the matter was not settled. Hence the claim of the Respondent with regard to the above billing be treated as within three (3) years as per Article 181 of the Limitation Act, 1908. In this regard, reliance is placed on the Lahore High Court, judgment dated 30.11.2015 passed in the Writ Petition No.17314-2015 titled "Muhammad Hanif v/s NEPRA and others", wherein it is held as under:

*"The petitioner at the most can invoke Article 181 of The Limitation Act, 1908 which is the residuary provision and caters the issue of limitation where no period of limitation is provided elsewhere in the Schedule of The Limitation Act, 1908 or under Section 48 of The Code of Civil Procedure (V of 1908). Article 181 of The Limitation Act, 1908 prescribes the period of three years for filing an application that applies when the right to apply accrues as*



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*prescribed in Article 181 of Limitation Act, 1908."*

Hence the objection of GEPCO in this regard is not valid and overruled.

- iv. The Respondent assailed the bills pertaining to the period December 2016 to September 2019 before the POI. During the joint checking of the metering equipment of the Respondent by the POI on 02.09.2020, the TOU billing meter was found 32.16% slow and the AMR meter was found within BSS limits.
- v. The claim of GEPCO that after the payment of the disputed bills for the period December 2016 to September 2019, the Respondent is estopped for agitating it before the POI is not convincing as the Qanoon-e-Shahadat Order 1984 is not applicable *stricto-senso* in the present case.
- vi. GEPCO claims that the billing dispute till July 2017 was amicably settled between the parties vide the Reconciliation Certificate dated 10.07.2017 and the billing till July 2017 cannot be disputed before any forum. The Respondent rebutted the claim of GEPCO and stated that neither the original certificate in this regard was provided nor the said certificate was signed by the DHQ Hospital Management. To ascertain the contention of both the parties, the following documents were analyzed:





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## Reconciliation Certificate

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Annex E

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RECONCILIATION CERTIFICATE

I, the undersigned, being a duly qualified and experienced person, have examined the accounts of the above named entity for the period ending on the date specified in the certificate and have found that the same are correct and true and have been prepared in accordance with the provisions of the relevant laws and regulations.

No.	Name	Address
1	M. J. Khan	100, Main Road, Lahore
2	M. J. Khan	100, Main Road, Lahore
3	M. J. Khan	100, Main Road, Lahore
4	M. J. Khan	100, Main Road, Lahore
5	M. J. Khan	100, Main Road, Lahore
6	M. J. Khan	100, Main Road, Lahore
7	M. J. Khan	100, Main Road, Lahore
8	M. J. Khan	100, Main Road, Lahore
9	M. J. Khan	100, Main Road, Lahore
10	M. J. Khan	100, Main Road, Lahore

Signature of the undersigned  
M. J. Khan

Signature of the undersigned  
M. J. Khan

Signature of the undersigned  
M. J. Khan

Signature of the undersigned  
M. J. Khan

Signature of the undersigned  
M. J. Khan

The undersigned, being a duly qualified and experienced person, have examined the accounts of the above named entity for the period ending on the date specified in the certificate and have found that the same are correct and true and have been prepared in accordance with the provisions of the relevant laws and regulations.

Deputy Chairman  
Division No. 2, GEPCO

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Before the Appellate Board  
National Electric Power Regulatory Authority  
(NEPRA)  
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Subject: **HEARING OF APPEAL UNDER NEPRA (PROCEDURE FOR FILING APPEALS) REGULATIONS, 2012**

Appeal No. **025/2021**

**GEPCO VS. MEDICAL SUPERINTENDENT DHQ HOSPITAL GUJRANWALA**

A hearing was held on January 14, 2022 at 11:00 AM in NEPRA Provincial Office, Office No. 212, 2<sup>nd</sup> Floor, National Tower, Egerton Road, Opposite LDA Plaza, Lahore. Following participated:

### Appellant

#	Name	Designation	Mobile #	Signature
1	Dr. Atique Ahmed	Chief	037-4350898	[Signature]
2	David H. Sanyal	Gen. Secy.	0310 3992120	[Signature]
3				
4				

### Respondent

#	Name	Designation	Mobile #	Signature
1	M. Saleem	Advocate	03456251034	[Signature]
2	Dr. Atique Ahmed	Chief	0333811621	[Signature]
3	Sh. Atique	Sub Engineer	0300 8153497	[Signature]
4				

Examination of the above images manifests that the signature of Dr. Atique Ahmed on the attendance sheet tallies with the signature made on the Reconciliation Certificate dated 10.07.2017, hence the said Reconciliation Certificate cannot be termed as bogus as claimed by the Respondent. We are inclined to agree with the contention of the



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GEPCO that the billing dispute of nine connections including the disputed connection was amicably settled between the parties till July 2017 and the billing for the said period cannot be disputed being a past and closed transaction. The determination of the POI for the billing till July 2017 is incorrect and illegal. It is further observed that the Respondent assailed the billing for the period from December 2016 to September 2019, whereas the POI also decided the fate of billing prior to December 2016, which is beyond the prayer of the Respondent. Foregoing in view, the impugned decision to the extent of the bill till July 2017 is void, without lawful authority and the same is liable to be set aside.

- vii. The billing for the remaining disputed period i.e. August 2017 to September 2019 done by the GEPCO is compared below with the undisputed billing before and after the dispute to ascertain its justification:

Table-A					
Period before dispute		Disputed period		Period after dispute	
Month	Units	Month	Units	Month	Units
May-14	23360	Aug-17	36560	Oct-19	0
Jun-14	31440	Sep-17	560	Nov-19	0
Jul-14	46720	Oct-17	0	Dec-19	19760
Aug-14	0	Nov-17	2640	Jan-20	640
Sep-14	0	Dec-17	1600	Feb-20	2040
Oct-14	0	Jan-18	3760	Mar-20	2040
Nov-14	17920	Feb-18	7040	Apr-20	840
Dec-14	18240	Mar-18	6080	May-20	16440
Jan-15	21040	Apr-18	880	Jun-20	1200
Feb-15	10960	May-18	13760	Jul-20	240
Mar-15	36080	Jun-18	12160	Aug-20	240
Apr-15	13120	Jul-18	8240	Sep-20	480
May-15	38640	Aug-18	10800	Oct-20	480



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Jun-15	19520	Sep-18	960	Nov-20	2800
Jul-15	23200	Oct-18	400	Dec-20	8640
Aug-15	38080	Nov-18	3200	Jan-21	4640
Sep-15	43040	Dec-18	5600	Feb-21	12880
Oct-15	40320	Jan-19	5520	Mar-21	6800
Nov-15	16720	Feb-19	2960	Apr-21	10320
Dec-15	48480	Mar-19	9040	May-21	14000
Jan-16	228560	Apr-19	12240	Jun-21	8640
Feb-16	39120	May-19	12240	Jul-21	7280
Mar-16	41360	Jun-19	0	Aug-21	4080
Apr-16	11120	Jul-19	240	Sep-21	22640
May-16	30400	Aug-19	16240	Oct-21	1680
Jun-16	62720	Sep-19	15600	Nov-21	23600
Jul-16	0			Dec-21	26720
Aug-16	47120				
Sep-16	136320				
Oct-16	0				
Nov-16	0				
Dec-16	60400				
Jan-17	42160				
Feb-17	44800				
Mar-17	49920				
Apr-17	46560				
May-17	74080				
Jun-17	9600				
Jul-17	47280				
<b>Average units/month</b>	<b>37,395</b>	<b>Average units/month</b>	<b>7,243</b>	<b>Average units/month</b>	<b>6,765</b>

Above comparison of consumption data transpires that the Respondent was charged excessive bills during the disputed period i.e. August 2017 to September 2019 (26 months) by the GEPCO in comparison with the consumption of the period after the dispute. It would be fair and appropriate to afford the credit of units as per the average consumption recorded during the period after the dispute i.e. October 2019 to December 2021. Calculation in this regard is done below:



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**Table-B**

**Disputed period: August 2017 to September 2019 (26 months)**

• Difference of =	Average units	(-)	Average units recorded	
average units	recorded during the		during the period after	
	disputed period		the dispute	
=	7,243	(-)	6,765	<b>12,454 units</b>
Total units = difference of average units x No. of disputed months				
excessive charged =	479	x	26	<b>= 12,454 units</b>

6. In view of what has been stated above, we reached the conclusion that the dispute of billing till July 2017 is amicably settled between the parties as per the Reconciliation Certificate dated 10.07.2017 and the Respondent should pay the bills till July 2017 accordingly. The GEPCO should afford a credit of 12,454 units for the period from August 2017 to September 2019, being excessively charged to the Respondent. The billing account of the Respondent be overhauled accordingly.
7. The impugned decision is modified in the above terms.

Abid Hussain  
Member/Advisor (CAD)

Nadir Ali Khoso  
Convener/Senior Advisor (CAD)

Date: 14.04.2022