



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

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No. NEPRA/AB/Appeal/274/2019/ 092


January 27, 2022

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| 1. Muhammad Rafique,
S/o. Nawab Din,
Prop: Steel Casting,
Small Industrial East No.2,
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 | 4. Muhammad Azam Khokhar,
Advocate High Court,
10-Fatima Jinnah Chambers,
Sessions Courts, Gujranwala |
| 5. Sub Divisional Officer (Opr),
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 Titled GEPCO Vs. Muhammad Rafique Against the Decision Dated 22.05.2019 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 19.01.2022, 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. Director (IT) –for uploading the decision on NEPRA website



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No.274/POI-2019

Gujranwala Electric Power Company Limited

.....Appellant

Versus

Muhammad Rafique S/o Nawab Din, Prop: Steel Casting
Small Industrial East No.2, Gujranwala

.....Respondent

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,
TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997
AGAINST THE DECISION DATED 22.05.2019 PASSED BY PROVINCIAL
OFFICE OF INSPECTION GUJRANWALA REGION, GUJRANWALA**

For the Appellant:

Mr. Saeed Ahmed Bhatti Advocate
Mr. Muhammad Riaz Addl. DCM

For the Respondent:

Mr. Muhammad Azam Khokhar advocate

DECISION

1. Through this decision, an appeal filed by the Gujranwala Electric Power Company Limited (hereinafter referred to as the GEPCO) against the decision dated 22.05.2019 of Provincial Office of Inspection, Gujranwala region, Gujranwala (hereinafter referred to as the POI) is being disposed of.
2. Briefly speaking, the Respondent is an industrial consumer of GEPCO bearing Ref No.28-12133-0000800 with the sanctioned load of 4,975 kW under the B-3(b) tariff category. GEPCO alleged that the Respondent used the load of 5,040 kW load





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which is beyond the sanctioned load in the month of November 2014 and caused increase in the feeder line losses. Notice dated 10.12.2014 was served to the Respondent regarding the said discrepancy and a detection bill of Rs.963,318/- for 47,200 units was charged to the Respondent for November 2014 on the basis of the difference of Grid meter and the Respondent's meter readings. The above detection bill was initially withdrawn by the GEPCO vide letter dated 27.04.2015 but subsequently GEPCO debited the detection bill of Rs.636,389/- to the Respondent in the bill for March 2017.

3. Being aggrieved, the Respondent filed a complaint before the POI on 21.04.2017 against the charging of the aforementioned detection bill, which was decided by the POI vide its decision dated 22.05.2019 with the following conclusion:

"For the reasons what has been discussed above, it is held that the impugned feeder losses for charged by the Respondents for 11/2014 as the difference of 47,200 units in grid meter panel and consumer meter panel are void, unjustified and of no legal consequence, therefore the petitioner is not liable to pay the same. The Respondents are directed to overhaul the account of the petitioner and the amount of the above-said units recovered from the petitioner be refunded in future bills accordingly."

4. GEPCO being dissatisfied with the decision dated 22.05.2019 of the POI (hereinafter referred to as the impugned decision) has filed the instant appeal before the NEPRA. GEPCO in its appeal contended that the Respondent was running illegal extension of load in sheer violation of the Abridged Conditions of Supply/Contract for which notice





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was served to the Respondent and a detection bill of Rs.963,318/- for 47,200 units charged for November 2014 due to the difference of Grid meter and the Respondent's meter readings is quite legal, valid and justified. GEPCO further contended that the POI did not appreciate that the Respondent's meter could not measure the actual consumption due to illegal extension of the load, hence the difference of 47,200 units was debited to the Respondent. Further GEPCO submitted that the impugned decision became ex-facie coram non-judice, void ab-initio and without jurisdiction, since the POI decided the application of the Respondent after the expiry of the mandatory period of 90 days, which is violative of Section 26(6) of the Electricity Act, 1910. According to the GEPCO, the POI neither recorded the evidence nor perused the relevant record in true perspective and erred in holding that the detection bill of Rs.962,318/- is void, unjustified. GEPCO submitted that the POI failed to consider that the Respondent did not serve notice before approaching the POI as required under Section 26(6) of the Electricity Act, 1910. GEPCO finally pleaded for setting aside the impugned decision.

5. Notice of the appeal was issued to the Respondent for filing reply/para-wise comments, which were filed on 25.02.2021. The Respondent rebutted the stance of GEPCO and contended that his billing meter is installed on the premises as per provisions of Section 26(7) of Electricity Act, 1910 and he is responsible to pay the bills as per recorded consumption of the metering equipment installed on the premises. The Respondent being the industrial consumer having tariff B-III is not bound to pay the feeder losses. As per Respondent, the average feeder losses recorded by the GEPCO during the period July 2014 to June 2015 were 0.5% for his connection





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feeding through the said independent feeder. The Respondent submitted that he did not violate Clause 6 of the abridged condition and was not responsible for payment of any bill charged on account of the feeder losses. According to the Respondent, after the promulgation of the NEPRA Act 1997, the POI has been empowered to determine the dispute over metering, billing, and collection of tariff under Section 38 of the NEPRA Act 1997, which does not impose any time limit on the POI for determination. The Respondent defended the impugned decision and pleaded for upholding the same.

6. Notice was issued and the appeal was heard at the NEPRA Regional Office Lahore on 26.11.2021 in which both the parties were in attendance. Learned counsel for the GEPCO reiterated the same arguments as described in memo of the appeal and contended that the line losses of the Respondent's dedicated feeder exceeded due to illegal extension of load, hence the detection bill of Rs.963,318/- for 47,200 units charged to the Respondent for November 2014 on the basis of difference of Grid meter and the Respondent's meter readings by the GEPCO is correct and payable by the Respondent. Conversely, learned counsel for the Respondent in his rebuttal repeated the stance as contained in his reply/para-wise comments and argued that the connected load of the Respondent falls under the tariff B-III and feeder losses are not recoverable in the said category, hence the Respondent is not bound to pay the detection bill of Rs.963,318/- for 47,200 units charged by GEPCO on account of feeder losses. Learned counsel for the Respondent relied upon the two decisions of similar nature rendered by the NEPRA Appellate Board and provided copies of the same. Learned counsel for the Respondent supported the impugned decision and prayed for its maintainability.



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7. We have heard the arguments of both parties and examined the record placed before us. It has been observed as under:

- i. At addressing the preliminary objection of GEPCO regarding the failure of POI in deciding the matter within ninety (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 the NEPRA Act, 1997. The same has already been held by the Honorable Lahore High Court Lahore in the following cited judgments, PLJ 2017-Lahore-627 and PLJ-2017-Lahore-309. As such the objection of GEPCO in this regard carries no weight, hence rejected.
- ii. The other objection of GEPCO for not issuing notice under Section 26(6) of the Electricity Act, 1910 by the Respondent before filing a complaint to the POI, it is clarified that the matter was adjudicated by the POI under the NEPRA Act, 1997 and the procedure laid down in the Punjab (Establishment and Powers of Office of Inspection) Order, 2005, which do not require for service of any notice prior to filing a complaint before the POI. The objection of GEPCO is not valid, therefore dismissed.
- iii. GEPCO charged the detection bill of Rs.963,318/- for 47,200 units for November 2014 due to the difference of Grid meter and the Respondent's meter readings, which was assailed by him before the POI on 21.04.2017. It is observed that the above detection bill charged by the GEPCO is not in line with the provisions of Chapter 4 of the Consumer Service Manual (CSM), which describes that an energy meter is to be installed at the premises of the consumer





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and there is no provision for charging the electricity bills other than the units recorded by the meter at the site. Pursuant to NEPRA Tariff Standards and Rules 1998, the consumer is liable to be charged as per units recorded by the meter at its premises. For any line losses beyond permissible limit, no recovery could be made from the Respondent as maintenance of the system and its improvement is the responsibility of GEPCO. Moreover, there is no undertaking by the Respondent to this effect that he would make payment for the same. In addition, GEPCO did not produce any evidence that the illegal extension of the Respondent's load had caused damage to the system. In furtherance, a perusal of the data provided by GEPCO before the POI revealed that the feeder losses for the disputed month were recorded as 2.21% which are lesser than the specified limit of 3% as determined under the B-3 tariff category. It is further observed from the record in the below table that the maximum load has not exceeded beyond 300 Amp on the dedicated feeder having the capacity of 400 Amp, which indicates that the dedicated feeder remained under loaded and has no adverse consequences on the system.

Month	Tripping	Maximum Current recorded			Feeder Ampere
		Ampere	Date	Time	
January 2014	01	290	03.01.2014	2:00 am	400
February 2014	0	180	01.02.2014	01:00 am	400
March 2014	NIL	180	01.03.2014	09:00 am	400
April 2014	NIL	160	06.04.2014	23:00 pm	400
May 2014	NIL	220	27.05.2014	09:00 am	400
June 2014	NIL	260	19.06.2014	09:00 am	400
July 2014	NIL	260	02.07.2014	06:00 am	400
August 2014	01	290	28.08.2014	02:00 am	400
September 2014	Nil	300	26.09.2014	03:00 am	400
October 2014	02	280	01.10.2014	01:00 am	400



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November 2014	NIL	290	15.11.2014	03:00 am	400
December 2014	02	290	03.12.2014	05:00 am	400

In consideration of the above, there is no justification to further burden the Respondent by charging the detection bill of Rs.963,318/- for 47,200 units for November 2014 due to the difference between the Grid meter and the Respondent's meter readings.

8. Forgoing in view, we conclude that the POI after correct appraisal of facts as well as law rendered the impugned decision, which does not suffer from illegality or material irregularity warranting interference by this office, therefore this appeal is dismissed.

Abid Hussain
Member/Advisor (CAD)

Nadir Ali Khoso
Convener/Senior Advisor (CAD)

Dated: 19.01.2022

