



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

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No. NEPRA/AB/Appeal/275/2019/ 093


January 27, 2022

- | | |
|---|--|
| 1. Ejaz Ahmed,
S/o Muhammad Ismail,
Prop: Ibrahim Gatta Factory,
Sheikhupura Road 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. Ejaz Ahmed Against the Decision Dated 23.05.2019 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 18.01.2022, 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.275/POI-2019

Gujranwala Electric Power Company Limited

.....Appellant

Versus

Ejaz Ahmed S/o Muhammad Ismail, Prop Ibrahim Gatta Factory,
Sheikhupura Road, Gujranwala

.....Respondent

APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 23.05.2019 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 23.05.2019 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.28-12133-0003200 with the sanctioned load of 280 kW under the B-2(b) tariff category. GEPCO alleged that the Respondent illegally used the load beyond the





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sanctioned load in the months of May 2014, July 2014, August 2014 and November 2014, which increased the feeder losses. Resultantly, a detection bill of Rs.786,781/- for 51,119 units was charged to the Respondent for the months i.e. May 2014, July 2014, August 2014, and November 2014 based on the difference of Grid meter and the Respondent's meter readings and added in the bill for December 2014. The above detection bill was initially withdrawn by the GEPCO but subsequently the same was again debited to the Respondent and added 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 23.05.2019 with the following conclusion:

"For the reasons what has been discussed above, it is held that the impugned feeder losses for Rs.786,781.94/- charged by the Respondents from 05/2014 to 08/2014 and 11/2014 as the difference of 51,119 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 50% amount of the above-said amount recovered from the petitioner be refunded in future bills accordingly."

4. Appeal in hand has been filed by the GEPCO against the decision dated 23.05.2019 of the POI (hereinafter referred to as the impugned decision) before the NEPRA. GEPCO in its appeal contended that the Respondent was found running illegal





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extension of load in the months of May 2014, July 2014, August 2014, and November 2014, which is sheer violation of the Abridged Conditions of Supply/Contract for which notice was served to the Respondent and a detection bill of Rs.786,781/- for 51,119 units was charged to the Respondent for the months i.e. May 2014, July 2014, August 2014 and 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 51,119 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.786,781.94/- 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 23.04.2021. 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





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bills as per recorded consumption of the metering equipment installed on the premises.

The Respondent being the industrial consumer having tariff B-II 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 3.92% for four industrial connections including his connection feeding through the said dedicated 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 enactment of the NEPRA Act 1997, the POI has been empowered to determine the disputes 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.786,781/- for 51,119 units was charged to the Respondent for the months i.e. May 2014, July 2014, August 2014 and November 2014 based on the 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





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under the tariff B-II and feeder losses are not recoverable in the said category, hence the Respondent is not bound to pay the detection bill of Rs.786,781/- for 51,119 units for the months i.e. May 2014, July 2014, August 2014 and November 2014 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.

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,



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therefore dismissed.

- iii. GEPCO charged the detection bill of Rs.786,781/- for 51,119 units to the Respondent for the months i.e. May 2014, July 2014, August 2014, and November 2014 due to the difference of Grid meter and the Respondent's meter readings, which was assailed by him before the POI. It is observed that the above difference bill was debited to the Respondent as per direction of the CEO GEPCO conveyed vide circular dated 03.10.2013, wherein it was directed that the industrial consumers (steel furnaces) having independent feeder exceeding running load beyond the sanctioned load be charged the difference of units recorded on Grid and consumer panel meters. It is observed that the Respondent's connection was fed through the dedicated feeder from which three other connections were supplied and the Respondent's connection is not a steel furnace. Even otherwise the charging of the above detection bill 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 on the premises of the consumer and there is no provision for charging the electricity bills other than the units recorded by the meter installed 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, no notice was served to the Respondent regarding the higher line losses and there is no





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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 following data provided by GEPCO before POI revealed that the maximum load had not been exceeded beyond 150 Amp on the dedicated feeder having the capacity of 400 Amp, which indicates that the dedicated feeder remained lightly loaded and has no adverse consequences on the system. In consideration of the above, there is no justification to further burden the Respondent by charging the on account of an increase in line losses.

- iv. 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 and there is no provision for charging the electricity bills other than the units recorded by the meter at the site. Pursuant to 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 has caused damage to the system. In furtherance, a perusal of the data provided by GEPCO before the POI revealed that the average feeder losses were recorded as 3.92% for the four connections feeding through the



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dedicated feeder, which are lesser than the specified limit of 3% as determined under the B-3 tariff category. It is further observed from the record 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 lightly loaded and was no adverse consequences on the system. In consideration of the above, there is no justification to further burden the Respondent by charging the detection bill of Rs.786,781/- for 51,119 units for the months i.e. May 2014, July 2014, August 2014, and 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: 18.01.2022

