



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

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No. NEPRA/AB/Appeal/302/2019/ 2/7

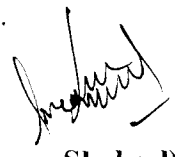
March 02, 2022

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|-----------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Ali Imran Advocate,
S/o. Irshad Ullah,
R/o. Solangi Kharl Tehsil Pindi Bhattian,
District Hafizabad | 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. Rai Sarfraz Ali,
Advocate High Court,
215-Farid Kot Road,
Lahore |
| 5. Sub Divisional Officer,
GEPCO Ltd,
Jalalpur Bhattian Sub Division,
Jalalpur Bhattian, Hafizabad | 6. POI/Electric Inspector,
Gujranwala Region,
Energy Department, Govt. of Punjab,
Munir Chowk, Near Kacheri Road,
Gujranwala |

Subject: **Appeal Titled GEPCO Vs. Ali Imran Against the Decision Dated 30.08.2019 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 07.02.2022, 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. 302/POI-2019

Gujranwala Electric Power Company Limited

.....Appellant

Versus

Ali Imran Advocate, S/o Irshad Ullah, R/o Solangi Kharl,
Tehsil Pindi Bhattian District Hafizabad

.....Respondent

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,
TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997
AGAINST THE DECISION DATED 30.08.2019 PASSED BY PROVINCIAL
OFFICE OF INSPECTION GUJRANWALA REGION, GUJRANWALA**

For the Appellant:

Mr. Saeed Ahmed Bhatti Advocate
Mr. Zulfiqar Ali C.A

For the Respondent:

Mr. Rai Sarfaraz Ali Advocate

DECISION

1. As per facts of the case, the Respondent is an industrial consumer of GEPCO bearing Ref No.28-12251-0004602 with a sanctioned load of 110 kW under the B-2b tariff category. Display of the billing meter of the Respondent became vanished in November 2015 and it was replaced by the GEPCO vide Meter Change Order (MCO) dated 10.03.2016. Subsequently, the GEPCO charged the detection bill of Rs.394,290/- for 15,480 units+243 kW MDI for the period January 2016 to 10.03.2016 to the



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Respondent in April 2017 as per the recommendation of the Audit Department vide Audit Note No.14 dated 16.11.2016.

2. Being aggrieved, the Respondent approached the Provincial Office of Inspection, Gujranwala Region, Gujranwala (hereinafter referred to as the POI) on 10.12.2018 and agitated the above detection bill. The POI disposed of the matter vide its decision dated 30.08.2019, wherein the detection bill of Rs.394,290/- for 15,480 units+243 kW MDI for the period January 2016 to 10.03.2016 was declared as null and void. The GEPCO was allowed to charge the bills of December 2015 to 10.03.2016 on the basis of consumption of April 2016 to September 2016.
3. Being dissatisfied with the decision dated 30.08.2019 of the POI (hereinafter referred to as the impugned decision), GEPCO has filed the instant appeal, wherein it is contended that the display of the billing meter became vanished in November 2015, which was replaced with a new meter vide MCO dated 10.03.2016. GEPCO further contended that the Audit Department vide Audit Note No.14 dated 16.11.2016 pointed out that the average billing was not done during the period January 2016 and onwards till MCO dated 10.03.2016 and recommended to charge the bills of above said months on the basis of consumption of corresponding month of the previous year. As per GEPCO, a detection bill of Rs.394,290/- for 15,480 units + 243 kW MDI for the period January 2016 to 10.03.2016 was charged to the Respondent. GEPCO termed the above detection bill as legal, valid, justified and payable by the Respondent. GEPCO raised the objection for the jurisdiction of the POI and stated that the application filed by the Respondent on



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10.12.2018 was decided by the POI on 30.08.2019 much after the expiry of the statutory period of 90 days, hence the impugned decision is liable to be set aside being void ab-initio, without jurisdiction as envisaged under Section 26(6) of the Electricity Act, 1910. GEPCO further submitted that POI did not consider the facts of the case and declared the detection bill of Rs.394,290/- for 15,480 units + 243 kW MDI for the period January 2016 to 10.03.2016 as void and unjustified, hence the impugned decision is liable to be set aside.

4. Notice of the appeal was sent to the Respondent for filing reply/para-wise comments, which however were not filed.
5. Hearing of the appeal was held at the NEPRA Regional Office Lahore on 31.12.2021 in which learned counsel along with other official represented the Appellant GEPCO and a counsel appeared for the Respondent. At the beginning of the hearing, learned counsel for the Respondent objected to the maintainability of the appeal and argued that the same is time-barred being filed before the NEPRA after the prescribed time limit. In reply, the learned counsel for the GEPCO averred that the copy of the impugned decision dated 30.08.2019 was received on 23.09.2019 and the appeal was filed before the NEPRA on 21.10.2019 within 30 days of receipt of the impugned decision. Learned counsel for GEPCO reiterated the same arguments as given in memo of the appeal and contended that the defective meter of the Respondent was replaced with a new meter vide MCO dated 10.03.2016 and actual consumption was not recorded during the period November 2015 till 10.03.2016, hence the detection bill of Rs.394,290/- for 15,480 units + 243 kW



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MDI for the period January 2016 to 10.03.2016 was charged to the Respondent on the observation of Audit Department. As per learned counsel for GEPCO, the above detection bill is justified and payable by the Respondent.

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

- i. With regard to the preliminary objection of the Respondent for the limitation, it is observed that the copy of the impugned decision dated 30.08.2019 was received by the GEPCO on 23.09.2019 and the appeal was filed by the GEPCO before the NEPRA on 21.10.2019 within 30 days of receipt of the impugned decision as per Section 38(3) of the NEPRA Act 1997 as evident from the TCS receipt provided by the GEPCO. The objection of the Respondent in this regard carries no weight and is overruled.
- ii. 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.
- iii. The Respondent assailed before the POI the detection bill of Rs.394,290/- for 15,480 units+243 kW MDI for the period January 2016 to 10.03.2016 charged by the



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GEPCO as per the Audit Note No.14 dated 16.11.2016.

- iv. The audit observation is an internal matter between the GEPCO and the Audit Department and the Respondent cannot be held responsible for payment of any detection bill on the basis of Audit observation. In this regard, reliance is placed on the cases reported in 2014 MLD 1253 titled M/s. Mehmood Textile Mills v/s MEPCO and 2008 YLR 308 titled WAPDA v/s Fazal Karim. In view of the above, the detection bill of Rs.394,290/- for 15,480 units+243 kW MDI for the period January 2016 to 10.03.2016 charged by the GEPCO to the Respondent as per the Audit Note No.14 dated 16.11.2017 is unjustified and the same is liable to be cancelled as already decided by the POI.
- v. Since the display of the billing meter of the Respondent became washed out in November 2015 and it was replaced with a new meter vide MCO dated 10.03.2016. According to Clause 4.4 of the Consumer Service Manual (CSM), the consumer may be charged the bills on the DEF-EST code in case of a defective meter. Hence the determination of the POI for revision of the bills for December 2015 and onwards till MCO dated 10.03.2016 on the basis of future consumption is not in line with the foregoing Clause of the CSM and the same is liable to be withdrawn o this extent.
- vi. It would be fair and appropriate to revise the bills of the Respondent for the period November 2015 and onwards till MCO dated 10.03.2016 on the basis of 100% consumption of the corresponding month of the previous year i.e. November 2014 to 10.03.2015 or average consumption of last eleven months i.e. December 2014 to



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October 2015, whichever is higher as per Clause 4.4 of the CSM.

7. In view of what has been stated above, we reached to the conclusion that the detection bill of Rs.394,290/- for 15,480 units+243 kW MDI for the period January 2016 to 10.03.2016 charged by the GEPCO is unjustified and the same is declared as null and void. The Respondent should be charged the revised bills for the period from November 2015 till MCO dated 10.03.2016 as per 100% consumption of the corresponding month of the previous year i.e. November 2014 to 10.03.2015 or average consumption of last eleven months i.e. December 2014 to October 2015, whichever is higher. The billing account of the Respondent should be overhauled after making adjustments of the payments against the above detection bill.
8. The impugned decision is modified in the above terms.

Abid Hussain
Member/Advisor (CAD)

Nadir Ali Khoso
Convener/Senior Advisor (CAD)

Date: 07.02.2022