



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

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No. NEPRA/AB/Appeal/090/2022/ 562


September 19, 2023

- | | |
|---|---|
| 1. Muhammad Shafique,
S/o. Taj Din,
R/o. House No. 596,
Farooq-e-Azam Road, Hafizabad | 2. Chief Executive Officer,
GEPCO Ltd,
565-A, Model Town,
G.T. Road, Gujranwala |
| 3. Zafar Iqbal Assad,
Advocate High Court,
Chamber No. 32-A, Judicial Complex,
Jinnah Block, Hafizabad | 4. Saeed Ahmed Bhatti,
Advocate High Court,
66-Khyber Block, Allama Iqbal Town,
Lahore |
| 5. Sub Divisional Officer,
GEPCO Ltd,
Sub Division No. 2,
Hafizabad | 6. POI/Electric Inspector,
Gujranwala Region, Energy Department,
Govt. of Punjab, Munir Chowk,
Near Kacheri Road, Gujranwala |

Subject: **Appeal Titled Muhammad Shafique vs. GEPCO Against the Decision Dated 31.08.2021 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 19.09.2023 (07 pages), regarding the subject matter, for information and necessary action accordingly.

Encl: **As Above**


(Ikram Shakeel)
Deputy Director (AB)

Forwarded for information please.

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



National Electric Power Regulatory Authority

Before The Appellate Board

In the matter of

Appeal No.090/POI-2022

Muhammad Shafique S/o Taj Din, R/o. House No.596,
Farooq-e-Azam Road, Hafizabad

.....Appellant

Versus

Gujranwala Electric Power Company Limited

.....Respondent

APPEAL U/S 38(3) OF REGULATION OF GENERATION, TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997

For the Appellant:
Mr. Zafar Iqbal Advocate

Hearing dated
03.06.2023

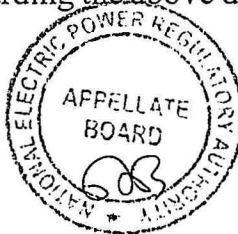
For the Respondent:
Mr. Saeed Ahmed Bhatti Advocate

Hearing dated
31.08.2023

DECISION

1. Through this decision, the appeal filed by Mr. Muhammad Shafique (hereinafter referred to as the "Appellant") against the decision dated 31.08.2021 of the Provincial Office of Inspection, Gujranwala Region, Gujranwala (hereinafter referred to as the "POI") is being disposed of.
2. Brief facts of the case are that the Appellant is an industrial consumer of Gujranwala Electric Power Company Limited (hereinafter referred to as the "Respondent") bearing Ref No.21-12245-2444500 with a sanctioned load of 4 kW and the applicable Tariff category is B-1(b). Reportedly, the billing meter of the Appellant was found 66% during the M&T checking on 07.11.2017. Notice dated 17.11.2017 was served to the Appellant regarding the above discrepancy and a detection bill (the

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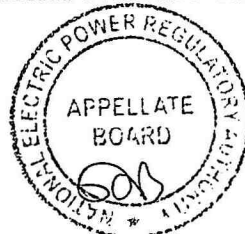
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“first detection bill”) of 21,564 units for four months i.e. July 2017 to October 2017 was debited to the Appellant by the Respondent @ 66% slowness of the meter. Subsequently, another detection bill (the “second detection bill”) of 4,259 units for three months i.e. November 2017 to January 2018 was debited to the Respondent @ 66% slowness of the meter.

3. Being aggrieved with the above-mentioned actions of the Respondent, the Appellant initially approached the Civil Court against the above detection bills, which was subsequently dismissed by the honorable civil court due to lack of jurisdiction. Thereafter, the Appellant filed a complaint before the POI on 09.09.2020 and challenged the above detection bills. The matter was disposed of by the POI vide the decision dated 31.08.2021, wherein the first detection bill of 21,564 units for four months i.e. July 2017 to October 2017 was declared null and void. The POI directed the Appellant to revise the bills from July 2017 to October 2017 @ 33% slowness of the impugned meter. The POI further declared the second detection bill of 4,259 units for three months i.e. November 2017 to January 2018 as justified and payable by the Appellant.
4. Through the instant appeal, the afore-referred decision dated 31.08.2021 of the POI has been impugned by the Appellant before the NEPRA. In its appeal, the Appellant objected to the maintainability of the impugned decision, *inter alia*, on the main grounds, (1) the impugned decision is against the facts and law as the POI overlooked the Clause 4.3.3 of the CSM-2021; (2) the Respondent did not inform the Appellant regarding the discrepancy in the impugned meter prior the notice; (3) the impugned decision is based on mere surmises and conjectures being passed without an appreciation of material evidence on record; (4) the Appellant could not





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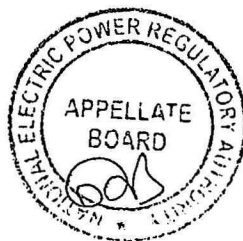
be vexed twice on the same cause of action as a settled proposition of law laid down by the honorable High Court Lahore reported vide 2002 YLR 3220; (5) the Respondent did not provide the detail M&T report, which was ignored by the POI; (6) the impugned decision was rendered without record of evidence, hence the same is liable to be set aside.

5. Proceedings by the Appellate Board

Upon filing of the instant appeal, a notice dated 20.07.2022 was sent to the Appellant for filing reply/para-wise comments to the appeal within ten (10) days, which however were not filed.

6. Hearing

6.1 Hearings of the appeals were conducted at Lahore on 13.10.2022 and 25.11.2022, which however were adjourned on the request of either the Appellant or the Respondent. Again, hearing of the appeal was conducted at NEPRA Regional Office Lahore on 03.06.2023, which was attended by counsel for the Appellant, whereas learned counsel for the Respondent submitted an application dated 02.06.2023, wherein adjournment was sought due to some domestic affairs. The adjournment request of the Respondent was acceded and the hearing was proceeded to hear the arguments of the Appellant only. Learned counsel for the Appellant reiterated the same version as contained in the memo of the appeal and contended that the Respondent with malafide intentions charged the first detection bill of 21,564 units for four months i.e. July 2017 to October 2017 and the second detection bill of 4,259 units for three months i.e. November 2017 to January 2018 based on 66% slowness observed during the alleged unilateral checking dated 07.11.2017. Learned counsel





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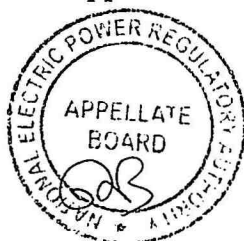
for the Appellant opposed the charging of the first and second detection bills with the plea that the impugned meter was functioning correctly during the disputed months, hence the Appellant cannot be held responsible for payment of any detection bill based on the recommendation of the M&T team of the Respondent. As per the Appellant, the impugned decision for declaring the above detection bill is not correct and the same is liable to be set aside.

6.2 Subsequently, hearing on the subject was conducted at NEPRA Head Office Islamabad on 31.08.2023 to hear the arguments of the Respondent. On the given date, learned counsel appearing for the Respondent opposed the version of the Appellant for setting aside the impugned decision and contended that the POI after correct perusal of consumption data allowed 33% slowness of the impugned meter for four months i.e. July 2017 to October 2017 and 66% slowness of the impugned meter for the period from November 2017 to January 2018. Learned counsel for the Respondent finally prayed for dismissal of the appeal with cost being devoid of merits.

7. Arguments heard and the record perused. Following are our observations:

7.1 The Appellant challenged before the POI the first detection bill of 21,564 units for four months i.e. July 2017 to October 2017 and the second detection bill of 4,259 units for three months i.e. November 2017 to January 2018. The POI vide impugned decision declared the first detection bill of 21,456 units as null and void, however, allowed the Respondent to recover 33% slowness from July 2017 to October 2017, and the second detection bill of 4,259 units for three months i.e. November 2017 to January 2018. Against which the Appellant filed the instant appeal before the NEPRA.

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7.2 Since the impugned meter of the Appellant was not produced by the Respondent before the POI for verification of the alleged 66% slowness of the impugned meter, the fate of the above first and second detection bills be determined separately in the below paragraphs.

7.3 To confirm the 66% slowness during the disputed period of the first detection bill, the consumption of the disputed period is compared with the consumption of corresponding months of the previous year in the below table:

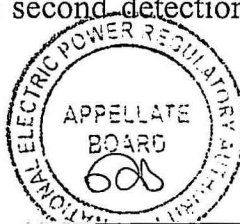
Undisputed		Period of first detection bill	
Month	Units	Month	Units
Jul-16	3591	Jul-17	2797
Aug-16	5038	Aug-17	3397
Sep-16	4992	Sep-17	2703
Oct-16	2968	Oct-17	1888

As evident from the above, the impugned meter recorded less consumption during the period of the first detection bill as compared to the consumption of corresponding months of the previous year, which indicates that the meter remained 66% slow. However, the first detection bill was charged beyond two billing cycles by the Respondent to the Appellant in the instant case, which is contrary to Clause 4.4(e) of the CSM-2010. Therefore, we are of the firm view that the first detection bill of 21,564 units for four months i.e. July 2017 to October 2017 charged to the Appellant is unjustified being contrary to the foregoing clause of the CSM-2010, the same is liable to be declared null and void, which is also the determination of the POI.

7.4 Since the impugned meter was found 66% slow on 07.11.2017, the Appellant is liable to be charged the bills for two previous months i.e. September 2017 and October 2017 @ 66% slowness of the meter. The impugned decision is liable to be modified to this extent.

7.5 As regards the charging of the second detection bill of 4,259 units is concerned,
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consumption in this regard is examined as under:

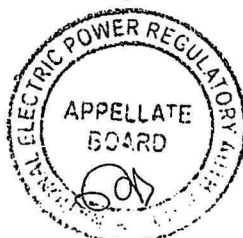
Undisputed		Period of second detection bill	
Month	Units	Month	Units
Nov-16	6659	Nov-17	1950
Dec-16	5606	Dec-17	66
Jan-17	6716	Jan-18	114

As evident from the above, actual consumption was not recorded by the impugned meter during the disputed period of the second detection bill due to 66% slowness. It is observed that the impugned meter was found slow on 07.11.2017, hence the Appellant is liable to be charged the bills with enhanced multiplication factor (the "MF") w.e.f November 2017 and onwards till the replacement of the impugned meter as per Clause 4.4(c) of the CSM-2010. However, the Respondent instead of raising the MF debited the second detection bill of 4,259 units for three months i.e. November 2017 to January 2018, which is inconsistent with Clause 4.4(c) of the CSM-2010. We are of the view that the second detection bill of 4,259 units for three months for the period from November 2017 to January 2018 debited to the Appellant @ 66% slowness of the impugned meter is unjustified and the same is liable to be cancelled. The impugned decision is liable to be withdrawn to this extent.

8. Summing up the foregoing discussion, it is concluded as under;

8.1 The first detection bill of 21,564 units for four months i.e. July 2017 to October 2017 and the second detection bill of 4,259 units for three months for the period from November 2017 to January 2018 were charged to the Appellant in violation of Clauses 4.4(e) and 4.4(c) of the CSM-2010 respectively and the same are cancelled.

8.2 The Respondent may recover the bill @ 66% slowness of the meter for two previous months i.e. September 2017 and October 2017 and the bills with enhanced MF w.e.f November 2017 and onwards till the replacement of the impugned meter to account



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for 66% slowness of the meter.

8.3 The billing account of the Appellant be revised, accordingly.

9. Impugned decision is modified in the above terms.

Abid Hussain
Member

Naweed Illahi Sheikh
Convener

Muhammad Irfan-ul-Haq
Member

Dated: 19-09-2023

