



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

NEPRA Office , Ataturk Avenue (East), G5/1, Islamabad
Tel. No. +92 051 2013200 Fax No. +92 051 2600030
Website: www.nepra.org.pk E-mail: office@nepra.org.pk

No. NEPRA/Appeal/001/2021/ 3/0

March 08, 2024

1. Executive Engineer Qadarabad Barrage,
Canal Colony, Qadirabad,
Tehsil & District Hafizabad
Cell No. 0307-0486594
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
Cell No. 0300-4350899
4. Sub Divisional Officer,
GEPCO Ltd,
Ali Pur Chattha Sub Division,
Tehsil Waziarabad, District Gujranwala
5. POI/Electric Inspector,
Gujranwala Region,
Energy Department, Govt. of Punjab,
Munir Chowk, Near Kacheri Road,
Gujranwala

Subject: **Appeal No.001/2021 (GEPCO Vs. Executive Engineer Qadirabad Barrage)**
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 08.03.2024 (06 pages), regarding the subject matter, for information and necessary action accordingly.

Encl: As Above


(Ikram Shakeel)
Deputy Director
Appellate Board

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. 001/POI-2021

Gujranwala Electric Power Company Limited

.....Appellant

Versus

Executive Engineer Qadirabad Barrage Colony, Qadirabad,
Tehsil & District Hafizabad

.....Respondent

APPEAL UNDER SECTION 38(3) OF THE REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997

For the Appellant:

Mr. Saeed Ahmed Bhatti Advocate
Mr. Muneeb Hassan SDO

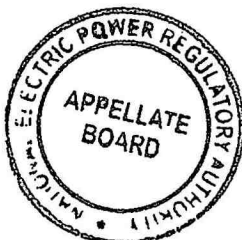
For the Respondent:

Mr. Hamid Mansha SDO

DECISION

1. As per fact of the case, the Respondent is a single point supply consumer of the Appellant (the "Gujranwala Electric Power Company Limited" or "GEPCO") bearing Ref No.30-122360000401 having sanctioned load of 160 kW and the applicable tariff category is C-2. During surveillance checking dated 04.02.2016 of the Appellant, the Respondent was allegedly found using electricity directly. The SDO Qadirabad of the Respondent vide letter dated 08.02.2016 admitted that OCB remained damaged due to which electricity was being used directly. Subsequently, the Appellant issued notice dated 23.11.2018 to the Respondent regarding misuse of electricity and debited a detection bill of Rs.9,663,150/- for 538,178 units+1,491 kW MDI for twenty-eight (28) months for the period from February 2016 to September 2018 to the Respondent and added to the bill for November 2018.
2. Being aggrieved with the aforesaid actions of the Appellant, the Respondent filed a complaint before the Provincial Office of Inspection Gujranwala Region, Gujranwala (hereinafter referred to as the "POI") and disputed the above detection bill. The complaint of the Respondent was disposed of by the POI vide the decision dated 30.09.2020, wherein the detection bill of Rs.9,663,150/- for 538,178 units+1,491 kW MDI for twenty-eight (28) months

Appeal No.001/POI-2021



Page 1 of 6



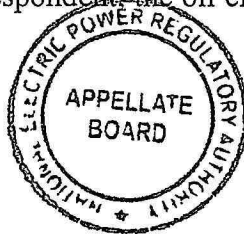
National Electric Power Regulatory Authority

months for the period from February 2016 to September 2018 was declared null and void. As per the POI decision, the Appellant was directed to revise the bills @ 36,283 units per month for the period from December 2016 to October 2018 as recorded during the period from November 2018 to October 2019.

3. Subject appeal was filed against the afore-referred decision of the POI (hereinafter referred to as the "impugned decision") by the Appellant before the NEPRA. In the appeal, the Appellant opposed the impugned decision, *inter-alia*, on the following main grounds that the Respondent was allegedly found using electricity directly through unfair means during checking dated 04.02.2016; that the SDO Qadirabad of the Respondent vide letter dated 08.02.2016 admitted that OCB remained damaged due to which electricity was being used directly; that a notice dated 23.11.2018 was issued to the Respondent regarding misuse of electricity and a detection bill of Rs.9,663,150/- for 538,178 units+1,491 kW MDI for twenty eight (28) months for the period from February 2016 to September 2018 was debited to the Respondent and added to the bill for November 2018; that the impugned decision is against the facts and law; that the POI took lenient view while deciding the fate of impugned detection bill; that the impugned decision is against the law and facts of the case; that the POI misconceived and misconstrued the real facts of the case and erred in declaring the bills for the period from July 2019 to June 2020 as null and void; that the POI failed to consider the consumption data in true perspective and revise the bills on the basis of future consumption; that the above bill charged to the Respondent is justified and payable by the Respondent; that the POI failed to decide the matter within 90 days, which is violative of Section 26(6) of the Electricity Act, 1910; that the Respondent failed to serve notice to the Appellant prior filing complaint before the POI as per Section 24 of the Electricity Act, 1910; and that the impugned decision is liable to be set aside.

4. **Proceedings by the Appellate Board**

Upon the filing of the instant appeal, a Notice dated 27.01.2021 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days which were filed on 03.06.2022. In the reply, the Respondent submitted that the oil circuit breaker became defective in January 2016, therefore electricity was restored by the Appellant directly. The Respondent further submitted that the oil circuit breaker was rectified and the billing was carried out for the period from February 2016 to November 2016 as per consumption recorded by the meter. As per Respondent, the oil circuit breaker again became defective in





National Electric Power Regulatory Authority

December 2016, therefore electricity was restored by the Appellant directly till the replacement of the oil circuit breaker to vacuum circuit breaker on 25.10.2018. As per the Respondent, the Appellant debited excessive billing during the period from December 2016 to September 2018, which was rightly revised by the POI as per the average consumption of the period from November 2018 to October 2019. The Respondent prayed for upholding the impugned decision and for the dismissal of the appeal.

5. Hearing

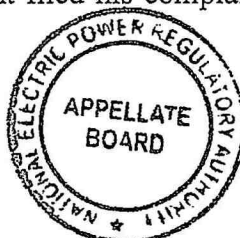
5.1 Hearings of the subject appeal were conducted on 13.10.2022, 25.11.2022, and 03.06.2023, which however were adjourned on the request of either the Appellant or the Respondent. Finally, the hearing was held at NEPRA Regional Office Lahore on 15.12.2023 in which both parties were in attendance. Learned counsel for the Appellant contended that the Respondent was involved in illegal abstraction of electricity from February 2016 to September 2018, therefore a detection bill of Rs.9,663,150/- for 538,178 units+1,491 kW MDI for twenty-eight (28) months for the period from February 2016 to September 2018 was debited to the Respondent to recover the revenue loss sustained by the Appellant. As per learned counsel for the Appellant, the POI did not consider the real aspects of the case and rendered the impugned decision by revising the bill for the disputed period as per average consumption from November 2018 to October 2019. He prayed that the impugned decision be set aside and the above detection bill be declared as justified and payable by the Respondent.

5.2 The representative for the Respondent rebutted the version of the counsel for the Appellant and stated that the oil circuit breaker became defective due to which electricity was restored by the Appellant directly for the period from December 2016 to September 2018. The representative for the Respondent further submitted that the vacuum circuit breaker was installed in October 2018 and the Appellant debited such a huge detection bill despite irregular, excessive billing done by the Appellant. The representative for the Respondent supported the impugned decision and prayed that the appeal be dismissed being devoid of merits.

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

6.1 Objection regarding the time limit for POI to decide the complaint

As per the record, the Respondent filed his complaint before the POI on 17.06.2020 under





National Electric Power Regulatory Authority

Section 38 of the NEPRA Act. POI pronounced its decision on 30.09.2020 i.e. after 103 days of receipt of the complaint. The Appellant has objected that the POI was bound to decide the matter within 90 days under Section 26(6) of the Electricity Act, 1910. In this regard, it is observed that the forum of POI has been established under Section 38 of the NEPRA Act which does not put a restriction of 90 days on POI to decide complaints. Section 38 of the NEPRA Act overrides provisions of the Electricity Act, of 1910. Reliance in this regard is placed on the judgments of the honorable Lahore High Court Lahore reported in *2017 PLJ 627 Lahore* and *2017 PLJ 309 Lahore*. Keeping in view the overriding effect of the NEPRA Act over the Electricity Act, 1910, and the above-referred decisions of the honorable High Court, the objection of the Appellant is dismissed.

6.2 Objection regarding prior notice before filing the complaint before the POI:

As regards another objection of the Appellant 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 Section 38 of 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 the Appellant is not valid and, therefore overruled.

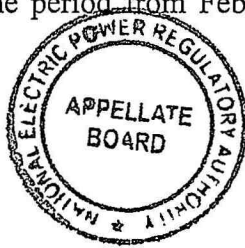
6.3 Detection bill of Rs.9,663,150/- for 538,178 units+1,491 kW MDI for twenty-eight (28) months for the period from February 2016 to September 2018 charged by the Appellant

As per the record presented before us, the Appellant debited a detection bill of Rs.9,663,150/- for 538,178 units+1,491 kW MDI for twenty-eight (28) months for the period from

February 2016 to September 2018 to the Respondent on account of theft of electricity, which was challenged before the POI on 17.06.2020. POI vide impugned decision cancelled the above detection bill and revised the bills for the period from December 2016 to 25.10.2018 @

36,283 units per month as per average consumption of the period from November 2018 to October 2019. Against which the Appellant filed the instant appeal before the NEPRA.

6.4 It is an admitted fact that the oil circuit breaker of the Respondent became defective in January 2016 and remained at the site till its replacement with the vacuum circuit breaker on 25.10.2018. The Appellants are of the view that the Respondent was involved in the illegal abstraction of electricity during the period from February 2016 to September 2018 due to



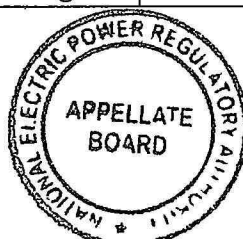


National Electric Power Regulatory Authority

which the impugned detection bill was debited to the Respondent to recover the revenue loss sustained due to direct theft of electricity. Whereas the Respondent asserted that the excessive billing was done by the Appellant during the above said period, hence there is no justification to debit further detection bill for the same period.

6.5 To verify the contention of both the Appellant and the Respondent, the consumption data for the disputed period from February 2016 to October 2018 is analyzed in the below table:

Period before dispute		Disputed period		Period after dispute	
Month	Units	Month	Units	Month	Units
May-13	80	Feb-16	4000	Nov-18	35440
Jun-13	44000	Mar-16	18000	Dec-18	38040
Jul-13	46000	Apr-16	18000	Jan-19	32280
Aug-13	46000	May-16	19000	Feb-19	32280
Sep-13	64000	Jun-16	17000	Mar-19	26840
Oct-13	56000	Jul-16	23000	Apr-19	31280
Nov-13	56000	Aug-16	26000	May-19	44400
Dec-13	44000	Sep-16	18000	Jun-19	30240
Jan-14	46000	Oct-16	18000	Jul-19	36040
Feb-14	46000	Nov-16	13000	Aug-19	44200
Mar-14	58000	Dec-16	30000	Sep-19	43480
Apr-14	44000	Jan-17	30000	Oct-19	40280
May-14	46000	Feb-17	30000		
Jun-14	46000	Mar-17	25000		
Jul-14	46000	Apr-17	30000		
Aug-14	31000	May-17	30000		
Sep-14	18000	Jun-17	30000		
Oct-14	22000	Jul-17	30000		
Nov-14	19000	Aug-17	35000		
Dec-14	16000	Sep-17	30000		
Jan-15	20000	Oct-17	35000		
Feb-15	23000	Nov-17	30000		
Mar-15	22000	Dec-17	30000		
Apr-15	26000	Jan-18	30000		
May-15	25000	Feb-18	30000		
Jun-15	0	Mar-18	30000		
Jul-15	64000	Apr-18	30000		
Aug-15	43000	May-18	30000		
Sep-15	19000	Jun-18	30000		
Oct-15	10000	Jul-18	100000		
Nov-15	14000	Aug-18	98000		





National Electric Power Regulatory Authority

Dec-15	23000	Sep-18	43500		
Jan-16	23000	Oct-18	34040		
Average	33,518	Average	31,047	Average	36,283

The above comparison of consumption data shows that the average consumption charged during the disputed period i.e. February 2016 to October 2018 by the Appellant is less than the average consumption of the periods before and after the dispute. However, the Appellant burdened the Respondent by debiting the detection bill @ 47,771 units per month in addition to the bills already charged @ 31,046 units per month for the disputed period. This indicates that the Appellant debited total **78,817 (detection =47,771+normal=31,046) units per month** for the disputed period, which has never been recorded in the billing history of the Respondent. In view of the foregoing discussion, we are of the considered view that the detection bill of Rs.9,663,150/- for 538,178 units+1,491 kW MDI for twenty-eight (28) months for the period from February 2016 to September 2018 debited to the Respondent is unjustified and the same is liable to be declared null and void. The impugned decision is liable to be maintained to this extent.

6.6 Admittedly, the oil circuit breaker of the Respondent's connection remained defective during the period from December 2016 to October 2018 due to which actual consumption could not be charged by the Appellant to the Respondent, hence, the bills for the period from

December 2016 to October 2018 be revised @ 36,283 units per month as recorded during the undisputed period after the dispute i.e. November 2018 to October 2019.

7. Foregoing in view, the appeal is dismissed.

On leave

Abid Hussain
Member/Advisor (CAD)

Dated: 08-03-2024

Naweed Illahi Sheikh
Convener/DG (CAD)

Muhammad Irfan-ul-Haq
Member/ALA (Lic.)

