



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/147/2021/312

March 08, 2024

1. Faisal Irshad,
S/o. Irshad Ullah,
Village Mandiala Chattha,
Teshil Wazirabad, District 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
Cell No. 0300-4350899

4. Muhammad Jalil Kamboh,
Advocate High Court,
110-Kiyani Chambers,
Session Courts, Gujranwala
Cell No. 0320-6301130

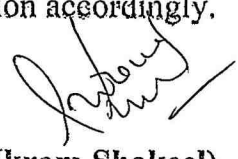
5. Sub Divisional Officer,
GEPCO Ltd,
Alipur Chattha Sub Division,
Wazirabad, District Gujranwala

6. POI/Electric Inspector,
Gujranwala Region,
Energy Department, Govt. of Punjab,
Munir Chowk, Near Kacheri Road,
Gujranwala

Subject: **Appeal No.147/2021 (GEPCO Vs. Faisal Irshad) Against the Decision Dated 24.08.2021 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 08.03.2024 (05 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.147/POI-2021

Gujranwala Electric Power Company Limited

.....Appellant

Versus

Faisal Irshad S/o. Irshad Ullah, Village Mandiala Chattha,
Tehsil Wazirabad, District Gujranwala

.....Respondent

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

For the Appellant:

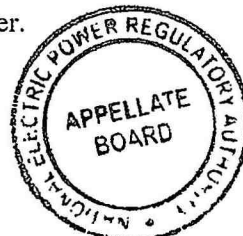
Mr. Saeed Ahmed Bhatti Advocate

For the Respondent:

Mr. Muhammad Jalil Advocate

DECISION

1. As per the facts of the case, Mr. Faisal Irshad (hereinafter referred to as the "Respondent") is an industrial consumer of Gujranwala Electric Power Company Limited (hereinafter referred to as the "Appellant") bearing Ref No.28-12236-1846405 having a sanctioned load of 160 kW and the applicable tariff category is B-2(b). The billing meter of the Respondent was checked by the metering and testing (M&T) team of the Appellant on 05.05.2020, and reportedly the billing meter was found 33% slow due to the one phase being dead. Notice dated 09.07.2020 was issued to the Respondent regarding 33% slowness of the meter and the MF was raised from 80 to 120 w.e.f June 2020 and onwards. Resultantly, a detection bill of Rs.1,218,153/- for 52,320 units+175 kW MDI for four (04) months i.e. from February 2020 to May 2020 was debited to the Respondent and added to the bill for October 2020.
2. Being aggrieved, the Respondent filed a complaint before the Provincial Office of Inspection, Gujranwala Region, Gujranwala (hereinafter referred to as the "POI"), and challenged the above detection bill. The complaint of the Respondent was disposed of by the POI vide decision dated 24.08.2021, wherein it was held that the detection bill of Rs.1,218,153/- for 52,320 units+175 kW MDI for four (04) months i.e. from February 2020 to May 2020 is void, unjustified and of no legal effect and the Appellant is allowed to charge revised bill for May 2020 after adding 33% slowness of the meter.





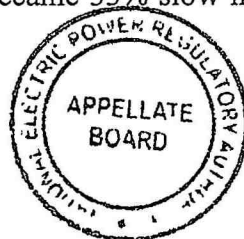
National Electric Power Regulatory Authority

3. Being dissatisfied, the Appellant has filed the instant appeal before NEPRA and assailed the decision dated 24.08.2021 of the POI (hereinafter referred to as the "impugned decision"). In its appeal, the Appellant opposed the maintainability of the impugned decision, *inter-alia*, on the following grounds 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 detection bill of Rs.1,218,153/- for 52,320 units+175 kW MDI for four (04) months i.e. from February 2020 to May 2020 as null and void; that the POI failed to consider the consumption data in true perspective and revise the bill for May 2020 @ 33% slowness of the meter; 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. Notice dated 09.12.2021 of the appeal was issued to the Respondent for filing reply/para-wise comment, which were filed on 29.12.2021. In the reply, the Respondent prayed for dismissal of the appeal on the following grounds that the Appellant neither served prior notice nor checked the impugned meter in his presence; that the Appellant while charging the impugned detection bill did not consider the closure of business throughout the country due to COVID-19 pandemic; that Section 26(6) of the Electricity Act, 1910 is not applicable in the presence of Clause 4.4(e) of the CSM-2010; that the appeal is time-barred; and that the impugned decision is liable to be upheld.

5. Hearing

- 5.1 Hearing of the appeal was conducted at NEPRA Regional Office Lahore on 16.12.2023, wherein learned counsels appeared for both the Appellant and the Respondent. Learned counsel for the Appellant contended that the billing meter of the Respondent was found 33% slow due to one dead phase during checking dated 05.05.2020, therefore the detection bill of Rs.1,218,153/- for 52,320 units+175 kW MDI for four (04) months i.e. from February 2020 to May 2020 was debited to the Respondent. Learned counsel for the Appellant argued that the POI did not consider the real aspects of the case and erroneously declared the above detection bill as null and void. Learned counsel for the Appellant prayed that the impugned decision is unjustified and liable to be struck down.
- 5.2 Conversely, learned counsel for the Respondent repudiated the version of the Appellant and contended that the billing meter became 33% slow in May 2020, hence the POI has rightly

M





National Electric Power Regulatory Authority

allowed the Appellant to recover the bill for May 2020 instead of the impugned detection bill. Learned counsel for the Respondent defended the impugned decision and prayed for upholding the same.

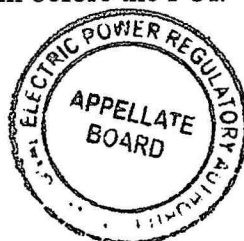
6. Having heard the arguments and record perused. Following are our observations:

6.1 While addressing the preliminary objection raised by the Respondent for limitation, it is observed that the copy of the impugned decision was obtained by the Appellant on 28.10.2021 and the appeal was filed before the NEPRA on 16.11.2021, which is within 30 days from the date of receipt of the impugned decision as per Section 38(3) of the NEPRA Act. Hence the objection of the Respondent has no force and the same is rejected.

6.2 While addressing the objection of the Appellant regarding the jurisdiction of the POI, the Respondent filed his complaint before the POI on 23.11.2020 under Section 38 of the NEPRA Act. POI pronounced its decision on 24.08.2021 i.e. after ninety (90) 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 on the Electricity Act, 1910, and the above-referred decisions of the honorable High Court, the objection of the Appellant is dismissed.

6.3 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.

6.4 As per the M&T report dated 05.05.2020, the red phase of the billing meter was found defective. Therefore, the Appellant charged a detection bill of Rs.1,218,153/- for 52,320 units+175 kW MDI for four (04) months i.e. from February 2020 to May 2020 to the Respondent, which was assailed by him before the POI.





National Electric Power Regulatory Authority

6.5 The Appellant did not produce the impugned meter before the POI for verification of 33% slowness of the meter, hence the consumption data as provided by the Appellant is reproduced below for verification of their claim:

Period before dispute		Disputed period		Period after dispute	
Month	Units	Month	Units	Month	Units
Feb-19	32320	Feb-20	21600	Feb-21	64200
Mar-19	34800	Mar-20	23920	Mar-21	66600
Apr-19	37200	Apr-20	33280	Apr-21	62040
May-19	40000	May-20	24960	May-21	38880

From the above table, the consumption recorded during the disputed period is much less than the consumption of corresponding months of the periods before and after the dispute. However, Clause 4.4(e) of the CSM-2010 restricts the Appellant to recover their revenue loss by debiting the detection bill maximum for two months in case of slowness of the metering equipment. It is also an admitted fact that the Government of Pakistan has imposed COVID-19 sanctions throughout the country, which resulted in the decrease of consumption of the Respondent during the disputed period. In view of the foregoing discussion, it is concluded that the detection bill of Rs.1,218,153/- for 52,320 units+175 kW MDI for four (04) months i.e. from February 2020 to May 2020 charged to the Respondent is unjustified, and the same is cancelled. The impugned decision is liable to be maintained to this extent.

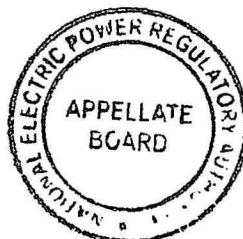
6.6 33% slowness in the impugned billing meter of the Respondent was observed by the M&T team of the Appellant on 05.05.2020, therefore, the Respondent is liable to be charged the revised detection bill for two billing cycles prior to checking dated 05.05.2020 after adding 33% slowness, according to Clause 4.4(e) of the CSM-2010.

6.7 Moreover, the bills w.e.f checking dated 05.05.2020 and onwards till replacement of the impugned meter are liable to be revised with enhanced MF=120 due to 33% slowness of the meter as per Clause 4.4(c) of the CSM-2010. The impugned decision is liable to be modified to this extent.

7. In view of what has been stated above, it is concluded that:

7.1 the detection bill of Rs.1,218,153/- for 52,320 units+175 kW MDI for four (04) months i.e. from February 2020 to May 2020 debited to the Respondent is unjustified and the same is cancelled.

19 -




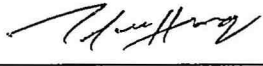


National Electric Power Regulatory Authority

- 7.2 The Respondent may be charged the revised detection bill for two billing cycles before checking dated 05.05.2020 due to 33% slowness of the meter as per Clause 4.4(e) of the CSM-2010.
- 7.3 Moreover, the bills w.e.f checking dated 05.05.2020 and onwards till replacement of the impugned meter be revised with enhanced MF=120 due to 33% slowness of the meter, under Clause 4.4(c) of the CSM-2010.
- 7.4 The billing account of the Respondent be overhauled after making the adjustment of payments made against the impugned detection bill.
8. The impugned decision is modified in the above terms.

On leave
Abid Hussain
Member/Advisor (CAD)


Naweed Illahi Sheikh
Convener/DG (CAD)


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

Dated: 08-03-2024

