



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

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No. NEPRA/Appeal/112/2023/6/7


July 25, 2024

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| 1. Shahnawaz Babar,
S/o. Lal Shah,
Near Madina Masjid, Pasror Road,
House No. 28-E, Mohallah Satellite Town,
Gujranwala | 2. Chief Executive Officer,
FESCO Ltd,
West Canal Road, Abdullah Pur,
Faisalabad |
| 3. Muhammad Siddique Malik,
Advocate High Court,
Room No. 6 & 7, 2 nd Floor,
Imtiaz Plaza, 85-The Mall,
Lahore
Cell No. 0300-6450979 | 4. Muhammad Jalil Kamboh,
Advocate High Court,
110-Kiyani Chambers,
Session Courts, Gujranwala
Cell No. 0320-6301130 |
| 5. Sub Divisional Officer,
GEPCO Ltd,
Chaman Shah Sub Division,
Gujranwala | 6. POI/Electric Inspector,
Gujranwala Region,
Energy Department, Govt. of Punjab,
Munir Chowk, Near Kacheri Road,
Gujranwala |

Subject: Appeal No.112/2023 (GEPCO VS. Shahnawaz Babar) Against the Decision Dated 26.07.2023 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 25.07.2024 (04 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.112/POI-2023

Gujranwala Electric Power Company LimitedAppellant

Versus

Shahnawaz Babar S/o. Lal Shah, Kot Habib, GujranwalaRespondent

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

For the Appellant:

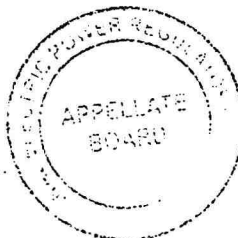
Mr. Muhammad Siddique Malik Advocate

For the Respondent:

Mr. Muhammad Jalil Kamboh Advocate

DECISION

1. As per the facts of the case, Shahnawaz Babar (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.28-12126-0004300-U having sanctioned load of 34 kW and the applicable tariff category is B-2(b). During M&T checking dated 01.09.2022 of the Appellant, the billing meter was found 33% slow due to one phase being dead, therefore, it was replaced with a new meter by the Appellant vide MCO dated 01.09.2022. Notice dated 05.09.2022 was issued to the Respondent regarding the above discrepancy and a detection bill of Rs.798,624/- for OP=22,559+P=4,613 units/62 kW MDI for six months for the period from March 2022 to August 2022 was charged to the Respondent @ 33% slowness of the meter and added to the bill for October 2022.
2. Being aggrieved, the Respondent filed a complaint before the Provincial Office of Inspection, Gujranwala Region, Gujranwala (hereinafter referred to as the “POI”) on 23.11.2022 and challenged the above detection bill. The complaint of the Respondent was disposed of by the POI vide decision dated 26.07.2023, wherein the detection bill of



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Rs.798,624/- for OP=22,559+P=4,613 units/62 kW MDI for six months for the period from March 2022 to August 2022 was cancelled.

3. Being dissatisfied, the Appellant has filed the instant appeal before NEPRA and assailed the decision dated 26.07.2023 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 impugned detection bill of Rs.798,624/- as null and void; that the impugned decision was passed after expiry of 90 days from the date of receipt of the complaint, which is a violation of Section 26(6) of the Electricity Act 1910; that the POI miserably failed to analyze the consumption data in true perspective; that the POI has failed to appreciate that the complaint could not be entertained as no notice as required u/s 26(6) of Electricity Act 1910 was ever served upon the Appellants before filing the same and that the impugned decision is liable to be set aside.
4. Notice dated 25.09.2023 of the appeal was issued to the Respondent for filing reply/para-wise comment, which however were not filed.

5. Hearing

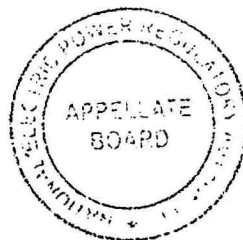
- 5.1 Hearing of the appeal was conducted at NEPRA Regional Office Lahore on 02.03.2024, wherein learned counsels appeared for both the Appellant and the Respondent. Learned counsel for the Appellant contended that one phase of the billing meter of the Respondent was found defective on 01.09.2022, therefore, the detection bill of Rs.798,624/- for OP=22,559 +P=4,613 units/62 kW MDI for six months for the period from March 2022 to August 2022 was debited to the Respondent to account for 33% slowness of the meter. Learned counsel for the Appellant further contended 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 On the contrary, learned counsel for the Respondent rebutted the version of the Appellant regarding charging the impugned detection bill, opposed the impugned decision and prayed for upholding the same.

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

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 23.11.2022 under Section 38 of the NEPRA Act. POI pronounced its decision on 26.07.2023 i.e. after 90 days

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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 NEPRA 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, 1910. Reliance in this regard is placed on the judgments of the honorable Lahore High Court Lahore reported in *PLJ 2017-Lahore-627* and *PLJ-2017-Lahore-309*. 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 Respondent 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.

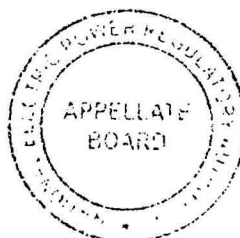
6.3 Detection bill of Rs.798,624/- for OP=22,559 +P=4,613 units/62 kW MDI for six months for the period from March 2022 to August 2022:

As per the available record, one phase of the billing meter of the Respondent was found defective during checking dated 01.09.2022, therefore, a detection bill of Rs.798,624/- for OP=22,559 +P=4,613 units/62 kW MDI for six months for the period from March 2022 to August 2022 was debited to the Respondent.

6.4 According to Clause 4.3.3 of the CSM-2021, the Respondent may be charged the detection bill maximum for two months in the case of a slow meter, whereas the Appellant debited the above detection bill for six months, which is contrary to the ibid clause of the CSM-2021. To verify the justification of the detection bill, consumption data is compared in the below table:

Undisputed period		Disputed period	
Month	Units	Month	Units
Mar-21	25359	Mar-22	7578
Apr-21	11038	Apr-22	10165
May-21	10140	May-22	10926
Jun-21	13833	Jun-22	8390
Jul-21	7963	Jul-22	3104
Aug-21	15089	Aug-22	14190
Total	83422	Total	54353

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- 6.5 The above consumption data shows that considerably less consumption was recorded during the disputed period by the Appellant due to the slowness of the meter but this does not warrant the Appellant to debit the beyond two billing cycles according to Clause 4.3.3c(ii) of the CSM-2021. Therefore the detection bill of Rs.798,624/- for OP=22,559 +P=4,613 units/62 kW MDI for six months for the period from March 2022 to August 2022 is cancelled being contrary to the provisions of the CSM-2021, which is also the determination of the POI.
- 6.6 The Respondent may be charged the revised detection bill for two months i.e. July 2022 and August 2022 due to 33% slowness of the meter. The impugned decision is liable to be modified to this extent.
7. In view of what has been stated above, we reached the conclusion that the detection bill of Rs.798,624/- for OP=22,559 +P=4,613 units/62 kW MDI for six months for the period from March 2022 to August 2022 is cancelled, which is also the determination of the POI. The Respondent may be charged the revised bills for July 2022 and August 2022 @ 33% slowness of the meter as per Clause 4.3.3c(ii) of the CSM-2021. The billing account of the Respondent may be overhauled, accordingly.
8. The impugned decision is modified in the above terms.

Abid Hussain
Member/Advisor (CAD)

Dated: 25-07-2024

Naweed Illahi Sheikh
Convener/DG (CAD)

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

