



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

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No. NEPRA/Appeal/111/2023/ *S3*

October 09, 2024

- | | |
|--|---|
| 1. Pari Ali Butt, Khalid Mehmood Butt, Kot Habib Ullah, Faqirpura, Gujranwala | 2. Chief Executive Officer, GEPCO Ltd, 565-A, Model Town, G. T. Road, Gujranwala |
| 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. Sub Divisional Officer, GEPCO Ltd, Chaman Shah Sub Division, Gujranwala |
| 5. POI/Electric Inspector, Gujranwala Region, Energy Department, Govt. of Punjab, Munir Chowk, Near Kacheri Road, Gujranwala | |

Subject: **Appeal No.111/2023 (GEPCO VS. Paris Ali Butt) Against the Decision Dated 28.04.2023 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 09.10.2024 (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.111/POI-2023

Gujranwala Electric Power Company Limited

.....Appellant

Versus

Paris Ali Butt S/o. Khalid Mehmood Butt, Kot Habibullah,
Faqirabad, Gujranwala

.....Respondent

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
Mr. Ashfaq Ahmed MDI Assistant

For the Respondent:

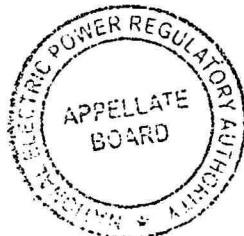
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DECISION

1. As per facts of the case, Paris Ali Butt (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.28-12126-0005301 having a sanctioned load of 39 kW and the applicable tariff category is B-2(b). The Respondent filed a complaint before the Provincial Office of Inspection, Gujranwala Region, Gujranwala (hereinafter referred to as the “POI”) on 27.05.2021 and challenged the arrears of Rs.441,967/- reflected in the bill for May 2021. The complaint of the Respondent was disposed of by the POI vide decision dated 28.04.2023, wherein it was held that the arrears of Rs.441,967/- added in May 2021 were cancelled.
2. Being dissatisfied, the Appellant has filed the instant appeal before NEPRA and assailed the decision dated 28.04.2023 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 grounds that the a credit of Rs.381,200/- was given in March 2021 instead of Rs.66,161/- due to software error; that the matter was brought into notice of Manager Computer Center vide memo dated 20.05.2021; that the arrears of Rs.441,967/- were debited inadvertently instead of Rs.381,200/-; 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 arrears of Rs.441,967/- as null and void; that the POI failed to consider the consumption

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data in true perspective in the instant case; 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.

3. Notice dated 25.09.2023 of the appeal was issued to the Respondent for filing reply/para-wise comment, which however were not filed. Subsequently, hearing of the appeal was conducted at NEPRA Regional Office Lahore on 07.06.2024, wherein learned counsel appeared for the Appellant and no one entered an appearance for the Respondent. Learned counsel for the Appellant contended that the computed center of the Appellant erroneously credited Rs.381,200/- instead of Rs.66,161/- in March 2021, which was pointed out in May 2021. Learned counsel for the Appellant further contended that the arrears of Rs.441,967/- were again added in May 2021 instead of Rs.381,200/-. As per learned counsel for the Appellant, the POI without going into the merits of the case cancelled the entire arrears of Rs.441,967/-. Learned counsel for the Appellant prayed for setting aside the impugned decision.

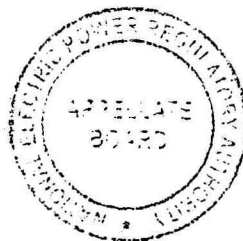
4. Having heard the arguments and record perused. Following are our observations:

4.1 While addressing the objection of the Appellant regarding the jurisdiction of the POI, the Respondent filed his complaint before the POI on 27.05.2021 under Section 38 of the NEPRA Act. POI pronounced its decision on 28.04.2023 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, 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*. The relevant excerpt of the above judgments is reproduced below:

"PLJ 2017-Lahore-627:

Regulation of Generation Transmission and Distribution of Electric Power Act, 1997---838(3)--Electricity Act, 1910, S. 26(6)--Constitution of Pakistan, 1973. Art. 199--Constitutional petition--Consumer of LESCO.. The sanctioned load was differed with the connected load--Determine the difference of charges of the previous period of misuse to be recovered from the consumer--Validity--No disconnection or penal action was taken against petitioner rather only difference of charges between sanctioned load and load actually used by petitioner was charged, hence Clause 7.5 of Consumer Service Manual has not been violated-Issuance of detection bill itself amounts to notice and petitioner

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had also availed remedy before POI against determination--Order passed by POI was beyond 90 days--Order was not passed by the respondent under Section 26(6) of the Act as Electric Inspector rather the order was passed by him in the capacity of POI under Section 38(3) of Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (NEPRA Act), therefore, argument has no substance.

PLJ-2017-Lahore-309:

The learned counsel for the petitioner submitted that there was an outer time limit of 90 days for a decision by the Electric Inspector which has not been observed and which rendered the decision of the Electric Inspector a nullity. This submission of the learned counsel has been dealt with by the Appellate Board and in any case, is fallacious- The short and simple answer rendered by the Appellate Board was that the decision was made under Section 38 of the Act, 1997 and not in terms of Section 26 of the Electricity Act, 1910. Therefore, the outer time limit of 90 days was inapplicable."

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.

4.2 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.

4.3 As per the available record, new connection was installed by the Appellant on the premises of the Respondent in December 2020 and the first bill of Rs.12,128/- against nil units was issued in January 2021, which was accordingly paid by him. Subsequently, the Respondent raised the dispute of arrears of Rs.441,967/- reflected till May 2021 before the POI, who vide impugned decision cancelled the entire arrears. Against which the Appellant filed instant appeal before the NEPRA and prayed for setting aside the impugned decision and declared the aforesaid arrears as justified and payable by the Respondent. To reach just conclusion, the billing statement of the Respondent is reproduced below:

Table-A

| Month | Units already debited |
|--------------|-----------------------|
| Dec-20 | 0 |
| Jan-21 | 0 |
| Feb-21 | 93440 |
| Mar-21 | 25940 |
| Apr-21 | 11320 |
| May-21 | 400 |
| Total | 131100 |



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Table-B

| Meter#0000013186 | A | B | C=B-A | D | E=CxD |
|------------------|--------|--------|------------|----|---------------------|
| Month | Dec-20 | May-21 | Difference | MF | Units to be charged |
| Reading | 1 | 5392 | 5391 | 20 | 107,820 |

Table-C

Net units to be credited = Total units already charged – Total units to be debited


$$= 131,100 - 107,820 = 23,280 \text{ units}$$


4.4 The billing account of the Respondent may be overhauled after making the adjustment of payments and affording credit of 23,280 units in future bills.

5. The impugned decision is modified in the above terms.

On leave
Abid Hussain
Member/Advisor (CAD)

Dated: 09-10-2024


Naweed Illahi Sheikh
Convener/DG (CAD)


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

