



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

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No. NEPRA/Appeal/050/2022/ 1013


December 03, 2024

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| 1. Amjad Hussain,
S/o. Muhammad Yousaf,
R/o. Village Kotli Pir Ahmad Shah,
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,
Shaheen Abad Sub Division,
Near DC Colony Grid Station,
Gujranwala | 6. POI/Electric Inspector,
Gujranwala Region,
Energy Department, Govt. of Punjab,
Munir Chowk, Near Kacheri Road,
Gujranwala |

Subject: **Appeal No.050/2022 (GEPCO Vs. Amjad Hussain) Against the Decision Dated 24.03.2021 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 03.12.2024 (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 of the Appellate Board on the NEPRA website



National Electric Power Regulatory Authority

Before The Appellate Board

In the matter of

Appeal No.050/POI-2022

Gujranwala Electric Power Company Limited

.....Appellant

Versus

Amjad Hussain S/o. Muhammad Yousaf,
R/o. Village Kotli Pir Ahmed Shah, 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
Mr. Muazzam Ali Addl. XEN

For the Respondent:

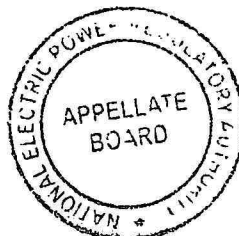
Mr. Muhammad Jalil Kamboh Advocate

DECISION

1. As per the facts of the case, Muhammad Afzal (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.24-12214-0213102-U having sanctioned load of 38 kW and the applicable tariff category is B-1(b). The display of the billing meter of the Respondent became defective, hence it was replaced with a new meter by the Appellant on 19.10.2020 and sent to M&T laboratory for checking. As per M&T checking dated 19.10.2020 of the Appellant, the impugned meter was found the dead stop with a vanished display, therefore, a detection bill of Rs.579,985/- against 24,766 units for three (03) months i.e. July 2020 to September 2020 was debited to the Respondent based on consumption of October 2020 and added to the bill for February 2021.
2. Being aggrieved, the Respondent filed a complaint before the Provincial Office of Inspection, Gujranwala Region, Gujranwala (hereinafter referred to as the "POI") on 24.03.2021 and

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challenged the above detection bill. The complaint of the Respondent was disposed of by the POI vide decision dated 29.12.2021, wherein the detection bill of Rs.579,985/- against 24,766 units for three (03) months i.e. July 2020 to September 2020 was cancelled and the Appellant was directed to revise the bill of September 2020 for 2,011 units after excluding already billed 155 units. The Appellant was further to overhaul the billing account of the Respondent, accordingly.

3. Being dissatisfied, the Appellant has filed the instant appeal before NEPRA and assailed the decision dated 29.12.2021 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.579,985/- against 24,766 units for three (03) months i.e. July 2020 to September 2020 as null and void; that the POI miserably failed to analyze the consumption data in true perspective; that the POI has failed to decide the matter within 90 days as given in Section 26(6) of the Electricity Act 1910; 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.

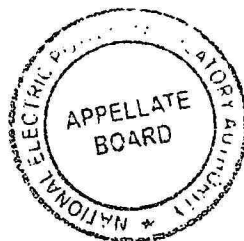
4. Notice dated 26.04.2022 of the appeal was issued to the Respondent for filing reply/para-wise comment, which however were not filed.

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 the billing meter of the Respondent was found defective with vanished display and it was replaced with a new meter by the Appellant in October 2020, therefore a detection bill of Rs.579,985/- against 24,766 units for three (03) months i.e. July 2020 to September 2020 was debited to the Respondent on the basis of the healthy consumption of new meter recorded in October 2020. 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 Learned counsel for the Respondent rebutted the version of the Appellant regarding the charging of the impugned detection bill and argued that the Appellant violated the provision

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of the CSM-2020 while charging the impugned detection bill. Learned counsel for the Respondent submitted that the Appellant is bound to download data in case of vanished display, which however was not done in the instant case. Finally, learned counsel for the Respondent agreed to revise the bill for the disputed months on the DEF-EST code.

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 24.03.2021 under Section 38 of the NEPRA Act. POI pronounced its decision on 29.12.2021 i.e. after 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 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:

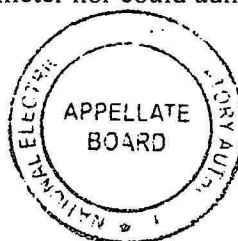
As regards another objection of the Appellant for not issuing notice as per the Electricity Act, 1910 by the Respondent before filing a complaint to the POI, it is elucidated that the matter was adjudicated by the POI under Section 38 of the NEPRA Act, 1997 and as per procedure laid down in Punjab (Establishment 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.579,985/- against 24,766 units for three (03) months i.e. July 2020 to September 2020:

As per the available record, the billing meter of the Respondent was found defective with the vanished display during checking dated 19.10.2020, therefore a detection bill of Rs.579,985/- against 24,766 units for three (03) months i.e. July 2020 to September 2020 was debited to the Respondent on the basis connected load.

6.4 According to Clause 4.3.2 of the CSM-2020, the Appellant is bound to replace the meter within two billing cycles, if new meters are not available and the data of the removed meter be retrieved within three billing cycles but in the instant case, the Appellant neither downloaded the data of the impugned meter nor could adhere the procedure for charging the

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bills in case of defective meter with vanished display. In the instant case, the impugned detection bill was debited for three months and the basis of the said detection bill was made on healthy consumption of October 2020, which is utter violation of Clause 4.3.2(b) of the CSM-2020. The Appellant even failed to produce the impugned meter before the POI for verification of slowness.

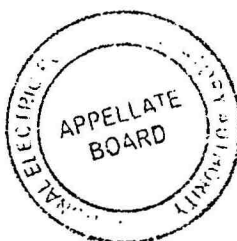
6.5 To further check the authenticity of the above detection bill, the consumption of the Respondent for the disputed period is compared below with the corresponding consumption of the previous year as well as the consumption of the last eleven undisputed months:

Undisputed		Disputed period		Disputed period	
Month	Units	Month	Units	Month	Units
Jul-19	1155	Jul-20	1196	Aug-19	721
Aug-19	721	Aug-20	1069	Sep-19	2011
Sep-19	2011	Sep-20	155	Oct-19	1741
				Nov-19	1420
				Dec-19	1475
				Jan-20	1144
				Feb-20	1283
				Mar-20	955
				Apr-20	167
				May-20	95
				Jun-20	269
Average	1296	Average	807	Average	1026
Detection bill @ 9062 units per month					

The above consumption data shows that the normal average consumption of the disputed period is much less than the normal average consumption of corresponding months of the preceding year as well average consumption of the last eleven months, which indicates that the impugned meter could not record actual consumption due to defectiveness. However, the detection bill charged @ 9,062 units per month has never been recorded in the undisputed period before the dispute. As such the detection bill of Rs.579,985/- against 24,766 units for three (03) months i.e. July 2020 to September 2020 charged by the Appellant to the Respondent is violative of the ibid clause of the CSM-2020 and the same is cancelled, which is also the determination of the POI.

6.6 It is further observed that higher consumption was recorded during the months i.e. July 2020 and August 2020 as compared to consumption of the corresponding month of the previous year or average consumption of the last eleven months. As such the determination of POI for

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revision of the bills for September 2020 on the DEF-EST code is correct being consistent with Clause 4.3.2 of the CSM-2020 and maintained to this extent.

7. Foregoing in view, the appeal is dismissed.

Abid Hussain
Member/Advisor (CAD)

Dated: 03-12-2024

Naweed Illahi Sheikh
Convener/DG (CAD)

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

