



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

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No. NEPRA/Appeal/038/2023/740

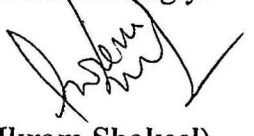
September 19, 2024

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| 1. Sh. Asif Hussain,
S/o. Muzaffar Hussain,
Ferozwala Road, 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,
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.038/2023 (GEPCO VS. Sh. Asif Hussain) Against the Decision Dated 27.01.2023 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 19.09.2024 (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.038/POI-2023

Gujranwala Electric Power Company Limited

.....Appellant

Versus

Sh. Asif Hussain S/o. Muzaffar Hussain,
Ferozwala Road, 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

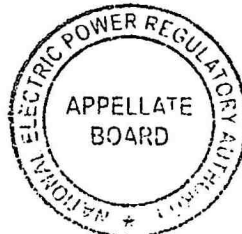
For the Respondent:

Mr. Muhammad Jalil Kamboh Advocate

DECISION

1. As per the facts of the case, Sh. Asif Hussain (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.28-12126-0627500-U having sanctioned load of 80 kW and the applicable tariff category is B-2(b). During M&T checking dated 01.03.2022 of the Appellant, the billing meter was found 33% slow due to yellow phase being dead, therefore, MI was raised from 20 to 30 w.e.f February 2022 and onwards till the replacement of the impugned meter in November 2022. Meanwhile, a detection bill of Rs.2,096,303/- for total (OP=68,910+P=13,800) units for the period from July 2021 to January 2022 (7 months) was charged to the Respondent @ 33% slowness of the meter.
2. Being aggrieved, the Respondent filed a complaint before the Provincial Office of Inspection, Gujranwala Region, Gujranwala (hereinafter referred to as the “POI”) on 27.05.2022 and challenged the above detection bill. The complaint of the Respondent was disposed of by the POI vide decision dated 27.01.2023, wherein the detection bill of

Appeal No.038/POI-2023



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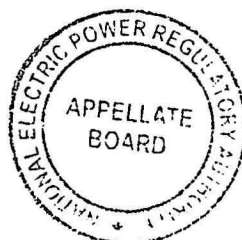
Rs.2,096,303/- for total (OP=68,910+P=13,800) units for the period from July 2021 to January 2022 (7 months) along with 24 kW MDI was cancelled.

3. Being dissatisfied, the Appellant has filed the instant appeal before NEPRA and assailed the decision dated 27.01.2023 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 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 14.04.2023 of the appeal was issued to the Respondent for filing reply/para-wise comment, which were filed on 29.02.2024. In the reply, the Respondent rebutted the version of the Appellant regarding charging the impugned detection bill and contended that the POI after correct perusal of the record, rightly revised the impugned detection bills as per Clause 4.3.3c(ii) of the CSM-2021. The Respondent supported the impugned decision and prayed for the dismissal of the appeal being barred by time.

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 01.03.2022, therefore, the detection bill of Rs.2,096,303/- for total (OP=68,910+P=13,800) units for the period from July 2021 to January 2022 (7 months) 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. As per learned counsel for the Appellant, the honorable Supreme Court of Pakistan vide order dated 17.05.2023 in the C.P. No. 691/2020 remanded back the similar nature of the dispute to NEPRA for determination of the period of slowness/defectiveness afresh. According to learned counsel for the Appellant, the Appellate Tribunal (NEPRA) vide order dated 12.12.2023 even remanded back the similar nature of disputes to NEPRA, which are to be decided after revisiting Clause 4.3.3c(ii) of the

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CSM-2021. 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 Limitation for filing the appeal before the NEPRA:

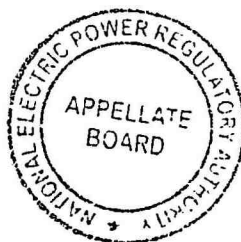
According to Section 38(3) of the NEPRA Act, any aggrieved party may prefer an appeal before the NEPRA within 30 days from the date of receipt of the decision of the Provincial Office of Inspection. Further, a margin of 7 days is provided in case of submission through registered post, and 3 days in case of submission of appeal through courier is given in the NEPRA (Procedure for filing Appeals) Regulations, 2012. The Appellant produced a copy of the impugned decision received from the office of POI on 02.03.2023. Counting 30 days from the date of said receiving, the appeal filed on 28.03.2023 before the NEPRA is within the time limit as prescribed in the above-referred Regulation of NEPRA (Procedure for filing Appeals) Regulations, 2012, hence the objection of the Respondent in this regard has no force and is rejected.

6.2 Objection regarding the time limit for POI to decide the complaint:

As per the record, the Respondent filed his complaint before the POI on 27.05.2022 under Section 38 of the NEPRA Act. POI pronounced its decision on 27.01.2023 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.

6.3 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





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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 Detection bill of Rs.2,096,303/- for total (OP=68,910+P=13,800) units for the period from July 2021 to January 2022:

As per the available record, one phase of the billing meter of the Respondent was found defective during checking dated 01.03.2022, therefore, MF was raised from 20 to 30 w.e.f February 2022 and onwards and a detection bill amounting to Rs.2,096,303/- for total (OP= 68,910+P=13,800) units for the period from July 2021 to January 2022 was debited to the Respondent.

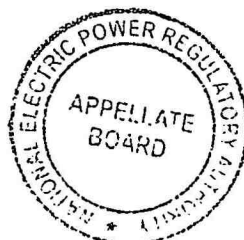
6.5 During the hearing, the Appellant pointed out that the honorable Supreme Court of Pakistan vide order dated 17.05.2023 remanded back the matter to NEPRA to revisit clause 4.4(e) of the CSM-2010 (existing clause 4.3.3 of the CSM-2021), hence the decision in the subject appeal be rendered after redetermination of the period of slowness by the Authority.

6.6 It is clarified that after detailed deliberation with the stakeholders i.e. distribution companies and consumers, the Authority vide order dated 13.06.2024 retained the period of supplementary/detection bill for two billing cycles in case of the slowness of the metering equipment/defective CTs as mentioned in clause 4.4(e) of CSM- 2010 (existing clause 4.3.3 of CSM-2021), the operative portion of which is reproduced below:

"For the reasons stated above, we reject the proposal of the distribution companies and retain the period of the supplementary bills for two (02) billing cycles in the case of the slowness of the metering installation/defective CTs as mentioned in clause 4.4(e) of CSM-2010 (existing clause 4.3 of CSM-2021). In a vigilant system, slowness of the metering installation should be detected timely, hence the distribution companies must bring efficiency in their working and replace the slow meters/defective CTs within the stipulated period as provided in clause 4.3 of the CSM-2021 in true letter and spirit. The distribution companies should ensure the charging of supplementary bills maximum for two billing cycles. If in the cases where the slowness of the metering installation is not pointed out timely and the metering installation is not replaced within maximum period of two (02) billing cycles, the competent authority of the relevant distribution company shall take disciplinary action against the concerned officials and fix the responsibility for negligence in such cases."

6.7 In the light of the foregoing order of the Authority, we are of the considered view that the charging of the detection bill beyond two billing cycles is inconsistent with the foregoing

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Clause of the CSM-2021, therefore the detection bill of Rs.2,096,303/- for total (OP=68,910 + P 13,800) units for the period from July 2021 to January 2022 is cancelled being contrary to the provisions of the CSM-2021.

- 6.8 The Respondent may be charged the detection bill for two months i.e. December 2021 and January 2022 due to 33% slowness of the meter. The impugned decision is liable to be modified to this extent.
- 6.9 Similarly, the bills already charged with enhanced MF=30 w.e.f February 2022 and onwards till the replacement of the meter are justified as being consistent with Clause 4.3.3c(ii) of the CSM-2021
7. In view of what has been stated above, we reached the conclusion that the detection bill of Rs.2,096,303/- for total (OP=68,910+P=13,800) units for the period from July 2021 to January 2022 is cancelled, which is also the determination of the POI. The Respondent may be charged the revised bills for December 2021 and January 2022 @ 33% slowness of the meter as per Clause 4.3.3c(ii) of the CSM-2021 and further bills with enhanced MF=30 w.e.f February 2022 and onwards are justified and payable by the Respondent. 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: 19-09-2024


Naweed Illahi Sheikh
Convener/DG (CAD)


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

