



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

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No. NEPRA/Appeal/027/2018/ *196*

March 03, 2025

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| 1. Ch. Muhammad Yousaf,
S/o. Ch. Muhammad Siddique,
Sohail Rice Mills, Kachoke Road,
Kamoke, District Gujranwala
Cell No. 0300-8740498 | 2. Chief Executive Officer,
GEPCO Ltd, 565-A,
Model Town, G. T. Road,
Gujranwala |
| 3. Muhammad Siddique Malik,
Advocate High Court,
Room No. 6, 2 nd Floor, Imtiaz Plaza,
85-The Mall, Lahore
Cell No. 0300-6450979 | 4. Executive Engineer,
GEPCO Ltd,
Kamoke Division, Kamoke,
District Gujranwala |
| 5. Sub Divisional Officer (Operation),
GEPCO Ltd,
Sub Division No. 2,
Kamoke, District Gujranwala
Cell No.0318-3992142 | 6. POI/Electric Inspector,
Gujranwala Region,
Energy Department, Govt. of Punjab,
Munir Chowk, Near Kacheri Road,
Gujranwala |

Subject: **Appeal No.027/2018 (GEPCO Vs. Ch. Muhammad Yousaf) Against the Decision Dated 27.09.2017 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 03.03.2025 (07 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 Appellate Board

In the matter of

Appeal No. 027/POI-2018

Gujranwala Electric Power Company Limited

..... Appellant

Versus

Ch. Muhammad Yousaf, S/o Ch. Muhammad Siddique,
Sohail Rice Mills, Kochoke Road, Kamoke 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. Muhammad Siddique Malik Advocate
Mr. Umair Zaheer SDO

For the Respondent:

Nemo

DECISION

1. Brief facts of the case are that Ch. Muhammad Yousaf (hereinafter referred to as the "Respondent" is an industrial consumer of Gujranwala Electric Power Company Limited (hereinafter referred to as the "Appellant") bearing reference No. 28-12142-1660800 with a sanctioned load 159 kW under B-2b tariff category. Impugned meter of the Respondent was checked by the M&T team of the Appellant on 17.08.2016 and reportedly it was found 33.33% slow due to the dead yellow phase. Resultantly, a detection bill of Rs.268,039/- for 12,398 (OP= 11,198+P= 1200) units + 149 kW MDI for the period from April 2016 to July 2016 for four (04) months and low power factor (LPF) penalty of Rs.116,688/- were charged by the Appellant in November 2016. The Multiplication Factor (MF) of the Respondent was raised from 80 to 120 w.e.f August 2016 onwards due to 33.33% slowness of the meter.
2. Being aggrieved with the above bills, the Respondent filed a complaint before the Provincial





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Office of Inspection, Gujranwala Region, Gujranwala (the "POI") on 20.12.2016. During joint checking of the POI on 30.03.2017, 33.33 % slowness in the impugned meter was established. The POI disposed of the complaint of the Respondent vide its decision dated 27.09.2017 and concluded as under:

"For the reasons what have been discussed above, it is held that the impugned meter was correct till 05/2016 and it became 33.33% slow with effect from 06/2016 to onward till its replacement whereas the impugned detection bill charged as Rs.268,039/- charged from 04/2016 to 07/2016 and LPF penalty of Rs.116,688/- charged on alleged 0.12 power factor are void, unjustified and of no legal effect; therefore, the petitioner is not liable to pay the same. The Respondents are directed to withdraw the impugned detection bill and LPF penalty and charge revised billing on the basis of 33.33% slowness with effect from 06/2016 onward and power factor as 0.83 for 11/2016. The Respondents are directed to overhaul the account of the petitioner".

3. Being dissatisfied with the above-quoted decision (the "impugned decision"), the Appellant filed an appeal bearing No.027/POI-2018 before NEPRA under section 38(3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (the "NEPRA Act"). NEPRA Appellate Board vide decision dated 08.02.2019 dismissed the subject appeal and consequently, the impugned decision of the POI was maintained. Against NEPRA's decision, the Appellant filed a Writ Petition No.70895-2019: GEPCO Vs Ch. Muhammad Yousaf, etc. before the honorable Lahore High Court at Lahore. The honorable Lahore High Court Lahore vide its Judgment dated 22.11.2019 dismissed the Writ Petition and upheld the decision dated 08.02.2019 of the NEPRA. The Order of the honorable High Court is reproduced as under:

"Through this petition, the petitioner has impugned order dated 08.02.2019 passed by Respondent No. 2, National Electric Power Regulatory Authority (NEPRA).

2. It is the case of the Petitioner that both the forums below failed to correctly determine the period of slowness of the meter of Respondent No.1, which was tested by the department as well as the Electric Inspector and found 33.33% slow. Therefore, the order impugned before the Court is liable to be set aside.

3. A bare perusal of the record attached with this petition shows that Respondent No.1 had a billing dispute which was raised before Respondent No.3, which was decided on 27.09.2017. The matter was appealed against by the Petitioner before Respondent No.2 and the appeal was decided on its merits through the impugned order dated 08.02.2019. The record further shows that the Petitioner contested the case before Respondent Nos. 2





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and 3 on its merit and the legal points urged before this Court today. Furthermore, the appellate authority decided the case on its merits after hearing the Petitioner in detail, no ground for interference is called for. This Court in Constitutional jurisdiction does not act as an appellate Court and cannot reappraise the evidence. The Petitioner has not been able to make out any ground of excess of jurisdiction or authority.

4. Under the circumstances, the Petition is dismissed in limine.”

4. The Appellant challenged High Court’s decision by filing a Civil Petition No. 691 of 2020 before the honorable Supreme Court of Pakistan against the judgment dated 22.11.2019 of the honorable Lahore High Court on the grounds, *inter-alia*, whether clause 4.4(e) of the Consumer Service Manual restricting the recovery of two billing cycles is violative of the provisions of section 24 and 26 of the Electricity Act, 1910 since the Act (Electricity Act) overrides the Consumer Service Manual (the “CSM”). After hearing the parties, the honorable Supreme Court of Pakistan vide Order dated 17.05.2023 remanded back the matter to NEPRA with the direction to revisit clause 4.4(e) of CSM-2010 (existing clause 4.3.3 of the CSM-2021) regarding the period of detection bills on account of slowness of the metering equipment in consultation with distribution companies. The operative portion of the said Order of the honorable Supreme Court of Pakistan is reproduced hereunder:

“We have heard the learned counsel for the parties. Considering the technical nature of the dispute, we find it best to first place the matter before NEPRA to re-examine and revisit Clause 4.4 ibid (new version 4.3) after hearing all the DISCOs as well as the Respondent in this case so that the matter can be streamlined internally between NEPRA and the DISCOs. Once this matter is concluded, NEPRA shall also revisit its earlier decision dated 08.02.2019 regarding the detection bill served on Respondent No.1 and decide the matter through a speaking order. While deciding the same, the NEPRA shall not be influenced by the impugned decision of the High Court dated 22.11.2019. All the parties are in agreement with the above process suggested by the Court and have agreed that the matter be first looked at by the NEPRA. This petition is disposed of in the said terms.”

5. Pursuant to the Order dated 17.05.2023 of the honorable Supreme Court of Pakistan, proceedings for the re-determination of the period of slowness of the metering equipment were initiated and in this context, a hearing of the stakeholders (distribution companies) was held on 13-07-2023. After detailed deliberations with the stakeholders, the NEPRA Authority vide order dated 13.06.2024 retained the period of supplementary/detection bill for two billing cycles in case of slowness of the metering equipment/defective CTs as mentioned in clause 4.4(e) of CSM- 2010 (existing



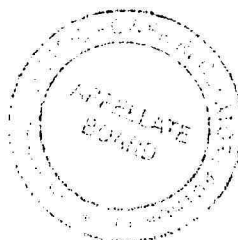
clause 4.3.3 of CSM-2021), the operative portion of which is reproduced below:

"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. Now coming back to the instant Appeal, a hearing in the subject appeal was conducted at NEPRA Regional Office Lahore on 02.11.2024, wherein learned counsel for the Appellant tendered appearance, whereas no one represented the Respondent. Learned counsel for the Appellant contended that the honorable Supreme Court of Pakistan vide order dated 17.05.2023 remanded back the matter to the Authority for re-examination of the period of the slowness of the metering equipment, however, the Authority while rendering the order did not consider the genuine grievance of the DISCOs with regard to applicability of provisions of CSM or the Electricity Act, 1910 in the scenario of slowness of metering equipment. Further, learned counsel for the Appellant averred that since the decision of the Authority dated 13-06-2024 is challenged before the Appellate Tribunal (NEPRA), therefore, the adjudication of this Appeal may be held in abeyance till the final disposal of the case before the Tribunal.

7. Arguments were heard and the record was perused. The following has been observed:

7.1 While addressing the preliminary objection of the Appellant regarding adjourning the proceedings in this Appeal, we are of the view that the honorable Supreme Court of Pakistan vide order dated 17.05.2023 directed NEPRA to adjudicate this Appeal afresh after revisiting the period of slowness provided in clause 4.4 (e) of CSM-2010 (existing clause 4.3.3(c) of CSM-2021). In furtherance, there is no restraining order by the Appellate Tribunal (NEPRA) against the Authority's decision dated 13-06-2024, therefore, there is no need to halt the



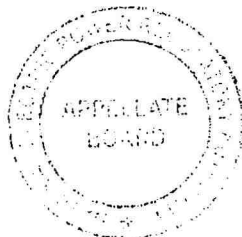


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proceedings in the instant Appeal and hence the objection of the Appellant is rejected.

7.2 Regarding the applicability of provisions of clause 4.4(e) of CSM or sections 24 and 26(6) of the Electricity Act, it is explained that prior to the enactment of the NEPRA Act, “WAPDA Policy for detection bills” dated 26-10-1999 was in field which restricted the distribution companies to charge the period of slowness for two billing cycles in case of slow metering equipment, however, a grace of third month was admissible and subject to the approval of the competent authority. After the promulgation of the NEPRA Act, the distribution licensees were required to establish the procedure for rendering their services to consumers under section 21(2)(d) of the NEPRA Act. The said provision of the NEPRA Act was later elaborated in rule 9 of the NEPRA Licensing (Distribution) Rules, 1999 (the “1999 Rules”) which provided that the distribution licensee shall develop and submit the CSM to the Authority for approval. The said Rule defined the broader parameters upon which the CSM should be built, however, due to the dynamics of distribution and supply operations, rule 9(3) provided an extra cushion to the Authority and distribution companies to accommodate any other instance not enlisted in rule 9 of the 1999 Rules. Consequently, all the distribution companies prepared the CSM-2010 and submitted it before the Authority for approval which took the nod of the Authority on 03.05.2010. In the said CSM and taking strength from rule 9(3), the distribution companies proposed clause 4.4(e) of CSM-2010 which addressed the situation where the metering equipment becomes slow in such cases, the distribution companies are obligated to replace the same within two billing cycles and charge the detection bill maximum for two months only. From the foregoing facts and provisions of law, the author of CSM-2010 is basically distribution companies, and upon their proposal, the Authority has approved it. The distribution companies are now estopped from raising objection at this stage for enhancement of the period from two billing cycles.

7.3 In furtherance to the above, the learned counsel of the Appellant argued that the Electricity Act is still in the field and its provisions (sections 24 and 26(6)) shall prevail over the provisions of the CSM-2010 and since there is no time limit prescribed under the said sections of the Electricity Act, therefore, the distribution companies are at liberty to charge the quantum of detection bill based on period of slowness irrespective of any time restriction. In this regard, we take strength from section 45 of the NEPRA Act which describes the relationship of the NEPRA Act with other laws. It provides that the provisions of the Act, rules, and regulations made and licenses



issued thereunder shall have the effect notwithstanding anything to the contrary contained and any other law. Rules and regulations for the time being in force shall to the extent of any inconsistency, cease to have effect from the date this Act comes into force. Furthermore, the CSM was made pursuant to section 21 of the NEPRA Act; meaning thereby it has the statutory backing and since NEPRA Act was promulgated later in time, therefore, the provisions of the NEPRA Act shall prevail over the provisions of the Electricity Act 1910. In view of the above, the objection of the Appellant is rejected.

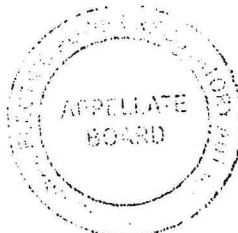
7.4 Facts reveal that 33.33% slowness in the impugned meter was observed by the Appellant on 17.08.2016, which was also confirmed by the POI during joint checking dated 30.03.2017. Now the period of slowness needs to be determined in the below paras:

A		B		C=(A-B)x100/A
Period before dispute		Disputed period		% slowness
Month	Units	Month	Units	
Apr-15	16000	Apr-16	12880	20%
May-15	10080	May-16	6080	40%
Jun-15	9200	Jun-16	3520	62%
Jul-15	7920	Jul-16	2320	71%
Average	10800	Average	6200	43%

As evident from the above table, it is observed that the impugned meter recorded significantly less consumption during the disputed period as compared to the consumption of corresponding months of the previous year. However, this does not tantamount to the Appellant to debit the detection bill to the Respondent without adhering to the procedure as laid down in CSM-2010. The Appellant debited the detection bill for four months i.e. April 2016 to July 2016 @ 33.33% slowness of the meter, which is inconsistent with clause 4.4(e) of CSM- 2010 (existing clause 4.3.3 of CSM-2021). The above-said clause of the CSM restricts the Appellant to recover the detection bill maximum for two months retrospectively in case of slowness of the metering equipment.

7.5 In view of the foregoing discussion, we are of the considered view that the detection bill amounting to Rs. 268,039/- for 12,398 (OP= 11,198+P= 1200) units+149 kW MDI for the period from April 2016 to July 2016 four (04) months charged to the Respondent is unjustified and the same is cancelled as already determined by the POI.

7.6 Similarly, the determination of the POI for revision of the detection bill for two months i.e.





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June 2016 and July 2016 is consistent with clause 4.4(e) of the CSM-2010 and the same is maintained to this extent.

- 7.7 Moreover, the bills already charged with enhanced MF=120 w.e.f August 2016 and onwards till the replacement of the impugned meter are justified being in line with clause 4.4(c) of the CSM-2010 and payable by the Respondent.
8. For the reasons given above, we do not find any reason to alter the impugned decision, the same is maintained and consequently, the appeal is dismissed.

On leave

Abid Hussain
Member/Advisor (CAD)

Naweed Illahi Sheikh
Convener/DG (CAD)

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

Dated: 03-03-2025

