



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

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No. NEPRA/AB/Appeal-191/POI-2017/ 487-488

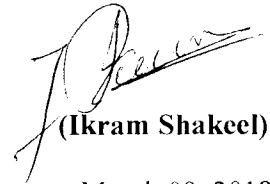
March 09, 2018

- |   |   |
|---|---|
| 1. Syed Sharafat Hussain<br>Power Consultant,<br>Room No. 228, Block-E,<br>PTCL Headquarters, G-8/4,<br>Islamabad | 2. Chief Executive Officer,<br>SEPCO Ltd,<br>SEPCO Headquarters,<br>Old Thermal Power Station,<br>Sukkur                            |
| 3. The Manager Power Plant<br>PTCL Nawabshah,<br>Main Telecom Building,<br>Katchery Ropad, Nawabshah              | 4. Nisar Ahmed Malah<br>Advocate, Nayab Law Associates,<br>Near Judicial Complex,<br>Main Road, Naushahro Feroze                    |
| 5. Executive Engineer (E),<br>SEPCO Ltd,<br>Operation Division,<br>Moro   | 6. Electric Inspector,<br>Sukkur Region,<br>Energy Department, Govt. of Sindh,<br>Irrigation Scarp Colony, Military Road,<br>Sukkur |

Subject: **Appeal Titled SEPCO Ltd Vs. Senior Engineer PTCL Against the Decision Dated 17.08.2016 of the Electric Inspector/POI to Government of the Sindh Sukkur Region, Sukkur**

Please find enclosed herewith the decision of the Appellate Board dated 06.03.2018, regarding the subject matter, for information and necessary action accordingly.

**Encl: As Above**

  
(Ikram Shakeel)

No. NEPRA/AB/Appeal-191/POI-2017/ 487

March 09, 2018

Forwarded for information please.

**Assistant Director  
Appellate Board**

1. Registrar

CC:

1. Member (CA)



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# National Electric Power Regulatory Authority

## Before Appellate Board

In the matter of

### Appeal No. NEPRA/Appeal-191/POI-2017

Sukkur Electric Power Company Limited

.....Appellant

Versus

Manager Power Plant, PTCL Nawabshah, Main  
Telecom Building, Katchery Road, Nawabshah

.....Respondent

#### For the appellant:

Mr. Nisar Mallah Advocate

Mr. Asghar Ali CE (CSD)

Mr. Ali Asghar Sheikh R.O

#### For the respondent:

Mr. Shahid Hussain Manager

## DECISION

1. Through this decision, an appeal filed by Sukkur Electric Power Company Limited (hereinafter referred to as SEPCO) against the decision dated 17.08.2016 of Provincial Office of Inspection, Sukkur Region, Sukkur (hereinafter referred to as POI) is being disposed of.
2. SEPCO is a licensee of National Electric Power Regulatory Authority (hereinafter referred to as NEPRA) for distribution of electricity in the territory specified as per terms and conditions of the license and the respondent is its commercial consumer



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bearing Ref No. 24-338341-0000051 having a sanctioned load of 113 kW under A-2 (b) tariff. As per fact of the case, the billing meter of the respondent was checked by metering and testing (M&T) SEPCO on 18.08.2014 and reportedly it was found 59% slow. New check meter was installed in series with the disputed billing meter of the respondent by SEPCO on 03.02.2015 and reportedly the disputed billing meter was found 65.87% slow in comparison with the new check meter reading on 10.03.2015. A detection bill amounting to Rs.3,437,319/- for 148,143 units for the period April 2014 to March 2015 (12 months) was charged to the respondent by SEPCO and added in the bill for May 2015 on account of 65.87 % slowness of the meter, which was paid by the respondent accordingly.

3. The respondent subsequently filed an application before NEPRA on 22.05.2015 and challenged the aforesaid detection bill. NEPRA vide its letter No. TCD-11/6208/2015 referred the matter to POI for further adjudication. POI disposed of the matter vide its decision dated 17.08.2016, the operative portion of which is reproduced below:

*"In the light of forgoing facts discussed above, this authority disposed of the complaint with following decision:- Detection charged on account of 65.87% slowness of billing meter, for period of twelve months calculated 148143 units may be revised to the extent of two months, amount Rs.3,437,319/- already deposited against detection charges, may be adjusted accordingly and further amount credited towards the consumer account for adjustment against future billing. A new TOU calibrated meter be installed in place of defective meter as well as check meter, without any further charging, as the cost of meter has already been deposited by the complainant, besides the complainant has reservations over the installed check meter, reportedly declared as billing meter. As far as change of tariff is concerned, it*

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*is evident from the bill of month of May 2015 that the change of tariff has been implemented as the complainant is being charged under A-2C. Case decided in above terms stand dispose of from this office."*

4. Being dissatisfied with the decision of POI dated 17.08.2016 (hereinafter referred to as the impugned decision), SEPCO has filed the instant appeal along with the application for condonation of delay on 26.10.2017 under Section 38(3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (hereinafter referred to as NEPRA Act 1997). In its appeal, SEPCO raised the preliminary objection on the maintainability of the impugned decision on the grounds that the Electric Inspector has no jurisdiction to entertain the matter pertaining to billing, metering and collection of tariff and also failed to decide the matter within 90 days as envisaged under Section 26 (6) of Electricity Act, 1910. On merits, SEPCO stated that the billing meter of the respondent was checked by M&T SEPCO on 03.02.2015 and it was found 65.87 % slow. As per SEPCO, a detection bill amounting to Rs.3,437,319/- for 148,143 units for the period April 2014 to March 2015 was charged to the respondent in order to recover the revenue loss sustained due to said slowness of the meter, which was paid by the respondent without any protest.
5. Notice of the appeal was issued to the respondent for filing reply/parawise comments which were filed by the respondent on 24.01.2018. In his reply, the respondent contended that 65.87 % slowness of the meter was observed by M&T SEPCO but no test check result was provided. The respondent further contended that the detection bill of Rs.3,437,319/- for 148,143 units for the period April 2014 to March 2015 was charged by SEPCO in violation of clause 4.4(e) of Consumer Service Manual (CSM).

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As per respondent, he initially approached SEPCO for the correction of the aforesaid detection bill but SEPCO failed to do so, therefore he agitated the matter before POI. The respondent pointed out that the appeal against the impugned decision was not filed before NEPRA within the stipulated time period as the copy of the same was sent to XEN Moro division, SEPCO on 22.08.2016 for its implementation but due to nil response, he subsequently approached Chief Commercial Officer SEPCO Sukkur on 20.10.2016 with similar request to Manager Commercial SEPCO and XEN Moro division, SEPCO. The respondent further explained that a complaint was filed before NEPRA on 20.02.2017 but the adjustment was not provided by SEPCO as yet. The respondent prayed for rejection of the application for condonation of delay on the plea that SEPCO failed to justify the condonation of delay.

6. Hearing of the appeal was fixed for 24.02.2018 at Sukkur and notice thereof was served upon both the parties. On the date of hearing, Mr. Nisar Mallah advocate along with SEPCO officials appeared for the appellant SEPCO and Mr. Shahid Hussain manager represented the respondent. Learned counsel for SEPCO contended that the Electric Inspector decided the matter after expiry of 90 days, therefore the impugned decision is liable to be declared as null and void under section 26( 6) of Electricity Act, 1910. Learned counsel for SEPCO further pleaded that it was established that meter of the respondent remained 65.87% slow for 12 months as is evident from the consumption data, therefore the detection bill of Rs.3,437,319/- for 148,143 units for the period April 2014 to March 2015 was charged to the respondent by SEPCO and accordingly paid by the respondent without any protest. In support of his contention.

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learned counsel for SEPCO submitted the consumption data of the respondent. On the contrary, the representative for the respondent rebutted the argument of SEPCO and contended that SEPCO malafidely charged the detection bill for twelve months instead of two months on account of 65.87% slowness of the meter, which is violative of CSM. The representative for the respondent contended that POI has rightly declared the aforesaid detection bill as null and void and revision of the same for two months only, the impugned decision however was not implemented so far. As per representative for the respondent, the appeal filed against the impugned decision is barred by time and the same is liable to be rejected.

7. We have heard the argument and examined the record placed before us. Following are our observations:

- i. It is observed that the impugned decision was announced by POI on 17.08.2016 and the appeal against the same was filed before NEPRA on 26.10.2017 after lapse of 435 days. No sufficient reasons have been given by SEPCO for the condonation of the delay. Hence the appeal before NEPRA has been filed after time limit as prescribed under Section 38 (3) of NEPRA Act 1997.
- ii. The instant matter is a metering, billing and collection of tariff dispute and POI has the jurisdiction to adjudicate the same under section 38 of NEPR Act, 1997. hence the objection of SEPCO in this regard is rejected.

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- iii. As regards the preliminary objection of SEPCO regarding lack of jurisdiction of POI due to disposal of complaint after prescribed time limit of 90 days under section 26 (6) of Electricity Act 1910, it may be explained that the period of 90 days is provided in Electricity Act, 1910 which is not relevant for the offices of Provincial Offices of Inspection (POI) established under section 38 of NEPRA Act, 1997. NEPRA is the appellate Authority against the decisions of POI and not that of Electric Inspectors. It has already been held by Honorable Lahore High Court in judgments cited as PLJ 2017-Lahore-627 and PLJ-2017-Lahore-309 that impugned order was passed by POI under section 38 of NEPRA Act, 1997 and not by Electric Inspector under Electricity Act, 1910, therefore the outer time limit of 90 days is not applicable.
- iv. Regarding merits of the case, billing meter of the respondent was checked by M&T SEPCO on 18.08.2014 and 03.02.2015 and on both the occasions, it was found 59% slow and 65.87% slow respectively, therefore the detection bill of Rs.3,437,319/- for 148,143 units for the period April 2014 to March 2015 (12 months) was charged to the respondent by SEPCO in May 2015 on account of said slowness, which was agitated by him before NEPRA on 22.05.2015 and said case was referred to POI for further adjudication.
- v. Charging the aforesaid detection bill for twelve months to the respondent due to slowness of the meter is not in line with chapter 4 of CSM, which allows charging maximum for two billing cycles. Besides no discrepancy whatsoever was pointed





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out by SEPCO during its monthly reading prior to the M& T checking dated 18.08.2014. Hence POI has rightly determined in the impugned decision that the detection bill of Rs.3,437,319/- for 148,143 units for the period April 2014 to March 2015 charged to the respondent by SEPCO has no justification.

vi. Pursuant to clause 4.4(e) of CSM, the respondent is obligated to pay the detection bill for two months only as already determined in the impugned decision.

8. From what has been discussed above, the appellant failed to point out any illegality in the impugned decision which is upheld and consequently the appeal is dismissed.

Muhammad Qamar-uz-Zaman  
Member

Nadir Ali Khoso  
Convener

Muhammad Shafique  
Member

Dated: 06.03.2018