



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

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No. NEPRA/AB/Appeal-002/POI-2015/ 416 — 419

May 08, 2015

1. Muhammad Akram,
S/o Barkat Ali,
R/o Chak No. 612/GB,
Rehmany Shah, Tehsil Tandlianwala,
District Faisalabad
2. The Chief Executive Officer
FESCO Ltd,
Canal Road, Faisalabad
3. Shahzad Ahmed Bajwa
Advocate High Court,
Office No. 429, 4th Executive Floor,
Sadiq Plaz, The Mall,
Lahore
4. SDO/AMO (Op),
FESCO Ltd,
Rehmanay Shah Sub-Divison,
Faisalabad

Subject: Appeal Titled FESCO Vs. Muhammad Akram Against the Decision Dated 10.09.2014 of the Electric Inspector/POI to Government of the Puniab Faisalabad Region, Faisalabad

Please find enclosed herewith the order of the Appellate Board dated 05.05.2015, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(M. Qamar Uz Zaman)

No. NEPRA/AB/Appeal-002/POI-2015/ 420

May 08, 2015


Forwarded for information please.


Member Appellate Board

1. Registrar
2. Director (CAD)
3. Electric Inspector/POI, Faisalabad Region
4. Master File

CC:

1. Chairman
2. Vice Chairman/Member (CA)
3. Member (Tariff)
4. Member (M&E)/Licensing


TA

Registrar	5/84
Dy No.....
Dated.....	11-05-15



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal 002/POI-2015

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Mr. Muhammad Akram S/o Barkat Ali R/o Chak No.612/GB, Rehmay Shah Tehsil Tandlianwala,
District, Faisalabad.

.....Respondent

Date of Hearing:

10/04/2015

For the appellant:

Shehzad Ahmed Bajwa Advocate

For the respondent:

Nemo

ORDER

1. This order shall dispose of an appeal filed by Faisalabad Electric Supply Company Limited (hereinafter referred to as FESCO) against the decision dated 10.09.2014 of the Provincial Office of Inspection/Electric Inspector Faisalabad Region, Faisalabad (hereinafter referred to as POI) under Section 38(3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (hereinafter referred to as "the Act").
2. Brief facts giving rise to the instant appeal are that FESCO 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 distribution license and the respondent is its agricultural consumer bearing Ref No. 29-13235-1764400 with a sanctioned load of 14.92kW under tariff D-1b.



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3. The respondent being aggrieved with the detection bill issued by FESCO amounting to Rs. 56,653/- for the period November 2012 to December 2012 filed an application dated 06.03.2013 before POI and challenged the detection bill.
4. The complaint was decided by POI vide its decision dated 10.09.2014 and the operative portion of the decision is reproduced below:

"Summing up the aforesaid discussion, it is held that:-

- (i) *Arrears amounting to Rs.116,021/- added in the billing month of 08/2013 and the current electricity bill amounting to Rs.79,082/- for the month of 08/2013 is held as null, void and illegal and the petitioner is not liable to pay the same.*
 - (ii) *FESCO Authority is directed to charge the petitioner proportionately @ 4325 KWh/19 KW for the period of 18-03-2013 (installation of check meter vide SJO No.067620 dated 18-03-2013 to the installation of new meter vide MCO No.56/49 dated 07/10/2013.*
 - (iii) *FESCO Authority is also directed to refund all excessively charged amounts to petitioner and overhaul the account of the petitioner accordingly."*
5. Being aggrieved with the above decision dated 10.09.2014 of POI, FESCO has filed the instant appeal through Shehzad Ahmed Bajwa Advocate before NEPRA under section 38 (3) of the Act with the following prayer:

"Under the above mentioned facts, circumstances and grounds, it is, therefore, most humbly prayed that this appeal may kindly be accepted and the impugned order dated: 10.09.2014 passed by Mr.Engr.Tariq Masood, Provincial Office of Inspections/Electric Inspector, Faisalabad Region, Faisalabad may graciously be set-aside.

It is further prayed that till the final disposal of this appeal, the operation of the impugned order dated: 10.09.2014 passed by Mr.Engr.Tariq Masood, Provincial Office of Inspections/Electric Inspector, Faisalabad Region, Faisalabad may kindly be suspended.

Any other appropriate relief which this Honourable Court deems fit and proper in the circumstances of the case may also be awarded."



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6. The respondent was issued notice for filing reply/parawise comments, which were not submitted.
7. After issuing notice to both the parties, the appeal was heard in Lahore on 10.04.2015, in which Shehzad Ahmed Bajwa Advocate appeared for FESCO and there was no representation for the respondent. As the point of limitation was noticed therefore, it will be in all fairness to discuss, dilate and decide the matter on this point in the very first instance. Shehzad Ahmed Bajwa Advocate, the counsel for FESCO stated that the delay in filing of the appeal was neither intentional nor willful or deliberate but the same occurred due to the reason that the impugned decision came in its knowledge on 24.09.2014. The counsel for FESCO further submitted that, FESCO was under the impression that the time limit for filing the appeal was 90 days. He requested that the delay in the filling of the appeal be condoned and the matter be decided on merit. He pointed out that otherwise FESCO shall suffer irreparable loss. It has been observed from the record that the impugned decision by POI was announced on 10.09.2014 and it came into the knowledge of FESCO on 24.09.2014. Application for certified copy was made and the copy was received by FESCO on 28.11.2014 and the appeal was filed on 02.01.2015. It is therefore established without any reasonable doubt that FESCO has filed the appeal after the time limit as prescribed in the law and the same is therefore liable to be dismissed being time barred.
8. Furthermore it would be beneficial to consider relevant provisions of limitation as provided in Section 38 (3) of the Act, Regulation 3 of the NEPRA (Procedure for filing appeals) Regulations, 2012 and section 9 of Punjab (Establishment and Powers of Office of Inspection) Order, 2005. Said provisions are reproduced hereunder for sake of convenience:

- **The Act:**

- **38 (3). Provincial offices of inspection.**

Any person aggrieved by any decision or order of the Provincial Office of Inspection may, within thirty days of the receipt of the order, prefer an appeal to the Authority in the prescribed manner and the Authority shall decided such appeal within sixty days

- **Procedure for filing appeals:**

3. Filing of appeal.- (1) Any person aggrieved by any decision or order of the single Member of the Authority or Tribunal constituted under section 11 of the Act or from a decision given by the Provincial office of Inspection may, within 30 days of the order or decision file an appeal before the Authority.



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• **Punjab (Establishment and Powers of Office of Inspection) Order, 2005:**

9 Final Order.— (1) Not later than 120 days of the filing of the complaint, the Office of Inspection shall issue its final order. In case of delay, reasons shall be recorded in writing for such delay. Final order shall be comprehensive in all respects containing the violations made and penalties imposed thereon.

(2). A certified copy of the final order or any other document on file shall be supplied to the party on an application, duly affixed with stamps at the rate notified by Government from time to time.

9. From bare perusal of above referred provisions it can be safely suggested that the appeal could be filed within 30 days of the announcement of the impugned decision. It has been observed that the impugned decision was announced by the POI on 10.09.2014 and the appeal was filed with NEPRA on 02.01.2015 i.e. after 113 days of its announcement by POI. Evidently FESCO failed to file the appeal within the time limit of 30 days as prescribed under section 38 of the Act. As a matter of fact FESCO is required to explain and justify each day of the delay in filing the appeal after the decision was pronounced on 10.09.2014 but FESCO failed to do so. Therefore it is concluded that the appeal is time barred and the same is dismissed accordingly.

Muhammad Qamar-uz-Zaman
Member

Nadir Ali Khoso
Convener

Muhammad Shafique
Member

Date: 05.05.2015

