



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

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No. NEPRA/AB/Appeal-013/POI-2015/ 523-526

May 28, 2015

1. Muhammad Khalid,
S/o Miraj Din,
R/o Street No. 09, Munirabad,
Faisalabad
2. The Chief Executive Officer
FESCO Ltd,
Canal Road,
Faisalabad
3. Mehar Shahid Mehmood
Advocate High Court,
Office No. 25, 3rd Floor,
Ali Plaza, 3-Mozang Road,
Lahore
4. SDO/AMO (Op),
FESCO Ltd,
Razabad Sub Division,
Faisalabad

Subject: Appeal Titled FESCO Vs. Muhammad Khalid Against the Decision Dated 21.08.2014 of the Electric Inspector/POI to Government of the Punjab Faisalabad Region, Faisalabad

Please find enclosed herewith the order of the Appellate Board dated 28.05.2015, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(M. Qamar Uz Zaman)

No. NEPRA/AB/Appeal-013/POI-2015/ 527

May 28, 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)
5. Member (Licensing)

Registrar	5947
Dy No.....
Dated.....	01-06-15



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal 013/POI-2015

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Muhammad Khalid, S/o Miraj Din, R/o Street No.9, Munirabad, Faisalabad.

.....Respondent

Date of Hearing:

18/05/2015

For the appellant:

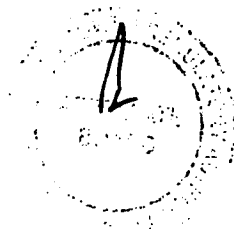
Mehar Shahid Mehmood Advocate
Wajid-ur-Rehman S.D.O
M.Rehan Baig ALM

For the respondent:

Nemo

ORDER

1. Through this order, an appeal filed by Faisalabad Electric Supply Company Limited (hereinafter referred to as FESCO) against the decision dated 21.08.2014 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") is being disposed of.
2. As per facts of the case, 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





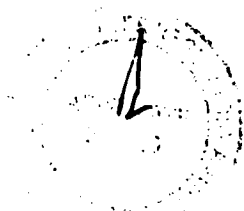
National Electric Power Regulatory Authority

domestic consumer bearing Ref No. 10-13224-0641000 with a sanctioned load of 3kW under tariff A-1.

3. FESCO issued a detection bill amounting to Rs. 12,672/- of 952 units to the respondent for the period May 2013 to June 2013 which was challenged before the Provincial Office of Inspection (POI). After adjudication, said complaint was decided by the POI in the following terms:-

"Summing up the aforesaid discussion, it is held that the Detection bill amounting to Rs.12672/- for 952 units for the period of 05.2013 to 06/2013 charged on the basis of defectiveness of the meter in the billing month of 11/2013 is held as null, void and illegal and the petitioner is not liable to pay the same. FESCO Authority is directed to charge the petitioner corresponding month consumption of 210 units and 214 for disputed period 05/2013 and 06/2013 respectively. FESCO concerned Authority is also directed to over haul the account of the consumer/ petitioner accordingly."

4. Being aggrieved with the above decision dated 21.08.2014 of POI, FESCO has filed the instant appeal through Mehar Shahid Mehmood Advocate before NEPRA under section 38 (3) of the Act while alleging inter-alia that the impugned decision is illegal, unlawful, void without jurisdiction misconceived, self contradictory, based on mere assertion of the respondent and the same is liable to be set aside; that the impugned decision is against law and facts of the case and POI did not apply his independent and judicious mind and passed the impugned decision on the basis of illegal assumptions and presumptions.
5. Notices of appeal were issued to the respondent for filing reply/parawise comments, which were not submitted.
6. After issuing notice to both the parties, the appeal was heard in Local Office of NEPRA at Lahore on 18.05.2015, in which the appellant was represented by Mehar Shahid Mehmood Advocate, however, no one appeared on behalf of respondent.





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7. From the facts of the case, it was noticed that prima facie, the appeal is barred by time, therefore, at the very outset, it is felt appropriate to discuss and decide the question of maintainability of the appeal on the ground of limitation. In this regard, it was argued by learned Counsel for the appellant that the impugned decision was announced by POI in the absence of FESCO and the information regarding the impugned decision was received through clerk of the office of POI whereby application for certified copy was given on 03.09.2014 and copy was received on 08.09.2014 and therefore the appeal was filed within the time as provided in the law. He contended that delay if any in filing the appeal was not intentional, deliberate but it was due to insurmountable circumstances which were liable to be condoned under the Limitation Act. He contended that if the appeal was not decided on merit, FESCO would suffer irreparable loss. It has been observed from the record that the impugned decision was announced on 21.08.2014 and the copy thereof was received by FESCO on 08.09.2014 and the appeal was filed on 10.11.2014 before NEPRA.
8. As regards the period of limitation, relevant provisions as provided in Section 38 (3) of the Act and Regulation 3 of the NEPRA (Procedure for filing appeals) Regulations, 2012 may be reproduced hereunder for ready reference:-

- **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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9. From bare perusal of above referred provisions, it is very much clear that the appeal should be filed within 30 days of the receipt of the order. It has been observed that the impugned decision was announced by the POI on 21.08.2014 and the appeal was filed with NEPRA on 10.11.2014 i.e. after 82 days of its announcement by POI. For the purposes of arguments, if it is presumed that the appeal is to be filed within 30 days from receipt of the impugned decision, even then it is an admitted fact that the decision was received by FESCO on 08.09.2014 but the appeal was filed on 10.11.2014. It can safely be concluded that the appeal is not filed within time if the limitation is to be counted from the date of receipt of the copy of order. Evidently FESCO failed to file the appeal within the time limit of 30 days as prescribed under section 38 of the Act. No plausible justification of delay in filing the appeal has been given. 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: 28.05.2015

