



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

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No. NEPRA/AB/Appeal-055/POI-2015/ 992 — 992

October 13, 2015

1. Muhammad Shahzad
S/o Taj Muhammad,
Nashasta Chowk,
Rehmanabad, Ghulam Muhammad Abad,
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. Muhammad Saeed
SDO/AMO (Op),
Ghulam Muhammad Abad Sub Division,
FESCO Ltd,
Faisalabad

Subject: Appeal Titled FESCO Vs. Muhammad Shahzad Against the Decision Dated 01.04.2015 of the Electric Inspector/POI to Government of the Punjab Faisalabad Region, Faisalabad

Please find enclosed herewith the decision of the Appellate Board dated 13.10.2015, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(M. Qamar Uz Zaman)

No. NEPRA/AB/Appeal-055/POI-2015/ 993

October 13, 2015

Forwarded for information please.

M. Q. Zaman
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)

T.A.

Registrar
By No. 10874
Dated 15-10-15



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-055/POI-2015

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Muhammad Shahzad, S/o Taj Muhammad, Nashasta Chowk, Rehmanabad, Ghulam Muhammad
Abad, Faisalabad

.....Respondent

For the appellant:

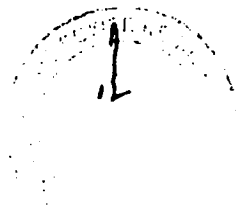
Mehar Shahid Mehmood Advocate

For the respondent:

Nemo

DECISION

1. Brief facts giving rise to the instant appeal are that the appellant (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 license and the respondent is its industrial consumer bearing Ref No. 27-13221-6140400 with a sanctioned load of 15 kW under B-1b tariff. . The meter of the respondent was checked by FESCO and DEF code was allotted in December 2011. Detection bill amounting to Rs. 34,254/- for the months December 2011 to January 2012 was charged to the respondent





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in February 2013 on the basis of average consumption recorded during the month February 2012 to March 2012 (02 months) as the consumption recoded by the DEF code was not accepted by FESCO. The respondent being aggrieved with the said detection bill filed an application before Provincial Office of Inspection Faisalabad Region, Faisalabad (hereinafter referred to as POI) on 19.03.2013 which was decided on 01.04.2015 with the following conclusion:-

"Summing up the aforesaid discussion, it is held that the detection bill amounting to Rs. 34254/- added as arrears in the bill for the month of 02/2013 is held as null, void and illegal and the petitioner is not liable to pay the same. FESCO Authority is directed to refund the excessively charged amount/bill and over haul the account of the petitioner/consumer accordingly."

2. Being aggrieved with the POI decision date 01.04.2015, FESCO has filed the instant appeal under section 38 (3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (hereinafter referred to as he Act). FESCO, inter alia, contended that the impugned decision passed by POI is illegal, unlawful and liable to be set aside.
3. Notice of the appeal was issued to the respondent for filing reply/parawise comments which were not submitted.
4. Hearing of the appeal was fixed for 12.09.2015 at Lahore and notice thereof was served upon both the parties. On the date of hearing, no one entered appearance on behalf of respondent, however Mehar Shahid Mehmood Advocate appeared for the appellant.
5. While perusing the record, it was noticed that the appeal is prima facie barred by time, therefore, learned Counsel for the appellant was required to first assist the Appellate Board on the question of limitation. Learned counsel for FESCO contended that the impugned decision was announced by POI on 01.04.2015 in the absence of FESCO. He stated that after getting knowledge on 30.04.2015 through court clerk of POI, the application was submitted on 30.04.2015 and copy was delivered on 08.05.2015 and the appeal was filed on

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26.05.2015 which is within the time limit as prescribed in the law. The learned counsel for the appellant averred that the matter was not decided by POI in 90 days, therefore the impugned decision given by POI was void and illegal. According to the learned counsel for the appellant no limitation runs against an illegal order. It was observed from the record that the impugned decision was announced by POI on 01.04.2015 and intimation was given to the parties on same day. Application for certified copy was made on 30.04.2015, the copy of decision was delivered on 08.05.2015 and the appeal was filed by FESCO on 28.05.2015 which has obviously been filed after the time limit as prescribed in the law.

6. The relevant provisions of law regarding limitation are referred as under:-

- **Section 38(3) of the Act.**

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 decide such appeal within sixty days

- **Regulation 3 of NEPA (Procedure for filing appeals) regulations, 2012:**

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.*

7. From bare perusal of above referred provisions it can be safely suggested that the appeal should be filed within 30 days of the announcement of the decision. It has been observed that the impugned decision was announced by POI on 01.04.2015 and the appeal was filed with NEPRA on 28.05.2015 i.e. after 56 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 regards the version of learned counsel for the appellant regarding failure of POI in deciding the matter in 90 days, it may be clarified that section 38 of NEPRA Act does not impose any time limit for determination of POI and as such the arguments of



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learned counsel for the appellant in this regard is without any basis. Resultantly, the appeal is dismissed being barred by time.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Date: 13.10.2015

