



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

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No. NEPRA/AB/Appeal-059/POI-2015/892-895

September 08, 2015

1. Ghulam Mohayudin,
S/o Bashir Ahmed Zahid,
R/o Chak No. 608/GB,
Tandlianwala, District Faisalabad
2. The Chief Executive Officer,
FESCO Ltd,
Canal Road, Faisalabad
3. Ch. Fiaz Ahmad Singhairah,
Advocate High Court,
Anab Centre, 2nd Floor,
1-Mozang Road, Lahore
4. Sub Divisional Officer (Op),
Tandlianwala Sub Division,
FESCO Ltd,
Tandlianwala, District Faisalabad

Subject: Appeal Titled FESCO Vs. Ghulam Mohayudin 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 08.09.2015, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(M. Qamar Uz Zaman)

No. NEPRA/AB/Appeal-059/POI-2015/896

September 08, 2015

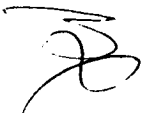
Forwarded for information please.


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)
5. Member (Licensing)


11/09/15
M/QZ - II
M/E

Registrar	4659
Dy No.
Date	11-09-15



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-059/POI-2015

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Ghulam Mohayudin S/O basher Ahmed Zahid R/O Chak No.608/GB, Tandlianwala District,
Faisalabad.

.....Respondent

For the appellant:

Ch. Fiaz Ahmad Singhairah Advocate

For the respondent:

Nemo

DECISION

1. Brief facts giving rise to the instant appeal are that Faisalabad Electric Supply Company Limited (hereinafter referred to as 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. The respondent is agricultural consumer of FESCO bearing Ref No.29-13233-1166700 with a sanctioned load of 11.19 kW under D-1b tariff.

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2. As per facts of the case that the respondent was charged detection bill amounting to Rs.91,665/- for 7,625 units on account of difference of readings between the TOU billing meter and backup meter in March 2014. The respondent being aggrieved with the said bill filed an application dated 16.04.2014 before Provincial Office of Inspection/Electric Inspector Faisalabad Region, Faisalabad (hereinafter referred to as POI) and averred that the bill charged to him was technically impossible for 11.19 kW load and even at 60% load factor. Finally he prayed that the excessive bill charged to him in March 2014 be set aside. Joint checking of the meter were arranged by POI on 18.06.2014 and 15.10.2014 in which TOU meter was found within B.S.S limits. POI announced its decision on 01.04.2015 and concluded as under:-

"Summing up the aforesaid discussion, it is held that the bill amounting to Rs.91665/- for 7625 units charged on account of difference of readings between backup meter and TOU billing energy meter (in the presence of TOU billing meter running within BSS with respect to total reading is correct) is null, void and illegal and not payable by the petitioner. FESCO Authority is directed to charge to petitioner with respect to the total reading as recorded by Kwh meter and over haul the account of the petitioner/consumer accordingly. FESCO Authority is also directed to replace the TOU billing meter (whose tariff reading is held) immediately for accurate billing in future accordingly."

3. Being aggrieved with the POI decision date 01.04.2015 FESCO has filed the instant appeal through Ch. Fiaz Ahmad Singhairah Advocate. It is contended by FESCO that difference bill of Rs.91,665/- was charged in the billing month of March 2014 for 7,625 units due to the difference between the TOU billing meter and backup meter for the period January 2013 to March 2013 as the TOU billing meter was found slow. FESCO submitted that impugned decision was passed by POI illegally, unlawfully and without the jurisdiction and therefore was liable to be set aside. According to FESCO impugned decision was against the facts and law and was passed in arbitrary, whimsical and slipshod manner and was liable to be set



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aside. In the end FESCO prayed that the appeal may be accepted and impugned decision may be set aside.

4. The respondent was issued a notice for filing reply/parawise comments which were not submitted.
5. After issuing notice to both the parties the appeal was heard in Lahore on 18.08.2015 in which the respondent or his representative did not appear. Ch. Fiaz Ahmad Singhairah Advocate appeared for the appellant. As the point of limitation was noticed it will be in all fairness to dilate, discuss and decide the matter on the point of limitation at the very first place. The learned counsel for FESCO contended that the impugned decision announced by POI was without jurisdiction and lawful Authority and therefore limitation was not applicable against it. The learned counsel pleaded that the delay if any may be condoned and the appeal may be heard on merit. It has been observed from the record that the impugned decision was announced on 01.04.2015 and copy whereof was received by the appellant on 08.04.2015. The appeal was filed by FESCO on 08.06.2015 which has obviously been filed after the time limit as prescribed in the law. It is established without any reasonable doubt that the appeal filed by FESCO was time barred and liable to be dismissed on this ground.
6. Furthermore it would be beneficial to consider relevant provisions of limitation as provided in Section 38 (3) of the Act and Regulation 3 of the NEPRA (Procedure for filing appeals) Regulations, 2012. 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 decide 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



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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 08.06.2015 i.e. after 69 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. It is always the duty of the parties to remain vigilant and obtain certified copy for the purpose of filing appeal. Therefore we are inclined to hold that valuable right has accrued in favor of the respondent due to failure on the part of FESCO in filing the instant appeal before NEPRA within the time as prescribed by law. 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 01.04.2015 and copy was received on 08.04.2015 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

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Date: 08.09.2015