

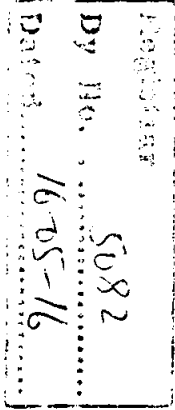


National Electric Power Regulatory Authority  
(NEPRA)  
Islamic Republic of Pakistan

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No. NEPRA/AB/Appeal-120/POI-2015/522-525 May 10, 2016

1. Abdul Haq  
S/o Nawab Din,  
R/o House No. P-365,  
Khayaban Colony No. 2,  
Near Tawakal Marble Factory,  
Faisalabad
2. The Chief Executive Officer  
FESCO Ltd,  
West Canal Road, Abdullah Pur,  
Faisalabad
3. Sub Divisional Officer (Operation)  
FESCO Ltd,  
Madina Town Sub Division,  
Faisalabad
4. Electric Inspector  
Energy Department,  
Govt. of Punjab,  
Opposite Commissioner Office,  
D.C.G Road, Civil Lines,  
Faisalabad Region, Faisalabad



Subject: Appeal Titled FESCO Vs. Abdul Haq Against the Decision Dated 09.07.2015 of the Electric Inspector/POI to Government of the Punjab Faisalabad Region, Faisalabad

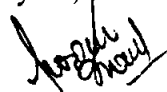
Please find enclosed herewith the decision of the Appellate Board dated 19.04.2016, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above


(Ikram Shakeel)

No. NEPRA/AB/Appeal-120/POI-2015/ 526  
Forwarded for information please.

May 10, 2016

  
Assistant Director  
Appellate Board

1. Registrar
2. Director (CAD)

  
16.05.16

CC:

1. Member (CA)

— DD (IT)  
— D/Rg-IT/MF



# National Electric Power Regulatory Authority

## Before Appellate Board

In the matter of

### Appeal No. NEPRA/Appeal-120/POI-2015

Faisalabad Electric Supply Company Limited .....Appellant

Versus

Abdul Haq, S/o Nawab Din, R/o House No. P-365, Khayaban  
Colony No. 2, Near Tawakal Marble Factory, Faisalabad .....Respondent

For the appellant:

Nemo

For the respondent:

Mr. Abdul Haq

## 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 and the respondent is its domestic consumer bearing Ref No. 03-13131-1002700 with a sanctioned load of 3.00 kW under A-1A tariff.
2. The respondent being aggrieved with detection bill of Rs. 10,000/- for 973 units charged in July 2013 challenged the same before Wafaqi Mohtasib which was referred to Provincial Office of Inspection/Electric Inspector Faisalabad Region, Faisalabad (hereinafter referred to as POI) vide Wafaqi Mohtasib No. WMS/ROF/3999/2014 dated 27.10.2014 for adjudication. The matter was decided by POI in favour of the respondent on ex-parte basis



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vide its decision dated 09.07.2015.

3. Being aggrieved with the decision of POI dated 09.07.2015 (hereinafter referred to as the impugned decision), 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 the Act). FESCO in its appeal, inter alia, pleaded that POI has acted against law and pronounced the impugned decision unilaterally without recording the evidence and therefore impugned decision is liable to be dismissed.
4. A notice of the appeal was issued to the respondent for filing reply/parawise comments which were filed on 16.12.2015. The respondent in its reply/parawise comments prayed that the appeal is against the law and facts and badly time barred.
5. After issuing notice, the appeal was heard in Lahore on 19.04.2016, in which no one entered appearance for FESCO and Mr. Abdul Haq, the respondent appeared in person. The respondent in the outset of the hearing pointed out that the appeal was time barred and be dismissed accordingly.
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.*


- **Punjab Establishment and Powers of Office of Inspection:**

*9 **Final Order.**— ((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.*



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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 in the instant appeal that the application for the certified copy of the impugned decision was moved after 42 days of its announcement and the copy was delivered to FESCO on the same day. However the appeal was filed on 18.09.2015 after 70 days of its announcement. Evidently FESCO failed to file the appeal within the time limit of 30 days as prescribed under section 38 of the Act. From above provisions it is also established that POI is not obligated to serve copy of decision upon parties therefore it is always for the parties to apply and obtain copy of the decision for the purpose of filing appeal. The 'word' receipt as mentioned in section 38 of the Act, does not confer any obligation on the POI to deliver copy of the decision to parties. It is always duty of the parties to remain vigilant and obtain certified copy of decision for the purpose of filing appeal. Therefore we are inclined to hold that as such valuable right has accrued in favor of the respondent due to failure on the part of FESCO in filing the instant appeal 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 09.07.2015 but FESCO failed to do so. It is therefore concluded that the appeal is barred by time and dismissed accordingly.

  
\_\_\_\_\_  
Muhammad Shafique  
Member

  
\_\_\_\_\_  
Nadir Ali Khoso  
Convener

Date: 19.04.2016

