



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

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No. NEPRA/AB/Appeal-009/POI-2015/ 518-521

May 28, 2015

1. M/s Eden Developers (Pvt.) Ltd,
Office No. 3, Eden Tower,
82,E-1, Gulberg-III,
Lahore
2. The Chief Executive Officer,
LESCO Ltd,
22-A, Queens Road,
Lahore
3. Saeed Ahmed Bhatti,
Advocate High Court,
2nd Floor, Akram Mansion,
Neela Gumbad, Lahore
4. Muhammad Zubair Sarwar,
Sub Divisional Officer (Opr),
LESCO Ltd, Gulberg Sub Division,
Lahore

Subject: Appeal Titled LESCO Vs. M/s Eden Developers (Pvt.) Ltd Against the Decision Dated 29.08.2014 of the Electric Inspector/POI to Government of the Punjab Lahore Region, Lahore

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-009/POI-2015/ 522

May 28, 2015

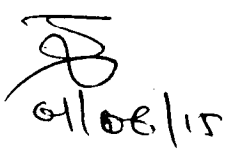
Forwarded for information please.


Member Appellate Board

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

CC:

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


D/Reg-I

Registrar	5946
DY No.....
Dated.....	01-06-15



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal 009/POI-2015

Lahore Electric Supply Company Limited

.....Appellant

Versus

M/s Eden Developer (Pvt.) Ltd. Office No. 3, Eden Tower, 82-E-I, Gulberg-III, Lahore.

.....Respondent

Date of Hearing:

18/05/2015

For the appellant:

Saeed Ahmed Bhatti Advocate

For the respondent:

Salah Uddin M.D of M.E Consultant

Abdul Razzaq M.E Consultant

ORDER

1. Brief facts giving rise to the filing of this appeal are that the respondent was issued a detection bill by the appellant amounting to Rs.351,012/- for 20,265 net units for the period February 2011 to December 2011 and this act was challenged by the respondent before the Provincial Office of Inspection/Electric Inspector Lahore Region, Lahore under Section 38(3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (hereinafter referred to as "the Act"). The complaint was decided by POI vide its decision dated 29.08.2014 and the operative portion of the decision is reproduced below:

"Summing up the foregoing discussion, it is held that,

- (i) *That the impugned billing meter is working accurately with BSS limits of accuracy.*

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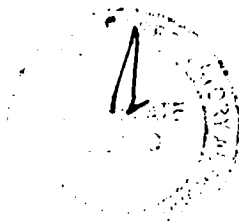
National Electric Power Regulatory Authority

(ii) *That the impugned detection bill amounting to Rs.393,284/- for the period from 02/2011 to 12/2011 added in the bill for 02/2012 is void, unjustified and of no legal effect; therefore, the petitioner is not liable to pay the same.*

(iii) *The respondents are directed to over-haul the account of the petitioner accordingly and any excess amount recovered be adjusted in future bills.*

The petition is disposed of in above terms."

2. Being aggrieved with the above referred decision, the instant appeal has been filed with the contentions inter-alia that that the impugned decision is against the law and facts of the case; that the POI had not perused the relevant record/consumption data in its true perspective and passed the impugned decision illegally.
3. The respondent was issued notice for filing reply/parawise comments, which were submitted on 04.03.2015. The respondent denied the submissions of the appellant and prayed that appeal may be dismissed in the interest of justice.
4. After issuing notice to both the parties, the hearing into the matter was conducted in NEPRA's Regional Office at Lahore. Due notices were served to the parties for the hearing on 18.05.2015. On the date of hearing, both the parties were present. Mr. Salah Uddin, M.D of M.E consultant appeared for the respondent and raised preliminary objection regarding limitation and stated that the appeal is time barred and should be dismissed on this ground. Mr. Saeed Ahmed Bhatti Advocate, learned counsel for appellant stated that the impugned decision was announced by POI on 29.08.2014 and the certified copy thereof was collected on 02.09.2014 and after the approval of departmental process the appeal was submitted to NEPRA for adjudication. He contended that the delay in appeal was neither intentional nor deliberate but due to unavoidable reasons therefore, the delay may be condoned and appeal be decided on merits in the interest of justice, equity and fair play. It has been observed from the record that the impugned decision was announced by POI on 29.08.2014 and copy thereof was obtained on 02.09.2014 and the appeal was filed on 19.01.2015 before NEPRA.
5. Since the question of limitation has been raised, therefore, for the sake of ready reference, the relevant provisions on the subject are given hereunder:-





National Electric Power Regulatory Authority

I) 38 (3 of NEPRA Act, 1997

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


ID NEPRA (Procedure for filing appeals) Regulations, 2011

3. Filing of appeal.- (I) 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.

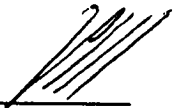
6. From bare perusal of above referred provisions it is very much clear that the appeal should be filed within 30 days from the date of decision. It has been observed that the impugned decision was announced by the POI on 29.08.2014 and the copy was collected by LESCO in September, 2014 but the appeal was filed with NEPRA on 19.01.2015 i.e. after the expiry of prescribed time under the above referred provisions of law. Evidently LESCO failed to file the appeal within the time limit and LESCO also failed to explain and justify each day of the delay in filing the appeal. 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

