



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

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No. NEPRA/AB/Appeal-012/POI-2015/ 750-753

August 20, 2015

1. Rehmat Bibi
W/o Bashir Ahmad,
R/o Kahan Wala, Bhoneki Otar,
P.O Beharwal Kalan Khas,
Tehsil Pattoki, District Kasur
2. The Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore
3. Mian Farooq Ahmad
Advocate High Court,
Tehsil Courts, Pattoki
4. SDO/AMO
LESCO Ltd,
Phool Nagar Sub Division,
Phool Nagar

Subject: Appeal Titled LESCO Vs. Rehmat Bibi Against the Decision Dated 30.09.2014 of the Electric Inspector/POI to Government of the Punjab Lahore Region, Lahore

Please find enclosed herewith the decision of the Appellate Board dated 19.08.2015, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(M. Qamar Uz Zaman)

No. NEPRA/AB/Appeal-012/POI-2015/ 754

August 20, 2015

Forwarded for information please.

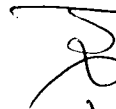
1. Registrar
2. Director (CAD)
3. Electric Inspector/POI, Lahore Region
4. Master File

CC:

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


Member Appellate Board

Registrar	8964
Dy No.....
Dated.....	21-08-15


21/08/15

- D/Rg-II
- m/f



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-012/POI-2015

Lahore Electric Supply Company Limited

.....Appellant

Versus

Rehmat Bibi, W/o Bashir Ahmed, R/o Kahan Wala, Bhoneki Otar, P.O, Beharwal Kalan Khas, Tehsil
Pattoki, District Kasur

.....Respondent

For the appellant:

Mian Farooq Ahmed Advocate

For the respondent:

Nemo

DECISION

1. This decision shall dispose of an appeal filed by Lahore Electric Supply Company Limited (hereinafter referred to as LESCO) against the decision dated 30.09.2014 of the Provincial Office of Inspection/Electric Inspector Lahore Region, Lahore (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").
2. Brief facts giving rise to the instant appeal are that LESCO 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 agriculture consumer bearing Ref No. 45-11742-0636200 with a sanctioned load of 14 kW under tariff D-1b.





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3. There was some dispute of overbilling which was agitated by the respondent before Lahore High Court through writ petition No. 22013/2014 and vide order dated 20.08.2014, the Honorable Court referred the matter to POI for a decision within a fortnight.
4. In compliance of the directions of the Honorable Lahore High Court, POI decided the matter on 30.9.2014 and the operative part of the decision is reproduced below:

"Summing up the foregoing discussion, it is held,

- I. That the impugned meter is working accurately and there is no dispute between the parties over the accuracy of the meter.*
- II. That the impugned monthly bills for the period from 10/2012 to 06/2014 charged on excess/exaggerated reading to the tune of Rs. 522,445/- are void, unjustified and of no legal effect; therefore, the petitioner is not liable to pay the same. However the respondents are allowed to charge revised monthly bills to the petitioner on the basis of the actual meter reading recorded at the meter upto total Kwh reading index as 61321.63 recorded at the meter at the time of checking on 22.09.2014. The onward monthly billing be also be made according to the actual meter reading recorded at the meter.*
- 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."

5. Being aggrieved with the above decision dated 30.09.2014 of POI, LESCO has filed the instant appeal.
6. The respondent was issued notice for filing reply/parawise comments but the respondent did not submit any reply/parawise comments.
7. After issuing notice to both the parties, the appeal was finally heard in Lahore on 23.06.2015 in which Mian Farooq Ahmed Advocate appeared on behalf of the appellant but none entered appearance for the respondent. As the point of limitation was noticed it was felt appropriate to



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discuss, dilate and decide the point of limitation in the first instance. Mian Farooq Ahmed Advocate, learned counsel for the appellant stated that copy of the impugned decision was received on 14.10.2014 and the appeal was filed before NEPRA on 14.11.2014 which was within the time limit as prescribed under section 38 (3) of the Act. From the relevant record it has been observed that impugned decision was announced on 30.09.2014 and intimation whereof was given to LESCO by POI vide its letter dated 02.10.2014. Application for certified copy was submitted to POI by LESCO on 14.10.2014 and certified copy of the impugned decision was delivered to LESCO on the same day. However the appeal was filed by LESCO against the impugned decision before NEPRA on 14.11.2014. It is therefore established without reasonable doubt that LESCO has filed the appeal after time limit as prescribed in the Act.

8. Furthermore it would be beneficial to consider relevant provisions of limitation as provided in Section 38 (3) of the Act, Regulation 3 of the NEPRA (Procedure for filing appeals) Regulations, 2012 and section 9 of Punjab (Establishment and Powers of Office of Inspection) Order, 2005. 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 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.*

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

9 Final Order.— (1) *Not later than 120 days of the filing of the complaint, the Office of Inspection shall issue its final order. In case of delay, reasons shall be recorded in writing for such delay. Final order shall be comprehensive in all respects containing the violations made and penalties imposed thereon.*

(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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9. As per the aforementioned provisions of law, 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 30.09.2014 and the appeal was filed with NEPRA on 14.11.2014 i.e. after 41 days of its announcement by the POI. Evidently LESCO failed to file the appeal within the time limit of 30 days as prescribed under section 38 of the Act. From perusal of above provisions it is also established that POI was not obligated to serve copy of decision upon parties therefore it is always for the parties to apply and receive 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 was always 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 LESCO in filing the instant appeal before NEPRA within the time as prescribed by law. As a matter of fact LESCO is required to explain and justify each day of the delay in filing the appeal after the decision was pronounced on 30.09.2014 but LESCO 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

Nadir Ali Khoso
Convener

Muhammad Shafique
Member

Date: 19.08.2015

