



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

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No. NEPRA/AB/Appeal-027/POI-2015/ 827-831

September 08, 2015

1. Muhammad Hanif,
S/o Ghulam Nabi,
M/s Hanif Flour & General Mills (Pvt.)
Ltd, 22-KM, Lahore Sharaqpur Road,
Dhamke, District Sheikhpura
2. The Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore
3. Muhammad Arif Malhi,
Advocate High Court,
01-District Courts,
Sheikhpura
4. A.D. Bhatti,
Advocate High Court,
Office No. 4, Rehmat Tower,
13-Fane Road, Lahore
5. Sub Divisional Officer (E),
LESCO Ltd,
Sharqpur Sub Division, Lahore

Subject: Appeal Titled LESCO Vs. Muhammad Hanif Against the Decision Dated 24.02.2015 of the Electric Inspector/POI to Government of the Punjab Lahore Region, Lahore

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-027/POI-2015/ 832

September 08, 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)

11/09/15

D/KC-II

11/1

Registrar	5647
DY No.....	
Dated.....	11-09-15



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-027/POI-2015

Lahore Electric Supply Company Limited

.....Appellant

Versus

Muhammad Hanif, S/o Ghulam Nabi, M/s Hanif Flour and General Mills (Pvt.) Ltd, 22-KM,
Lahore Sharqpur Road, Dhamke, District Sheikhupura

.....Respondent

For the appellant:

Muhammad Arif Malhi Advocate

For the respondent:

A.D. Bhatti Advocate

DECISION

1. Brief facts giving rise to the instant appeal are that Lahore Electric Supply Company Limited (hereinafter referred to as 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 an industrial consumer bearing Ref No. 24-11126-9002700 with a sanctioned load of 421kW under tariff B-2b.
2. As per fact of the case a detection bill of Rs. 3,411,463/- for 191,040 units charged to the respondent by LESCO in December 2013. The respondent being aggrieved with the aforementioned detection bill challenged the same before Provincial Office of Inspection,



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Lahore Region, Lahore (hereinafter referred to as POI) vide his application dated 27.01.2014.

3. POI decided the matter on 24.02.2015 with the following determination:

"Summing up the foregoing discussion, it is held,

- I. That the impugned TOU billing meter is slow by 33.0 % slow as already declared by the respondents.*
- II. That the impugned monthly bill amounting to Rs. 34,11,463/- as cost of 191040 Kwh units charged in the bill for the month of 12/2013 is void, unjustified and of no legal effect; therefore, the petitioner is not liable to pay the same. However, the respondents are allowed to charge a revised monthly bill for the said month after adding the declared 33.0 % slowness in the recorded Kwh units/MDI at the impugned TOU meter, after excluding the already charged units during the said month.*
- III. The respondents are directed to over-haul the account of the petitioner accordingly and any excess amount recovered be adjusted in future bills."*

4. Being aggrieved with the above decision dated 24.02.2015 of POI, LESCO has filed the instant appeal under section 38 (3) of the Act with the following prayer:

"In view of the above submissions, it is most respectfully prayed that appeal may please be accepted, impugned order/decision dated 24.02.2015 passed by POI/Electric Inspector, Government of the Punjab, Lahore Region, Lahore may kindly be set aside and Petition of the Respondent may please be dismissed with costs.

It is further prayed that pending decision of the appeal, operation of the impugned order/decision dated 17.02.2015 passed by Electric Inspector, Government of the Punjab, Lahore Region, Lahore may kindly be suspended.



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Any other relief, which this Honourable Court deems fit and proper may also be awarded to the Appellants."

5. The respondent was issued notice for filing reply/parawise comments which were submitted on 29.07.2015 during hearing held in Lahore. The respondent in his reply/parawise comments pointed out that the appeal was time barred and therefore be dismissed on ground of limitation.
6. The appeal was heard in Lahore on 29.07.2015 after issuing notice to both the parties, in which Mr. Muhammad Arif Malhi Advocate appeared on behalf of the appellant and Mr. A.D. Bhatti Advocate represented the respondent. At the outset of the hearing, Mr. A.D. Bhatti Advocate, learned counsel for the respondent raised preliminary objection regarding limitation and asserted that being a time barred appeal it shall be dismissed on this ground alone. As the point of limitation was noticed it was felt appropriate to discuss, dilate and decide the point of limitation in the first instance. Mr. A.D. Bhatti Advocate, learned counsel for the respondent stated that impugned decision was announced by POI on 24.02.2015 and the appeal was filed before NEPRA on 31.03.2015 which was time barred. Mr. Muhammad Arif Malhi Advocate, learned counsel for the appellant rebutted the arguments of learned counsel for the respondent and contended that copy of the impugned decision was received on 06.03.2015 and appeal was filed before NEPRA on 31.03.2015 and therefore it was filed within time limit as prescribed under section 38 (3) of the Act. It has been observed from the record provided by POI that the impugned decision was announced by POI on 24.02.2015 in presence of the learned counsel for the appellant. LESCO had therefore intimation regarding impugned decision on 24.02.2015 but the appeal was filed before NEPRA on 31.03.2015. It is therefore established beyond any reasonable doubt that appeal against the impugned decision was filed by LESCO after the time limit as prescribed in the law and is therefore declared time barred.
7. 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)

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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.

8. 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 24.02.2015 and the appeal was filed with NEPRA on 31.03.2015 i.e. after 34 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

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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 24.02.2015 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: 08.09.2015

