



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

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No. NEPRA/AB/Appeal-046/POI-2015/ *866-869* September 08, 2015

1. Muhammad Shahid Hussain,  
S/o Muhammad Ashraf,  
Through Waqar Azim,  
S/o Muhammad Khaliq,  
132-Khushnuma Flat,  
GOR-IV, N Block,  
Model Town Extension, Lahore
2. The Chief Executive Officer  
LESCO Ltd,  
22-A, Queens Road,  
Lahore
3. Malik Zahid Hussain,  
Advocate High Court,  
Corportate Law Advisors,  
10-A, Turner Road, Lahore
4. Muhammad Sana Ullah,  
Sub Divisional Officer,  
LESCO Ltd,  
Faisal Town Sub Division,  
Lahore

Subject: Appeal Titled LESCO Vs. Muhammad Shahid Hussain Against the Decision Dated 14.04.2015 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)

September 08, 2015

No. NEPRA/AB/Appeal-046/POI-2015/ *870*

Forwarded for information please.

*M. Q. Zaman*  
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)

*M/F*  
*11/09/15*  
*M/F*

Registrar	9654
By No.	11-19-15
Dated	11-09-15



# National Electric Power Regulatory Authority

## Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-046/POI-2015

Lahore Electric Supply Company Limited

.....Appellant

Versus

M/s Muhammad Shahid Hussain S/o Muhammad Ashraf, through Mr. Waqar Azim S/o Muhammad Khaliq, Resident of 132- Khushnuma Flat Government-IV, N-Block, Model Town Extension, Lahore

.....Respondent

For the appellant:

Imran Hussain Court Coordinator

For the respondent:

Waqar Azim Director

## 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 a domestic consumer bearing Ref No. 16-11511-1296526 with a sanctioned load of 5kW under tariff A-1b.
2. As per facts of the case the meter of the respondent was checked by M&T LESCO on 16.09.2013 and error was found in the LCD display. New meter was installed by LESCO on 19.11.2013. The respondent received electricity bill in the month of January 2015 which contained an amount of Rs.252,759/- as arrears along with current amount of Rs.1988/-. The respondent being dissatisfied filed an application dated 04.02.2015 and challenged the

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aforementioned bill. POI decided the matter on 14.04.2015 and the operative portion of its decision is given below

*" Summing up the foregoing discussion , it is held that the impugned bill amounting to Rs.252,759/- for 12026 units added in the bill for the month of 01/2015 as arrears is void, unjustified and of no legal effect; therefore, the petitioner is not liable to pay the same. The respondents are directed to over-haul the account of the petitioner accordingly and any excess amount recovered be adjusted in future."*

3. Being aggrieved with the above decision dated 14.04.2015 of POI, LESCO has filed the instant appeal under section 38 (3) of the Act with the following prayer:

*"Under the above circumstances it is therefore most respectfully prayed that the impugned order dated 14.04.2015 passed by learned Electric Inspector Lahore region Lahore may be set aside in the interest of justice and equity and also declare that the appellant has charged the consumer on the basis of actual meter reading/ consumption and no excess reading has been charged.*

*It is further prayed that during pendency of the appeal, the decision of the Electric Inspector/POI, Lahore Region, Lahore dated 14.04.2015 may kindly be suspended and the respondent may kindly be directed to pay the electricity bill.*

*Any other relief which this Honorable Authority deems fit and proper may also be awarded to the appellants."*

4. The respondent was issued notice for filing reply/parawise comments which were filed on 17.06.2015. In his reply/parawise comments, the respondent denied the assertions of LESCO and stated that the appellant failed to pinpoint any misreading and non reading of material on the record. According to the respondent the impugned decision was self contained, well reasoned and free from any illegality, perversity or jurisdictional defect. The respondent defended the impugned decision of POI and inter alia prayed that the appeal may kindly be dismissed.



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5. The appeal was heard in Lahore on 29.07.2015 in which both the parties participated. At the outset of the hearing the issue of limitation was pointed out to Mr. Imran Hussain Court Coordinator appearing for the LESCO. The representative for LESCO could not give any plausible explanation for the delay and could not also produce any receipt indicating the date on which appeal was dispatched to NEPRA via a post/courier. It is also relevant to mention that no application for condonation of the delay was moved by the appellant. It has been observed from the record that the impugned decision was announced by the POI on 14.04.2015 and attested copy whereof was received by LESCO on the same date. The appeal was filed before NEPRA on 19.05.2015. It is therefore established beyond any reasonable doubt that the appeal against the impugned decision was filed by LESCO after the time limit as prescribed in the law and is therefore declared time barred.

6. 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.*



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*(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.*

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 14.04.2015 and the appeal was filed with NEPRA on 19.05.2015 i.e. after 36 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 14.04.2015 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