



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

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No. NEPRA/AB/Appeal-065/POI-2015/1026-1029

October 20, 2015

1. Mian Masood Elahi
Through Nadeem Sadiq,
S/o Muhammad Sadiq,
R/o House No. 56/11, Karim Block,
Karim Market, Allama Iqbal Town,
Lahore
2. The Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore
3. Mian Muhammad Javaid
Advocate High Court,
4-Link Farid Kot Road,
Lahore
4. Sub Divisional Officer,
LESCO Ltd,
Canal Road Sub Division,
Lahore

Subject: Appeal Titled LESCO Vs. Mian Masood Elahi 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 19.10.2015, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(M. Qamar Uz Zaman)

No. NEPRA/AB/Appeal-065/POI-2015/1030

October 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
By No. 11183
Dated 22-10-15



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-065/POI-2015

Lahore Electric Supply Company Limited

.....Appellant

Versus

Mian Masood Elahi, Through Nadeem Sadiq, S/o Muhammad Sadiq, R/o 56/11, Karim Block,
Karim Market, Allama Iqbal Town, Lahore

.....Respondent

For the appellant:

Mian Muhammad Javaid Advocate

For the respondent:

Nemo

DECISION

1. Brief facts giving rise to the instant appeal are that the appellant (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 license and the respondent is its commercial consumer bearing Ref No. 02-11233-0146400 with a sanctioned load of 1.0 kW under A-2a tariff. The meter of the respondent was burnt in June 2013 and replaced in September 2013. LESCO charged detection bill of Rs. 131,358/- for 6,968 units for the period from June 2013 to September 2013 in the billing month of May

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2014. The respondent being aggrieved with the said bill filed an application before Provincial Office of Inspection/Electric Inspector Lahore Region, Lahore (hereinafter referred to as POI) which was decided on 14.04.2015 with the following conclusion:

"Summing up the foregoing discussion, it is held that the impugned detection bill amounting to Rs. 131,358/- for 6968 units for the period from 06/2013 to 09/2013 charged in the months of 05/2014 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 detection bill for a total of 2420 units for the said period i.e from 06/2013 to 09/2013 calculated on the basis of the consumption recorded during the corresponding period of the previous year i.e from 06/2012 to 09/2012 being undisputed between the parties, after excluding the already charged units during the said period. The respondents are directed to over-haul the account of the petitioner accordingly and any excess amount recovered be adjusted in future bills. They are also directed to install a new accurate meter at site for the purpose of future billing to avoid any further litigation.

2. Being aggrieved with the POI decision date 14.04.2015, LESCO 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). LESCO, inter alia, contended that the impugned decision was illegal, unlawful, void, without jurisdiction, misconceived, self contradictory, based on mere assertion of the respondent and the same was liable to be set aside. According to LESCO the impugned decision passed by POI was given without applying his independent and judicious mind, without consideration of facts and law and against the principles of estoppels. LESCO finally prayed that the impugned decision of POI may be set aside.
3. The respondent was issued a notice for filing reply/parawise comments which were not submitted.



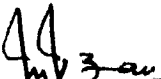
National Electric Power Regulatory Authority

4. Hearing of the appeal was fixed for 12.09.2015 at Lahore and notice thereof was served upon both the parties. On the date of hearing, no one entered appearance on behalf of respondent, however Mian Muhammad Javaid Advocate appeared for the appellant. Learned counsel for LESCO contended that the impugned decision announced by POI on 14.04.2015 was received on 26.06.2015 and the appeal was filed before NEPRA within time. He further stated that delay if any in filing of the appeal was not intentional but due to unavoidable circumstances which may be condoned. Learned counsel for the appellant argued that no limitation can run against the illegal order and as per decisions of the superior courts the cases are required to be decided on merit instead of being rejected on technicalities. It was observed from the record that the impugned decision was announced by POI on 14.04.2015 and copy whereof was received by the appellant on 26.06.2015. The appeal was filed by LESCO on 06.07.2015 which has obviously been filed after the time limit as prescribed in the law.
5. 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.**
6. 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 06.07.2015 i.e. after 96 days of its announcement by POI. Evidently




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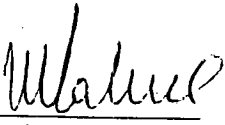
LESCO failed to file the appeal within the time limit of 30 days as prescribed under section 38 of the Act. As a matter of fact LESCO is required to explain and justify each day of the delay in filing the appeal after the decision was pronounced on 14.04.2015 and copy was received on 04.05.2015 but LESCO 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



Muhammad Shafique
Member



Nadir Ali Khoso
Convener

Date: 19.10.2015