



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

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No. NEPRA/AB/Appeal-127/POI-2015/497-302

May 05, 2016

1. Muhammad Mushtaq Butt
Through Muhammad Iqbal Wattoo,
Company Secretary,
Al-Badar Engineering Company (Pvt.) Ltd,
25-KM, Lahore Sheikhpura Road,
Lahore
2. The Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore
3. Ch. Khalil-ur-Rehman
Advocate High Court,
Haji Chambers, 4-Mozang Road,
Lahore
4. Atif Khan
Advocate High Court,
United Law Firm,
Legal Aid Counsultants,
44-Lower Mall, Lahore
5. Assistant Manager (Operation),
LESCO Ltd,
Kot Abdul Malik Sub Division,
Lahore
6. Electric Inspector
Energy Department,
Govt. of Punjab,
Lahore Region, Block No. 1,
Irrigation Complex,
Canal Bank, Dharampura,
Lahore.

Registrar
By No. 4875
10-05-16

Subject: Appeal Titled LESCO Vs. Muhammad Mushtaq Butt Against the Decision Dated 21.05.2013 of the Electric Inspector/POI to Government of the Punjab Lahore Region, Lahore

Please find enclosed herewith the decision of the Appellate Board dated 12.04.2016, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(Ikram Shakeel)

No. NEPRA/AB/Appeal-127/POI-2015/ 503

Forwarded for information please.

May 05, 2016

Assistant Director
Appellate Board

1. Registrar
2. Director (CAD)

CC:

1. Member (CA)

For information
D/Ry-11
D/C(I)
m/16
10-05-16



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-127/POI-2015

Lahore Electric Supply Company Limited

.....Appellant

Versus

Muhammad Mushtaq Butt, Through Muhammad Iqbal Wattoo,
Company Secretary, Al-Babar Engineering Company (Pvt.) Ltd,
25-KM Lahore Sheikhpura Road, Lahore

.....Respondent

For the appellant:

Ch. Khalil-Ur-Rehman Advocate

For the respondent:

Mr. Atif Khan 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 license and the respondent is its agricultural consumer bearing Ref No. 24-11125-9034100 with a sanctioned load of 920 kW under B-3 tariff. The TOU billing meter of the respondent was checked by Standing Committee LESCO on 12.10.2012 and found 33.33 % slow due to blue phase missing from display of the LCD. A detection bill of Rs. 11,793,155/- for 1,201,121 units/3,909 kW for the period January 2012 to September 2012 was added in the bill for October 2012. Said bill was challenged before the Provincial Office of Inspection (POI) who decided the matter vide its decision dated 21.05.2013 with the following conclusion:



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"Summing up the foregoing discussion, it is held,

- I. That the impugned meter is declared 33.0 % slow as already declared by the respondents.*
 - II. That the impugned detection bill amounting to Rs. 117,93,155/- as cost of 12,01,121 units 3909KW MDI for the period from 01/2012 to 09/2012 added in the bill for the month of 10/2012 is void, unjustified and of no legal effect; therefore, the petitioner is not liable to pay the same. However, the respondents are allowed to charged a revised detection bill on the basis of the declared 33.0 % slowness of the impugned meter on the recorded KWH units/MDI from 06/2012 onward till the replacement of the impugned meter/shifting of billing, to an accurate 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. They are also directed to install an accurate TOU MDI meter at the petitioner's premises for the purpose of billing to avoid any further litigation in future."*
2. Being dissatisfied with the decision of POI dated 21.05.2013 (hereinafter referred to as the impugned decision), 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).
 3. A notice of the appeal was issued to the respondent for filing reply/parawise comments which were filed on 19.01.2016. The respondent in his reply/parawise comments raised the preliminary objection regarding limitation and contended that the appeal was filed after a delay more than two years and as such not maintainable and liable to be dismissed.
 4. After issuing notice, the appeal was heard in Lahore on 12.04.2016 in presence of both the parties. Mr. Atif Khan Advocate, learned counsel for the respondent in the outset of the hearing raised preliminary objection regarding limitation and pleaded that the appeal was time barred and as such be dismissed on this ground alone. Ch. Khalil-Ur-Rehman Advocate, learned

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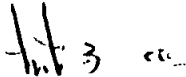
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counsel for LESCO contended that the appeal was filed before Advisory Board, Government of the Punjab, Lahore (hereinafter referred to as the Advisory Board) on 10.06.2013 but the Advisory Board informed on 19.10.2015 that no such appeal was pending with them. According to learned counsel for LESCO, the appeal filed before NEPRA on 04.11.2015 was within time limit as prescribed in the law. Learned counsel for LESCO further averred that the delay if any be condoned and appeal be decided on merit, otherwise LESCO would suffer heavy financial losses.

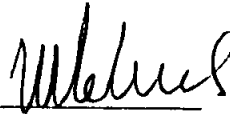
5. We have heard arguments of both the parties and it was observed as under:

The impugned decision was announced on 21.05.2013 and the appeal was filed before NEPRA on 11.04.2015. LESCO could not produce any proof regarding filing of the appeal before the Advisory Board on 10.03.2013 and its return/information regarding non-receipt of the same on 19.10.2015. Perusal of the record has revealed that impugned decision was announced on 21.05.2013 and the appeal was filed before NEPRA on 04.11.2015 i.e. expiry of about two years. Pursuant to section 38 (3) of the Act, an appeal has to be filed within 30 days, but in the instant case LESCO failed to do so. We are inclined to agree with the contention of learned counsel for the respondent that the appeal is barred by time and liable to be dismissed on this ground.


6. In view of above, it is concluded that appeal is time barred and therefore dismissed accordingly.



Muhammad Qamar-uz-Zaman
Member



Nadir Ali Khoso
Convener



Muhammad Shafique
Member

Date: 12.04.2016