



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

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No. NEPRA/AB/Appeal-076/POI-2016/068-073

January 13, 2017

1. Shahzad Zulfiqar,
S/o Zulfiqar Ali Khan,
R/o Ghail Singh, Haveli Lakha,
Tehsil Depalpur, Distt. Okara
2. The Chief Executive Officer
LESCO Ltd,
22-A Queens Road,
Lahore
3. Mian Muhammad Javaid,
Advocate Supreme Court,
4-Link Farid Kot Road,
Lahore
4. SDO/AM (Op),
LESCO Ltd,
Haveli Lakhan Sub Division,
District Okara
5. Abdul Sattar Khokhar,
Advocate,
Ch No. 95, Tehsil Courts,
Depalpur
6. Electric Inspector
Lahore Region, Energy Department,
Govt. of Punjab, Block No. 1,
Irrigation Complex, Canal Bank,
Dharampura, Lahore

Subject: Appeal Titled LESCO Vs. Shahzad Zulfiqar Against the Decision Dated 29.12.2015 of the Electric Inspector/POI to Government of the Punjab Lahore Region, Lahore

Please find enclosed herewith the Decision of the Appellate Board dated 12.01.2017, regarding the subject matter, for information and necessary action accordingly.

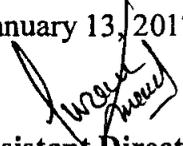
Encl: As Above

(Ikram Shakeel)

No. NEPRA/AB/Appeal-076/POI-2016/074

January 13, 2017

Forwarded for information please.


Assistant Director
Appellate Board

- ✓ 1. Registrar
2. Director (CAD)

CC:

1. Member (CA)



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-076/POI-2016

Lahore Electric Supply Company Limited

.....Appellant

Versus

Shahzad Zulfiqar S/o Zulfiqar Ali Khan,
R/o Ghail Haveli Lakha, Tehsil Depalpur Ditsriet Okara

.....Respondent

For the appellant:

Mian Muhammad Javaid LA

For the respondent:

Mr. Abdul Sattar Khokhar advocate
Mr. Shahzad Zulfiqar

DECISION

1. Brief facts of the case are that the respondent is an industrial consumer of Lahore Electric Supply Company Limited (hereinafter referred to as LESCO) bearing Ref No. 27-11454-2701803-U with a sanctioned load of 110 kW under B-2b tariff. The electricity meter of the respondent was checked by LESCO on 06.12.2012 and reportedly it was found 33% slow due to one phase being dead. The same meter was again checked by LESCO on 15.05.2014 and reportedly found 66% slow due to two phases being dead. Later on Multiplication Factor (MF) was enhanced by LESCO from 40 to 120 w.e.f August 2014. The defective meter of the respondent was replaced by LESCO in January 2015.
2. Being aggrieved with the above actions of LESCO, the respondent initially filed a civil suit and challenged the enhancement in MF from 40 to 120, which however was withdrawn by the respondent. The respondent filed an application before Provincial Office of Inspection, Lahore Region, Lahore (hereinafter referred to as POI) on 07.05.2015 and assailed the same matter. As per version of LESCO, the arrears of Rs.1,841,901/- for the period August 2014 to April 2014 are recoverable from the respondent and a revised bill of Rs.920,951/- being 50% of the disputed amount was issued by LESCO to the respondent in pursuance of the direction of POI, but the





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respondent did not make any payment. POI checked the electricity meter of the respondent in presence of both the parties on 15.06.2015 and reportedly it was found 15.96% slow. The matter was disposed of by POI vide its decision dated 29.12.2015, the operative portion of which is reproduced below:

"Summing up the aforesaid discussion, it is held that; i. Disputed energy meter No.10092 is 15.96% slow w.e.f the billing month of May/2014 to removal of the meter/disconnection of supply in January 2015. ii. The electricity bills issued w.e.f May/2014 to removal of meter in January 2015 are null, void and illegal and the petitioner is not liable to pay the same. Iii. LESCO Authorities are directed to issue the revised bill and overhaul the account of the petitioner in the light of this decision and restore the supply of the petitioner by installing new accurate energy meters accordingly."

3. Being dissatisfied with the POI decision dated 29.12.2015 (hereinafter referred to as the impugned decision), LESCO has filed an appeal on 07.04.2016 under section 38 (3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (hereinafter referred to as NEPRA Act 1997). In its appeal, LESCO inter alia, contended that as POI could not decide the matter within a period of 90 days of its receipt, hence the impugned decision is void ab-initio, under section 26 (6) of Electricity Act 1910. LESCO also submitted an application for condonation of the delay.
4. Notice of the appeal was issued to the respondent for filing reply/parawise comments, which were filed on 09.12.2016. In his reply/parawise comments, the respondent raised the preliminary objection on limitation and contended that the appeal being barred is liable to be dismissed.
5. After issuing notice to both the parties, hearing of the appeal was conducted in NEPRA provincial office Lahore on 23.12.2016 in which both the parties participated. At the outset of the hearing, the learned counsel for LESCO while justifying the delay in filing the appeal before NEPRA, repeated the same arguments as given in memo of the appeal and application for condonation of the delay. He contended that the impugned decision was pronounced by POI in their absence and the appeal was filed within time on receipt of the information from the concerned office. Learned Counsel for LESCO pleaded that delay if any was not intentional, therefore be condoned in the interest of justice. Conversely, the learned counsel for the respondent opposed the stance of LESCO and pleaded that the appeal was time barred and liable



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to be dismissed on this ground.

6. We have heard arguments and examined the record placed before us. It is observed that the impugned decision was announced by POI on 29.12.2015 and POI also delivered the copy of the decision to LESCO on the same day. However, the appeal has been filed before the NEPRA on 07.04.2016, i.e., after a lapse of 100 days of its receipt. No plausible reasons have been given in the application seeking condonation of delay and as a matter of law, the appellant is supposed to justify the delay of each day. Obviously LESCO failed to file the appeal within a period of 30 days as contemplated in section 38 (3) of NEPRA Act 1997. We are in agreement with the contention of the respondent that the appeal is time barred and therefore it is dismissed on the same ground.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Dated: 12.01.2017