



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

NEPRA Office , Atta Turk Avenue (East), G5/1, Islamabad
Tel. No.+92 051 2013200 Fax No. +92 051 2600030
Website: www.nepra.org.pk E-mail: office@nepra.org.pk

No. NEPRA/AB/Appeal-089/POI-2016/ 220-224

February 08, 2017

1. M/s BBJ Pipe Industries (Pvt.) Ltd,
Through Ch. Tariq Javaid,
General Manager,
48.5 KM, Multan Road,
Lahore
2. The Chief Executive Officer
LESCO Ltd,
22-A Queens Road,
Lahore
3. Mian Tabassum Ali,
Advocate High Court,
Annexy Auqaf Chowk,
High Court, The Mall,
Lahore
4. Assistant Manager (Operation),
LESCO Ltd,
Sarfraz Nagar Sub Division,
Phool Nagar
5. Electric Inspector
Lahore Region, Energy Department,
Govt. of Punjab, Block No. 1,
Irrigation Complex, Canal Bank,
Dharampura, Lahore

Subject: **Appeal Titled LESCO Vs. M/s BBJ Pipe Industries (Pvt.) Ltd Against the Decision Dated 13.10.2015 of the Electric Inspector/POI to Government of the Punjab Lahore Region, Lahore**

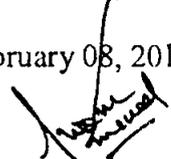
Please find enclosed herewith the Decision of the Appellate Board dated 07.02.2017, regarding the subject matter, for information and necessary action accordingly.

Encl: **As Above**

No. NEPRA/AB/Appeal-089/POI-2016/ 225
Forwarded for information please.

(Ikram Shakeel)

February 08, 2017


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-089/POI-2016

Lahore Electric Supply Company LimitedAppellant

Versus

M/s BBJ Pipe Industries (Pvt.) Ltd, 48 KM Multan Road, LahoreRespondent

For the appellant:

Mr. Tabassum Ali, Advocate

For the respondent:

Mr. Muhammad Irshad, Coordinator

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. 24-19199-91170012 U with a sanctioned load of 377 kW charged under B-2a tariff. The respondent being aggrieved with the electricity bill of Rs. 371,419/- for MDI = 642 kW for January 2010 challenged the same before POI due to excessive MDI recorded in the bill. POI disposed of the matter on ex-parte basis due to nonparticipation of LESCO in the hearing process vide its decision dated 09.04.2013.
2. LESCO filed an application before POI on 08.10.2013 and pleaded for setting aside the ex-parte decision dated 09.04.2013 but the application of LESCO was rejected with an observation that in case LESCO was aggrieved from decision dated 09.04.2013, then an appeal under Section 38 (3) of NEPRA Act 1997 could have been preferred.
3. Now the appeal has been filed by LESCO against the decision dated 09.04.2013; notice whereof was served upon the respondent for filing reply/parawise comments, which were filed on 23.06.2016. In his reply/parawise comments, the respondent inter alia, contended that





National Electric Power Regulatory Authority

the appeal is time barred and requested for dismissal of the appeal on this ground.

4. Hearing of the appeal was conducted in NEPRA provincial office Lahore on 09.01.2017 in which both the parties made their appearance. The representative for the respondent in the outset of hearing reiterated its preliminary objection regarding the maintainability of the appeal on the ground of limitation. Conversely, the learned counsel for LESCO pleaded that the impugned decision be set aside being illegal and without any justification.
5. Arguments of both the parties heard and the record examined. It is a matter of record that during the pendency of complaint before POI, LESCO/appellant was pursuing the matter. A preliminary objection as to non-maintainability of the complaint owing to non-serving of 7 days prior notice in compliance of a proviso to sub section 6 of section 26 of Electricity Act was also raised. Vide its order dated 29.05.2012, the objection of LESCO was overruled by the POI and he fixed the case for arguments on merits for 19.06.2012. As reveals from the contents of impugned decision dated 09.04.2013, LESCO was provided ample opportunities to defend its cause but it failed to appear on several dates and consequently, the complaint was decided ex-parte with the conclusion that the detection bill for the month of January, 2010 amounting to Rs. 3,71,419/- issued by LESCO to the complainant is void, unjustified and of no legal effect.
6. The copy of the impugned decision dated 09.04.2013 was available to LESCO and it filed an application dated 08.10.2013 before the POI for setting aside the impugned decision and said application was disposed of by the POI vide the order dated 13.10.2015 with the observation that an appeal was competent against the decision dated 09.04.2013 before NEPRA which was not filed by LESCO well in time.
7. There is absolutely no controversy involved as to sending the copy of impugned decision dated 09.04.2013 by the POI to LESCO since LESCO was already in the knowledge of the impugned decision therefore, it had filed an application for setting aside the impugned decision 09.04.2013 before the POI who did not consider said application owing to the reason that a remedy of appeal was provided but the same was not availed. It needs to be observed that even after passing of the order dated 13.10.2015, LESCO did not file the appeal within time; rather the same is filed on 3rd of May, 2016. Considering the above factual and legal



National Electric Power Regulatory Authority

position, the appeal against the impugned decision dated 09.04.2013 or against the order dated 13.10.2015 could have been filed within 30 days before NEPRA but LESCO filed this appeal after inordinate delay. Neither any application for condonation of delay is filed nor was any argument raised seeking condonation of delay.

8. The upshot of the above discussion is that the appeal is dismissed being time barred.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Dated: 07.02.2017