



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

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No. NEPRA/AB/Appeal/013/POI/2021/ 905

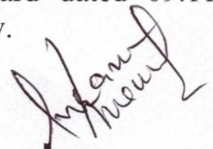
November 22, 2021

- | | |
|--|---|
| 1. Kashif Ali
Finance Section-VI,
Finance Department, Civil Secretariat,
Lahore | 2. Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore |
| 3. Mehar Shahid Mahmood,
Advocate High Court,
Office No. 34, Third Floor,
Ali Plaza, 3-Mozang Road,
Lahore | 4. Assistant Manager (Opr),
LESCO Ltd,
Sheikhupura Road Sub Division,
Lahore |
| 5. POI/Electric Inspector
Lahore Region, Energy Department,
Govt. of Punjab, Block No. 1,
Irrigation Complex, Canal Bank,
Dharampura, Lahore | |

Subject: **Appeal Titled LESCO Vs. Kashif Ali Against the Decision Dated 22.10.2019 of the Provincial Office of Inspection to Government of the Punjab Lahore Region, Lahore**

Please find enclosed herewith the decision of the Appellate Board dated 09.11.2021, regarding the subject matter, for information and necessary action accordingly.

Encl: **As Above**


(Ikram Shakeel)
Deputy Director (M&E)
Appellate Board

Forwarded for information please.

1. Director (IT) –for uploading the decision on NEPRA website



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. 013/POI-2021

Lahore Electric Supply Company Limited

.....Appellant

Versus

Kashif Ali, Finance Section-VI, Finance Department,
Civil Secretariat, Lahore

.....Respondent

APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 22.10.2019 PASSED BY PROVINCIAL OFFICE OF INSPECTION LAHORE REGION LAHORE

For the Appellant:

Mr. Mehar Shahid Mehmood advocate

For the Respondent:

Mr. Kashif Ali

DECISION

1. As per fact of the case, the Respondent is a domestic consumer of Lahore Electric Supply Company Limited (hereinafter referred to as LESCO) bearing Ref No.02-11161-0405000 U under tariff A-1(a). The Respondent challenged the bill of Rs.120,335/- added as arrears in the month of May 2019 before the Provincial Office of Inspection Lahore Region, Lahore (hereinafter referred to as the POI). According to the POI, the opportunity of hearing was provided to both parties but LESCO failed to appear before the POI despite repeated notices. The matter was disposed of by the POI vide decision dated 22.10.2019 on ex-parte basis and the disputed arrears of Rs.120,335/- added as arrears in the month of May 2019 were declared as null and void.

2. The appeal in hand has been filed by LESCO against the POI decision dated 22.10.2019

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(hereinafter referred to as the impugned decision) before NEPRA, wherein LESCO contended that no notice was received from the POI regarding the hearing of the complaint, hence non-appearance was not deliberate. LESCO further contended that the Honorable Courts had held in the following judgments PLD 2010 Pesh. 1DB, 2004 MLD 159 that the cases always be decided on merits instead of technical grounds in the interest of justice. LESCO submitted that the POI did not apply his independent and judicious mind and based the impugned decision on illegal assumptions and presumptions. LESCO prayed that the impugned decision decided ON ex-parte in favor of the Respondent is liable to be set aside and the case may be remanded back to the POI for decision on merit. In the application for condonation of delay, LESCO submitted that copy of the impugned decision was received on 30.01.2020 and the appeal was filed on 30.01.2020 within thirty (30) days of receipt of the impugned decision. LESCO further submitted that the POI is bound to transmit the impugned order to the aggrieved party through the mode provided under Regulation 4 of NEPRA Appeal Filing Procedure Regulation 2012 but in the instant case, the POI did not transmit the copy to the appellant. LESCO finally prayed for condonation of the delay in the interest of justice and in this regard cited the judgment of the Supreme Court of Pakistan reported as 2003 PLC (CS) 796.

3. Notice for filing reply/para-wise comments to the appeal was served to the Respondent, which however were not filed.
4. After issuing notice, the appeal was fixed for hearing in the NEPRA Regional Office Lahore on 21.10.2021 in which both the parties were present. At the beginning of the





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hearing, the Respondent objected that the appeal is time-barred and prayed for dismissal of the appeal on this ground alone. In response to the question of limitation, learned counsel for LESCO replied that a copy of the impugned decision dated 22.10.2019 was received by LESCO on 31.10.2019, and the appeal was filed on 03.02.2020 before NEPRA. Learned counsel for LESCO informed that an application for condonation of the delay is filed with an appeal, which may be considered in case of delay and fate of appeal may be decided on merits. Learned counsel for LESCO contended that the case could not be defended at the lower forum as no notice was served and the impugned decision was passed by the POI on ex-parte basis without hearing LESCO. Learned counsel for LESCO prayed that the matter be remanded back to the POI for deciding the same after providing the opportunity of hearing.

5. Arguments were heard and the record placed before us was examined. At Addressing the preliminary objection on the grounds of limitation raised by the Respondent, it is noted that the copy of the impugned decision dated 22.10.2019 was received by LESCO on 31.10.2019 and the appeal was filed before NEPRA on 03.02.2020 after a lapse of sixty three (63) days from the date of receipt of the impugned decision. According to section 38(3) of the NEPRA Act, 1997, an aggrieved party may file the appeal within thirty (30) days of the receipt of the impugned decision. LESCO claimed that a copy of the impugned decision was received on 30.01.2020 but no such document is attached with the appeal to justify its stance. Hence the application for condonation of the delay is rejected. Accordingly, the appeal of LESCO before NEPRA is time-barred and the same is liable





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to be dismissed on the ground of limitation.

6. Foregoing in view, the appeal is dismissed.

Abid Hussain
Member/Advisor (CAD)

Maria Rafique
Member/ Legal Advisor

Nadir Ali Khoso
Convener/Senior Advisor (CAD)

Dated: 09.11.2021

