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

NEPRA Office , Ataturk 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/008/POI/2021/361 July 06, 2023

1. Zafar Hayat,
Chief Executive,
Sleet Industries, Street No. 1,
Off Kattar Bund Industrial Area,
Thoker Niaz Baig, Lahore

2. Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore

3. Rai Abid Ali Kharal,
Advocate High Court,
Elahi Law Associates,
Office No. 25, 3rd Floor,
Ali Plaza, 3-Mozang Road,
Lahore

4. Muhammad Younas Chaudhary,
Advocate High Court,
Muhammad Younas Chaudhary Law Chamber,
4-Begum Road, Lahore

5. Assistant Manager (Operation),
LESCO Ltd,
Niaz Baig Sub Division,
Lahore

6. POI/Electric Inspector
Lahore Region, Energy Department,
Govt. of Punjab, Block No. 1,
Irrigation Complex, Canal Bank,
Dharampura, Lahore

Subject: **Appeal Titled LESCO Vs. Zafar Hayat Against the Decision Dated 30.09.2019 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 06.07.2023, 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 The Appellate Board

In the matter of

Appeal No.008/POI-2021

Lahore Electric Supply Company Limited .....Appellant

Versus

Zafar Hayat Chief Executive,
Sleet Industries, Street No.1, Off Kattar, Bund Road,
Thokar Niaz Baig, Lahore .....Respondent

APPEAL U/S 38(3) OF THE REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997

For the Appellant:
Rai Abid Ali Advocate

For the Respondent:
Mr. Faisal Mehmood Ch.

DECISION

1. Through this decision, the appeal filed by Lahore Electric Supply Company Limited (hereinafter referred to as the "Appellant") against the decision dated 30.09.2019 of the Provincial Office of Inspection, Lahore Region, Lahore (hereinafter referred to as the "POI") is being disposed of.

2. Briefly speaking, Mr. Zafar Hayat (hereinafter referred to as the "Respondent") is an industrial consumer of the Appellant bearing Ref No.24-11234-9000190-U with sanctioned load of 397kW and the applicable tariff category is B-2(b). The Respondent filed a complaint before the POI against the arrears of Rs.113,821/- reflected in the bill for October 2018. In his complaint, the Respondent submitted

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that the Appellant debited the bills with the reading not matched with reading of the billing meter. The complaint of the Respondent was disposed of vide the POI decision dated 30.09.2019, wherein the arrears of Rs.113,821/- reflected in the bill for October 2018 were cancelled and the Appellant was directed to charge the revised bills for the period from February 2018 to October 2018 on the basis of actual meter reading. The Appellant was further directed to overhaul the billing account of the Respondent after adjusting the payment made against the above arrears.

3. Through the instant appeal, the afore-referred decision dated 30.09.2019 of the POI has been impugned by the Appellant before the NEPRA. In the appeal, the Appellant opposed the impugned decision, *inter alia,* on the following grounds that the POI did not apply his independent and judicious mind while passing the impugned decision; that the same was based on illegal assumptions and presumptions; that the POI has not thrashed out the consisting reasons of the Appellant in the matter and passed the illegal order; that the POI failed to decide the matter within 90 days as envisaged in Section 26(6) of the Electricity Act 1910; and that the impugned decision is liable to be set aside.

4. **Proceedings by the Appellate Board**

4.1 Upon filing of the instant appeal, a notice dated 29.01.2021 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days. The Respondent submitted reply to the Appeal on 24.06.2022, wherein he objected to the maintainability of the appeal *inter alia,* on the following grounds that the Appeal is hopelessly time-barred and the same deserves rejection with special cost; that the impugned decision is well-reasoned, comprehensive and self-contained; that

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no illegality in the impugned decision was pointed out by the Appellants; that the time restriction of 90 days for decision by the POI is not applicable in the instant case, reliance in this regard is placed on the various judgments reported in PLJ 2017 Lhr 627, PLD 2018 Lhr 399 and PLJ 2019 Note 15; that the impugned decision is liable to be maintained.

5. **Hearing**

5.1 Hearings in the matter of the subject Appeal were conducted at NEPRA Regional Lahore on 29.09.2022, and 24.11.2022, which however were adjourned on the request of either the Appellant or the Respondent. Finally, hearing of the appeal was conducted at NEPRA Regional Office Lahore on 02.06.2023, wherein both parties were in attendance. At the outset of hearing, the representative for the Respondent repeated the objection regarding limitation and prayed that the fate of delay in filing the appeal be decided before the determination of the disputed bill.

5.2 In response, learned counsel for the Appellant stated that the POI did not intimate for the announcement of the impugned decision and the Appellant come to know after the submission of the application of the Respondent for its implementation; therefore the Appellant rushed to obtain a copy of the impugned decision and filed the appeal before NEPRA.

6. Arguments heard and the record perused. Following are our observations:

6.1 **Limitation for filing Appeal**:

Before going into the merits of the case, the preliminary objection of the Respondent regarding limitation needs to be addressed. It is observed that the copy of the impugned decision was obtained by the Appellant from POI on 01.10.2019 and the

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appeal was filed before the NEPRA on 13.12.2019 after the prescribed time limit of 30 days. This shows that the Appellant filed the instant appeal after a lapse of 73 days from the date of receipt of the impugned decision. As per sub-section (3) of Section 38 of the NEPRA Act 1997, any person aggrieved by the decision of the POI may prefer an appeal to NEPRA within thirty days of receipt of the order. Further, it is supplemented with Regulation 4 of the NEPRA (Procedure for filing Appeals) Regulations, 2012 (the "Appeal Procedure Regulations") which also states that the Appeal is required to be filed within 30 days of the receipt of the impugned decision of POI by the Appellant, however, a margin of 7 days' is provided in case of submission through registered post, and 3 days in case of submission of appeal through courier is given in the Appeal Procedure Regulations. Moreover, the Appellant did not appended an application for condonation of delay in support of filing the instant appeal. Thus, the delay of seventy-three (73) days in filing the appeal before the NEPRA from the date of receipt of the impugned decision is not condonable as no sufficient reasons have been given by the Appellant to justify the condonation of the delay.

7. Foregoing in view, it is concluded that the appeal filed before NEPRA is time-barred and dismissed.

Abid Hussain
Member

Muhammad Irfan-ul-Haq
Member

Naweed Illahi Sheikh
Convener

Dated: 06-07-2023

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