



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

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No. NEPRA/Appeal/029/2021/099

February 09, 2023

- | | |
|---|---|
| 1. Ghulam Dastgir Qureshi,
S/o. Umer Draz,
Prop: Umer Draz Steel Mills,
Misri Shah, Katcha Raheem Road,
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,
3 rd Floor, Ali Plaza, 3-Mozang Road,
Lahore | 4. Muhammad Younas Chaudhary,
Advocate High Court,
Muhammad Younas Chaudhary Law Chamber,
4-Begum Road, Lahore |
| 5. Sub Divisional Officer (Operation),
LESCO Ltd,
Shad Bagh 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. Ghulam Dastgir Qureshi Against the Decision Dated 28.02.2020 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 06.02.2023, 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. Additional Director (IT) –for uploading the decision on NEPRA website



National Electric Power Regulatory Authority

Before The Appellate Board

In the matter of

Appeal No.029/POI-2021

Lahore Electric Supply Company Limited

.....Appellant

Versus

Ghulam Dastagir Qureshi S/o Umar Daraz Steel Mills,
Misri Shah, Kacha Rahim Road, 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

Mr. Salman Zafar AM(O)

For the Respondent:

Mr. Ghulam Dastagir Qureshi

DECISION

1. Through this decision, the appeal filed by the Lahore Electric Supply Company Limited (hereinafter referred to as the “Appellant”) against the decision dated 28.02.2020 of the Provincial Office of Inspection, Lahore Region, Lahore (hereinafter referred to as the “POI”) is being disposed of.
2. Briefly speaking, Mr. Ghulam Dastagir Qureshi (hereinafter referred to as the “Respondent”) is an industrial consumer of the Appellant bearing Ref No.24-11152-0084002-U with sanctioned load of 360kW and the applicable Tariff category is B-2(b). The Appellant has claimed that the TOU billing meter of the Respondent





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was found recording less consumption and the backup meter was found working within specified limits during the checking dated 28.03.2018. Resultantly, a detection bill amounting to Rs.2,128,179/- against 77,120 units+637 kW MDI was debited to the Respondent due to the difference in readings between the TOU billing and backup meters and added to the bill for March 2018.

3. Being aggrieved, the Respondent initially assailed the above detection bill before the Civil Court, Lahore. Later on, the Respondent withdrew the civil suit due to lack of jurisdiction and filed a complaint before the POI against the charging of the above detection bill. The metering equipment of the Respondent was checked by POI on 10.02.2020 in presence of both parties in which the TOU billing was found 3.91% slow and the backup meters was found working within BSS limits, joint checking report of the POI was signed by both parties without raising any objection. The complaint of the Respondent was disposed of vide the POI decision dated 28.02.2020, wherein the detection bill of Rs.2,128,179/- for the cost of 77,120 units + 637 kW MDI debited to the Respondent due to the difference in readings between the TOU billing and backup meters was set aside. However, the Appellant was directed to charge the revised bills w.e.f January 2018 and onwards after adding 3.91% slowness of the impugned billing meter. The Appellant was further directed to overhaul the billing account of the Respondent after adjusting the payment made against the above detection bill.
4. Through the instant appeal, the afore-referred decision dated 28.02.2020 of the POI has been impugned by the Appellant before the NEPRA along with an application for the condonation of delay. In the appeal, the Appellant opposed the impugned





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decision, *inter alia*, on the following grounds that the impugned billing meter of the Respondent was found running slow during checking dated 28.03.2018, therefore a detection bill of 77,120 units + 637 kW MDI was debited to the Respondent; that the POI did not apply his independent and judicious mind while passing the impugned decision; that the impugned decision 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. In the application for condonation of delay, the Appellant submitted that the matter was closed on 25.02.2020 for the decision but the POI did not give any intimation for the announcement of the impugned decision dated 28.02.2020, therefore the appeal is filed before the NEPRA within the time limit from the date of receipt of the impugned decision. He pleaded that the delay if any in filing the appeal be condoned in the best interest of justice.

5. Proceedings by the Appellate Board

- 5.1 Upon filing of the instant appeal, a notice dated 12.02.2021 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 02.03.2021, wherein he objected to the maintainability of the appeal with the grounds that POI vide letter dated 05.03.2020 informed parties about the pronouncement of impugned decision; that Mr. Muhammad Shahid Nazir the representative for the Appellant obtained first copy of the impugned decision on 11.03.2020 but the Appellant did not file the appeal before the NEPRA; the same representative of the Appellant obtained second copy





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of the impugned decision on 28.12.2020 with malafide intention to cover the delay in filing the instant appeal; that the appeal is liable to be dismissed; that the Appellant charged illegal detection bill having no justification and in violation of Clause 4.4(e) of the CSM-2010; that the POI after correct perusal of record and checking of metering equipment set aside the impugned detection bill as per provisions of the CSM-2010; that the restriction of 90 days is not applicable for the office of POI functioning under Section 38 of the NEPRA Act; that the impugned decision is liable to be maintained.

6. **Hearing**

- 6.1 Hearing in the matter of the subject Appeal was initially conducted at NEPRA Regional Office Lahore on 13.10.2022, which however was adjourned for 25.11.2022 due to the non-appearance of the Appellant. On the given date, a counsel appeared for the Appellant and the Respondent appeared in person. Learned counsel for the Appellant repeated the same grounds as given in the memo of the appeal and stated that the impugned meter was found running slow during checking dated 28.03.2018, therefore a detection bill of 77,120 units + 637 kW MDI was debited to the Respondent due to the difference in readings between the TOU billing and backup meters. He defended the charging of the above detection bill and prayed for setting aside the impugned decision being contrary to the facts of the case.
- 6.2 The Respondent supported the impugned decision and argued that POI decided the matter on facts and as per applicable provisions of law. He finally prayed for upholding the impugned decision and for the dismissal of the appeal being barred by





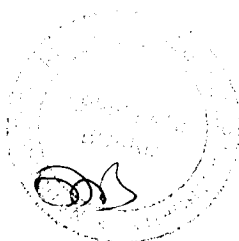
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time.

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

7.1 **Limitation for filing Appeal:**

Before going into the merits of the case, the preliminary objection of the Respondent regarding limitation needs to be addressed. The Respondent claimed that the first copy of the impugned decision was obtained by the Appellant on 11.03.2020 and the appeal was filed before the NEPRA on 05.01.2021 after the prescribed time limit of 30 days. In support of his contention, the Respondent submitted copies of the applications dated 11.03.2020 and 28.12.2020 submitted by Mr. Muhammad Shahid Nazir the representative for the Appellant before the POI to obtain the attested copies of the impugned decision, which were received on the date of application i.e. 11.03.2020 and 28.12.2020. This shows that the Appellant filed the instant appeal after a lapse of 301 days from the date of receipt of the first copy 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. Thus, the delay of 301 days in filing the appeal before the NEPRA from the date of receipt of the first copy of the impugned decision is not condonable as no sufficient reasons have been given by the Appellant to justify condonation of the





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delay. The application for the condonation of the delay filed by the Appellant is rejected being devoid of force.

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

Muhammad Irfan-ul-Haq
Member

Abid Hussain
Convener

Dated: 06/02/2023.

