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

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No. NEPRA/Appeal/047/POI/2021/ 032 January 11, 2023

1. Muhammad Ashiq,
S/o. Mian Muhammad Aslam,
R/o. Lohari Wala, Mazhar Abad,
Depalpur, Tehsil Depalpur,
District Okara

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

3. Malik Asad Akram Awan,
Advocate High Court,
Sargodha Khushab Law Chambers,
9 Turner Road, Turner Tower,
First Floor ,Lahore

4. Assistant Manager (Operation),
LESCO Ltd,
Mazhar Abad Sub Division,
Depalpur

Subject: **Decision of the Appellate Board Regarding Review Petition Filed By Muhammad Ashiq Against the Decision dated 15.03.2022 of the Appellate Board In the Matter Titled "Muhammad Ashiq Vs. LESCO**

Please find enclosed herewith the decision of the Appellate Board dated 05.01.2023, 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

Before The Appellate Board

In the matter of

REVIEW PETITION FILED BY MUHAMMAD ASHIQ UNDER THE NEPRA REVIEW (PROCEDURE) REGULATIONS, 2009 AGAINST THE DECISION DATED 15.03.2022 OF NEPRA IN THE APPEAL NO.047/POI-2021

Lahore Electric Supply Company Limited .....Petitioner

Versus

Muhammad Ashiq S/o Mian Muhammad Aslam, R/o Lohari Wala, Mazhar Abad, Depalpur, District Okara ..... Respondent

For the Petitioner:
Mr. Muhammad Ashiq

For the Respondent:
Malik Asad Advocate

DECISION

1. Through this decision, the review petition filed by Muhammad Ashiq (hereinafter referred to as the "Petitioner") against the decision dated 15.03.2022 of the National Electric Power Regulatory Authority (hereinafter referred to as the "NEPRA") in Appeal No.047/POI-2021 titled "LESCO vs Muhammad Ashiq" is being disposed of.
2. Briefly speaking, an agricultural connection bearing Ref No.45-11455-1371409-R with a sanctioned load of 15 kW under the D-2(b) tariff category was installed by LESCO (hereinafter referred to as the "Respondent") at the premises of Mr. Muhammad Ashiq (hereinafter referred to as the "Petitioner"). Reportedly, the display of the billing meter of the Petitioner was found washed during the Metering and Testing (M&T) team checking dated 29.09.2016 and it was replaced with a new

billing meter by the Respondent vide the meter change order (the "MCO") dated 30.09.2016.

3. Subsequently, the Petitioner approached the Provincial Office of Inspection, Lahore Region, Lahore (the "POI") on 24.12.2019 and disputed the arrears of Rs.671,046/- added in the bill for November 2019. In his application, the Petitioner submitted that the meter reading was noted as 152,633 during the M&T team checking dated 30.06.2016 but later on, the impugned meter burnt out and the Respondent charged a bill of 41,274 units based on fictitious reading i.e. 193,907. He prayed for the withdrawal of 41,274 units being excessively charged by the Respondent not compatible with the reading noted by the M&T team on 30.06.2016. The POI decided the matter vide the decision dated 09.12.2020, wherein 26,713 units were declared as excessive till June 2016 and the Respondent was directed to refund the same to the Petitioner. As per the POI decision, the Respondent was further directed to charge a total of 6,570 units for the period July 2016 to 29.09.2016 to the Petitioner with due segregation.

4. Being aggrieved, the Respondent filed appeal No.047/POI-2021 before the NEPRA against the above-referred decision of the POI, which was disposed of vide decision dated 15.03.2022 (hereinafter referred to as the "impugned decision") with the following conclusion:

"Foregoing in view, we are convinced with the arguments of LESCO that the impugned decision for the refund of 26,713 units to the Respondent till June 2016 is barred by time as the application was filed before the POI after three (3) years. Therefore the impugned decision is liable to be set aside. In view of the appeal, the appeal is accepted and the impugned decision is set aside."

5. Being dissatisfied, the Petitioner filed a review petition before the NEPRA on 25.04.2022, wherein the impugned decision has been opposed, *inter alia*, on the following grounds; (1) the arrears of Rs.671,046/- raised during the year 2016 were disputed before the Respondent but no relief was granted by the Respondent despite repeated requests; (2) the above-said arrears were assailed before the POI, who vide decision dated 12.09.2020 declared the arrears of Rs.671,046/- as null and void; (3) the Respondent filed appeal before the NEPRA after a delay of four months; (4) the NEPRA vide impugned decision accepted the plea of the Respondent and set aside the decision dated 09.12.2020 of the POI. The Petitioner finally prayed that the review petition be accepted and the impugned decision is liable to be struck down.

6. Hearing

6.1 A hearing in the matter of the subject review petition was scheduled for 30.09.2022 at Lahore for which notices dated 22.09.2022 were issued to both parties (the Petitioner and the Respondent). On the date of the hearing, both parties were present. The Petitioner reiterated the same contentions as in the memo of the review petition and stated that the impugned decision was rendered without considering the facts that the arrears of Rs.671,046/- debited in the year 2016 were initially agitated before the Respondent but all in vain. The Petitioner further stated that the complaint against the above-said arrears before the POI is not barred time as the Petitioner approached the Respondent time and again for resolution of the billing dispute. The Petitioner finally prayed to review the impugned decision and set aside the disputed arrears of Rs.671,046/-.

6.2 Learned counsel for the Respondent rebutted the version of the Petitioner and

argued that the claim of the Petitioner before the POI is barred by time and the POI had afforded the relief without considering the limitation of three years. Learned counsel for the Respondent supported the impugned decision and prayed for upholding the same.

7. Arguments were heard and the record was examined. Following are our observations:

7.1 As regards the contention of the Petitioner regarding the delay in filing the appeal before the NEPRA, it is observed that copy of the impugned decision dated 09.12.2020 was obtained by the Respondent on 11.01.2021 and the appeal was preferred before the NEPRA on 15.01.2021 within thirty (30) days from the date of receipt of the impugned decision. Hence the objection of the Petitioner is devoid of force and rejected.

7.2 As regards the merits of the case, the contents of the application filed before the POI manifests that the Petitioner was aggrieved with the 41,274 excessive units charged by the Respondent based on fictitious reading till 30.09.2016. Similarly, the Petitioner in his review petition admitted that the arrears of Rs.671,046/- pertaining to the billing for the year 2016. However, the Petitioner assailed the dispute of the year 2016 before the POI on 24.12.2019 after the prescribed limit of three years as per Article 181 of the Limitation Act 1908.

7.3 Though the Petitioner asserted that the matter of disputed billing was agitated before the Respondent time and again but in this regard could not produce any documentary evidence before us. Thus, the issue with regard to the time-barred

complaint before the POI was duly considered and deliberated by the Appellate Board and has already been addressed in the impugned decision.

7.4 In terms of Regulation 3 (2) of NEPRA (Review Procedure) Regulations, 2009, a motion seeking review of any order of the Authority is competent only upon discovery of a mistake or error apparent on the face of the record or a new and important matter of evidence. In the instant review motion, no mistake or error apparent on the face of the record has been highlighted by the Petitioner. Further, the Petitioner has not come up with any new and important matter of evidence which was not considered by the Appellate Board while making its decision dated 15.03.2022. Therefore, there is neither any occasion to amend the impugned decision nor any error inviting indulgence as admissible in law.

8. In view of the above, the instant review motion of the Petitioner is dismissed and the decision dated 15.03.2022 of the Appellate Board is upheld.

Syed Zawar Haider
Member

Muhammad Irfan-ul-Haq
Member

Abid Hussain
Convener

Dated: 05/01/2023.