



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

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No. NEPRA/AB/Appeal-033/POI-2015/ 772-775

August 20, 2015

1. Malik Muhammad Fahad Afzal
S/o Malik Muhammad Afzal Bhuta,
Porp: Malik Cold Storage,
R/o House No. 719/6-A,
Mohallah Bukhari, Tariq Road,
Multan
2. The Chief Executive Officer
MEPCO Ltd,
Khanewal Road,
Multan
3. Mrs. Salma Imran Goreja,
Advocate High Court,
Rafiq Goreja House,
21-Shadman Colony,
Opposite High Court,
Multan
4. M. Waqas Khan Khakwani
Sub Divisional Officer,
MEPCO Ltd,
New Multan Sub division,
Multan

Subject: Appeal Titled MEPCO Vs. Malik Muhammad Afzal Bhutta Against the Decision Dated 20.01.2015 of the Electric Inspector/POI to Government of the Punjab Multan Region, Multan

Please find enclosed herewith the decision of the Appellate Board dated 19.08.2015, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(M. Qamar Uz Zaman)

No. NEPRA/AB/Appeal-033/POI-2015/ 776

August 20, 2015

Forwarded for information please.

1. Registrar
2. Director (CAD)
3. Electric Inspector/POI, Multan Region
4. Master File

CC:

1. Chairman
2. Vice Chairman/Member (CA)
3. Member (Tariff)
4. Member (M&E)
5. Member (Licensing)

M. Qamar Uz Zaman
Member Appellate Board

Registrar	2968
Dy No.....	
Dated 21-08-15	

21/08/15
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National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-033/POI-2015

Multan Electric Power Company Limited

.....Appellant

Versus

Malik Muhammad Fahad Afzal Bhutta, S/o Malik Muhammad Afzal Bhutta, Prop: Malik Cold Storage, R/o House No. 719/6-A, Mohallah Bukhari, Tariq Road, Multan

.....Respondent

For the appellant:

Ms. Uma Salma Shaikh Advocate
Ch. Irfan Mayo Advocate

For the respondent:

Nemo

DECISION

1. Brief facts giving rise to the instant appeal are that Multan Electric Power Company Limited (hereinafter referred to as MEPCO) is a licensee of National Electric Power Regulatory Authority (hereinafter referred to as NEPRA) for distribution of electricity in the territory specified as per terms and conditions of the distribution license and the respondent is an industrial consumer bearing Ref No. 27-15123-0853502 with a sanctioned load of 158kW under tariff B-2.
2. The respondent being aggrieved with detection bill issued by MEPCO amounting to Rs. 444,757/- for 22,726 units/111 kW for the period January 2014 to May 2014 and charged in





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July 2014 filed an application dated 24.07.2014 before POI and challenged the above detection bill.

3. POI after affording opportunity of hearing and perusal of record placed by both the parties announced its decision on 20.01.2015. The operative portion of the decision is reproduced below:

"Keeping in view all the above narrated facts of the case and summing up all the observations/calculations, this forum declares the charging of detection bill for the period 01/2014 to 05/2014 amounting to Rs. 4,44,757/- for the cost of 22726-KWH units & 111-KW MDI as Null, Void and of no legal effect. The Respondents are directed to withdraw the same and charge revised detection bill for the cost of 12089-KWH units & 29-KW MDI for the period 15.03.2014 to 05.05.2014 on the basis of 33 % slowness of meter. The Respondents are also directed to overhaul petitioner's account accordingly by adjusting all debits, credits & payments already made.

Disposed of in above terms."

4. Being aggrieved with the above decision dated 20.01.2015 of POI, MEPCO has filed the instant appeal through Ms. Uma Salma Shaikh Advocate before NEPRA under section 38 (3) of the Act with the following prayer:

"It is therefore, most respectfully prayed that impugned Decision, dated 20.1.2015, may very kindly be set-aside and the application moved by the respondent no. 1 be dismissed with costs throughout."

5. The respondent was issued notice for filing reply/parawise comments which were submitted on 21.05.2015. The respondent in his reply/parawise comments, inter alia, has raised the objection regarding limitation and stated that the appeal must be dismissed being badly time barred.
6. After issuing notice to both the parties, the appeal was heard in Multan on 08.07.2015 in which Ms. Uma Salma Shaikh Advocate and Ch. Irfan Mayo Advocate appeared on behalf of the



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appellant but none entered appearance for the respondent. However it was decided by the Appellate Board to hear the appeal in the absence of the respondent. As the point of limitation was noticed it was felt appropriate to discuss, dilate and decide the point of limitation in the first instance. Ms. Uma Salma Shaikh Advocate, learned counsel for the appellant stated that the copy of the impugned decision was received on 02.02.2015 and the appeal was filed before NEPRA on 30.04.2015 which was within the time limit as prescribed under section 38 (3) of the Act. It has been confirmed from the record that impugned decision was announced on 20.01.2015 and attested copy whereof was delivered to MEPCO on 02.02.2015 and the appeal was filed before NEPRA on 30.04.2015. It is therefore established beyond reasonable doubt that appeal against the impugned decision was filed by MEPCO after the time limit as prescribed in the law and therefore time barred.

7. Furthermore it would be beneficial to consider relevant provisions of limitation as provided in Section 38 (3) of the Act, Regulation 3 of the NEPRA (Procedure for filing appeals) Regulations, 2012 and section 9 of Punjab (Establishment and Powers of Office of Inspection) Order, 2005. Said provisions are reproduced hereunder for sake of convenience:

- **The Act:38 (3). Provincial offices of inspection.**

Any person aggrieved by any decision or order of the Provincial Office of Inspection may, within thirty days of the receipt of the order, prefer an appeal to the Authority in the prescribed manner and the Authority shall decided such appeal within sixty days

- **Procedure for filing appeals:**

3. Filing of appeal.- *(1) Any person aggrieved by any decision or order of the single Member of the Authority or Tribunal constituted under section 11 of the Act or from a decision given by the Provincial office of Inspection may, within 30 days of the order or decision file an appeal before the Authority.*

- **Punjab Establishment and Powers of Office of Inspection:**

9 Final Order.— *(1) Not later than 120 days of the filing of the complaint, the Office of Inspection shall issue its final order. In case of delay, reasons shall be recorded in writing for such delay. Final order shall be comprehensive in all respects containing the violations made and penalties imposed thereon.*


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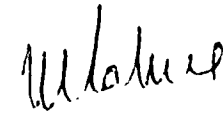
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(2). A certified copy of the final order or any other document on file shall be supplied to the party on an application, duly affixed with stamps at the rate notified by Government from time to time.

8. From bare perusal of above referred provisions it can be safely suggested that the appeal should be filed within 30 days of the announcement of the decision. It has been observed that the impugned decision was announced by POI on 20.01.2015 and the appeal was filed with NEPRA on 30.04.2015 i.e. after 99 days of its announcement by the POI. Evidently MEPCO failed to file the appeal within the time limit of 30 days as prescribed under section 38 of the Act. From perusal of above provisions it is also established that POI was not obligated to serve copy of decision upon parties therefore it is always for the parties to apply and receive copy of the decision for the purpose of filing appeal. The 'word' receipt as mentioned in section 38 of the Act, does not confer any obligation on the POI to deliver copy of the decision to parties. It was always duty of the parties to remain vigilant and obtain certified copy for the purpose of filing appeal. Therefore we are inclined to hold that valuable right has accrued in favor of the respondent due to failure on the part of MEPCO in filing the instant appeal before NEPRA within the time as prescribed by law. As a matter of fact MEPCO is required to explain and justify each day of the delay in filing the appeal after the decision was pronounced on 20.01.2015 but MEPCO failed to do so. Therefore it is concluded that the appeal is time barred and the same is dismissed accordingly.



Muhammad Qamar-uz-Zaman
Member



Nadir Ali Khoso
Convener



Muhammad Shafique
Member

Date: 19.08.2015