



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

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No. NEPRA/AB/Appeal-062/POI-2015/ 968 — 971

October 13, 2015

1. Lal Din
S/o Muhammad Boota,
Porp: Faridia Ice & Oil Mills,
R/o Chak No. 108/9-L,
Pakpattan Road, Sahiwal
2. The Chief Executive Officer
MEPCO Ltd,
Khanewal Road,
Multan
3. Sardar Mazhar Abbas Mahar
Advocate High Court,
45-Zikriya Block, District Courts,
Multan
4. Khalid Mehmood
Sub Divisional Officer,
MEPCO Ltd,
Multan Road Sub Division,
Sahiwal

Subject: Appeal Titled MEPCO Vs. Lal Din Against the Decision Dated 09.04.2015 of the Electric Inspector/POI to Government of the Punjab Multan Region, Multan

Please find enclosed herewith the decision of the Appellate Board dated 13.10.2015, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(M. Qamar Uz Zaman)

No. NEPRA/AB/Appeal-062/POI-2015/ 972

October 13, 2015

Forwarded for information please.


Member Appellate Board

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)

Registrar
By No. 10870
Date: 15-10-15

TA
15/17



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-062/POI-2015

Multan Electric Power Company Limited

.....Appellant

Versus

Lal Din, S/o Muhammad Boota, Prop: Faridia Ice & Oil Mills, Chak No. 108/09-L, Pakpattan Road,
Sahiwal

.....Respondent

For the appellant:

Sardar Mazhar Abbas Advocate
Mohammad Ramzan Revenue Officer

For the respondent:

Nemo

DECISION

1. Brief facts giving rise to the instant appeal are that the appellant (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 license and the respondent is its industrial consumer bearing Ref No. 27-15552-1376300 with a sanctioned load of 96 kW under B-2b tariff. As per fact of the case the meter of the respondent was checked by Metering and Testing (M&T) MEPCO on 23.09.2014 and reportedly found 67 % slow. A notice dated 26.09.2014 regarding the above discrepancy was issued by MEPCO to the respondent. Detection bill of



National Electric Power Regulatory Authority

Rs. 295,338/- for 15,754 units/49 kW for the billing months August 2014 and September 2014 was charged to the respondent in October 2014 by enhancing the Multiplication Factor (M.F.) from 80 to 121.21 to account for 67 % slowness of the meter. The respondent being aggrieved with the said detection bill filed an application before Provincial Office of Inspection Multan Region, Multan (hereinafter referred to as POI) which was decided on 09.04.2015 with the following conclusion:-

"Summing up all the above observations & conclusions and keeping in view the provision of NEPRA approved Consumer Service Manual this forum declares the charging detection bill for the cost of Off-Peak = 13643-KWh & Peak = 2111-KWh units (Total = 15754-KWh units) and 49-KW MDI for the billing months 08/2014 & 09/2014 as Null, Void and of no legal effect. The respondents are directed to withdraw the same and charge revised detection for the cost of Off-Peak -T2 = 5920-KWh & Peak-T1 = 1100-KWh (Total = 7020-KWh) units and 33-KW MDI for the same period assessed on the basis of actual consumption as per data retrieval report reproduced in the above table. They are also directed to overhaul petitioner's account by adjusting all Credit, Debits, Deferred Amount & Payments already made accordingly.

2. Being aggrieved with the POI decision date 09.04.2015, MEPCO has filed the instant appeal under section 38 (3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (hereinafter referred to as the Act).
3. Notice of the appeal was issued to the respondent for filing reply/parawise comments which were not submitted.
4. After issuing notice to the parties, hearing of the appeal was fixed for 29.09.2015 in Multan. On the date of hearing no one entered appearance on behalf of the respondent, however Sardar Mazhar Abbas Advocate appeared for the appellant. From examination of the record, it was noticed that the appeal was prima facie barred by time, therefore, learned Counsel for the appellant was required to first assist the Appellate Board on the question of limitation. Learned counsel for MEPCO contended that the impugned decision was void in nature for which superior courts have held in various judgments that no limitation runs against a void decision. It was observed that impugned decision was announced by POI on 09.04.2015 and intimation was given by POI on same day. Application for certified copy was moved on 20.04.2015, certified copy of the impugned decision was delivered



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on same day and the appeal was filed on 02.07.2015 which has obviously been filed after the time limit as prescribed in the law.

5. The relevant provisions of law regarding limitation are referred as under:-

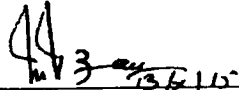
• **Section 38(3) of the Act.**

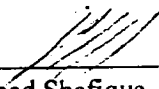
Any person aggrieved by any decision or order of the Provincial Office of Inspection may, within thirty days of the receipt of the order, prefer an appeal to the Authority in the prescribed manner and the Authority shall decide such appeal within sixty days


• **Regulation 3 of NEPA (Procedure for filing appeals) regulations, 2012:**

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.

6. 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 09.04.2015 and the appeal was filed with NEPRA on 02.07.2015 i.e. after 83 days of its announcement by POI. Evidently MEPCO failed to file the appeal within the time limit of 30 days as prescribed under section 38 of the Act. 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 09.04.2015 and copy was received on 20.04.2015 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


Muhammad Shafique
Member


Nadir Ali Khoso
Convener

Date: 13.10.2015