



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

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No. NEPRA/AB/Appeal-063/POI-2015/973-976

October 13, 2015

1. Naveed Jamal
S/o Jamal Din,
Prop/Director,
M/s Jamal Paper (Pvt.) Ltd,
G.T. Road, Mian Channu,
District Khanewal
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. Shaukat Hussain
Sub Divisional Officer,
MEPCO Ltd,
Industrial Estate Sub Division,
Mian Channu

Subject: Appeal Titled MEPCO Vs. Naveed Jamal Against the Decision Dated 17.08.2011 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-063/POI-2015/977

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)

TA

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Registrar	10871
Dy No.....
Dated.....	15-10-15



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-063/POI-2015

Multan Electric Power Company Limited

.....Appellant

Versus

Naveed Jamal, S/o Jamal Din, Prop/Director, M/s Jamal Paper (Pvt.) Ltd, G.T. Road, Mian Channu, District Khanewal

.....Respondent

For the appellant:

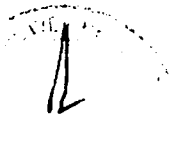
Sardar Mazhar Abbas Advocate

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 consumer having swimming pool connection bearing Ref No. 27-15154-0002700 with a sanctioned load of 159 kW initially under tariff B-2b. As per facts of the case, late payment surcharges (LPS) of Rs. 181,600/- were charged to the respondent by MEPCO through their audit party for the billing months December 2001 and from February 2002 to June 2002 due to late realization of cheques. These LPS charges were





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however paid by the respondent under protest. Subsequently the aforementioned charges were challenged before Provincial Office of Inspection Multan Region, Multan (hereinafter referred to as POI) who decided the matter vide its decision dated 17.08.2011 with the following conclusion:-

"After considering all aspects and all pros and cons of the case, this forum has concluded that the petitioner is innocent for the late realization of the billing amounts into the required MEPCO accounts. He had paid the billing amounts, either in cash or through cheques within due dates. He did not act any part or role in late realization of the said amounts. If there was any bogus posting of payments, then it was not done by the petitioner. He cannot be burdened for any inefficiency or negligence on part of the respondents. Respondents are thus directed to refund Rs. 181,600/- into the petitioner's account through bill adjustment in the forthcoming bill, as the claimed Late Payment Surcharges are unjustified, illegal and not correct.

2. The decision of POI dated 17.08.2011 was assailed by MEPCO before the Advisory Board Government of the Punjab, Lahore (hereinafter referred to as Advisory Board) on 17.11.2011. Advisory Board decided the matter vide its decision dated 15.01.2015 and concluded that appeal against decision of POI is competent before NEPRA. MEPCO applied for certified copy on 21.04.2015 which was delivered to it on same day and the appeal was filed before NEPRA on 02.07.2015 under section 38 (3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (hereinafter referred to as the Act).
3. The respondent did not file reply/parawise comments although a notice in this regard was issued to him.
4. After issuing notices to the parties, the hearing of the appeal was conducted in Multan on 29.09.2015. On the date of hearing, no one entered appearance for the respondent, however Sardar Mazhar Abbas advocate appeared for the appellant. While perusing the record, it was



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noticed that the appeal was prima facie barred by time, therefore, learned Counsel for the appellant was asked to first argue the case as to the maintainability on the question of limitation. Learned counsel for MEPCO argued that impugned decision was announced by POI on 17.08.2011 and the appeal was filed before Advisory Board on 17.11.2011 which vide its decision dated 15.01.2015 decided that appeal shall lie before NEPRA. He averred that MEPCO applied for the certified copy of the decision on 21.04.2015 and copy of the decision was delivered on same day. The appeal was filed before NEPRA on 02.07.2015. According to learned counsel for MEPCO, the time consumed before the wrong forum was to be excluded from the limitation period. Reliance was made on 2007 SCMR 262.

5. It is a matter of record that the appeal against the decision of POI was filed before the Advisory Board after lapse of 90 days of announcement of impugned POI decision and even the appeal before NEPRA has been filed after 71 days from the date of decision by the Advisory Board. As regards, the question of limitation, it would be relevant to quote the provisions of law on the subject 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.

- **Punjab (Establishment and powers of office of Inspection) Order, 2005.**

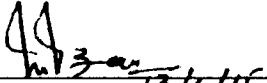
10. Appeal.- An aggrieved person may file an appeal against the final order made by the Office of Inspection before the Government or if the Government, by general or special order, so directs, to the advisory board constitute under Section 35 of the Electricity Act

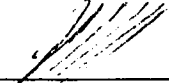


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1910, within 30 days, and the decision of the Government or advisory board, as the case may be, shall be final in this regard.

6. From the above referred provisions it is obvious that the appeal against the decision of POI was to be filed within 30 days of its announcement but it is observed that impugned decision was announced by POI on 17.08.2011 and the appeal was filed before Advisory Board on 17.11.2011 i.e. after lapse of 90 days and before NEPRA after expiry of 71 days from the date of decision of the Advisory Board. It is therefore established without any doubt that the appeal filed by MEPCO is barred by time and liable to be dismissed on this ground alone. As a matter of fact MEPCO is required to explain and justify each day of delay in filing of appeal after decision was announced on 17.08.2011 but MEPCO failed to do so. In view of such position 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