



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

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No. NEPRA/AB/Appeal-009/POI-2016/ 299-303

March 09, 2016

1. Saleem Khalid Rafique
S/o Muhammad Rafique,
Prop: Itfaq Cold Storage,
R/o Chak No. 75/EB,
Arif Wala, District Pakpattan
2. The Chief Executive Officer
MEPCO Ltd,
Khanewal Road, Multan
3. Sardar Mazhar Abbas Mahr
Advocate High Court,
45-Zakariya Block,
District Courts, Multan
4. Rao Muhammad Iqbal
Sub Divisional Officer,
MEPCO Ltd,
Qaboola Sub Division,
District Pakpattan
5. Electric Inspector
Multan Region,
249-G, Shah Ruken-e-Alam Colony,
Phase II, Multan

Subject: **Appeal Titled MEPCO Vs. Saleem Khalid Against the Decision Dated 16.05.2011 of the Electric Inspector/POI to Government of the Punjab Multan Region, Multan**

Please find enclosed herewith the Decision of the Appellate Board dated 09.03.2016, regarding the subject matter, for information and necessary action accordingly.

Encl: **As Above**


(Ikram Shakeel)

No. NEPRA/AB/Appeal-009/POI-2016/ 304

March 09, 2016

Forwarded for information please.

Assistant Director
Appellate Board

1. Registrar
2. Director (CAD)

CC:

1. Vice Chairman/Member (CA)



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-009/POI-2016

Multan Electric Power Company Limited

.....Appellant

Versus

Saleem Khalid S/o Muhammad Rafique, Prop: Itfaq Cold Storage,
R/o Chak No. 75/EB, Arif Wala, District Pakpatan

.....Respondent

For the appellant:

Sardar Mazhar Abbas Mahr Advocate

For the respondent:

Nemo

DECISION

1. Through this decision, an appeal filed by Multan Electric Power Company Limited (hereinafter referred to as MEPCO) against the decision dated 16.05.2011 of Provincial Office of Inspection/Electric Inspector, Multan Region, Multan (hereinafter referred to as POI) is being disposed of.
2. 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. 27-15533-00691002 with a sanctioned load of 264 kW under B-2 tariff.
3. As per fact of the case, electricity meter of the respondent was checked by Metering and Testing (M&T) MEPCO on 04.11.2010 and the meter displayed erratic behavior. A detection bill for 84,720 units/124 kW, for the period August 2010 to November 2010 on



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the basis of the consumption of the corresponding months of the previous year was charged to the respondent. On the request of the respondent, the electricity meter was checked at site by POI in presence of both the parties on 09.02.2011 and it was found accurate and working within permissible limits, however phase 'A' of the meter was showing erratic behavior. On the directions of POI, a check meter was installed by MEPCO on 21.02.2011 and comparison of the readings of the disputed meter and the check meter revealed that the disputed meter was 14% slow. The billing was shifted to the check meter from 22.02.2011 and onwards.

4. POI disposed of the matter vide its decision dated 16.05.2011 with the following conclusion:

"The respondents are thus directed to charge a detection of 7,885 KWH units on the basis of 14% slowness of the disputed meter for the period 09/2010 up to installation of the check meter i.e.21/02/2011. The detection units are required to be segregated into PEAK and OFF PEAK hours with aggregated ratio of 4 hour and 20 hours per day. The Peak hour units would appear as $7885 \times 4/24 = 1314$ Peak KWH; and $7885 \times 20/24 = 6571$ Off-Peak KWH. The consumption from 21/02/2011 onward appeared in bill of March 2011 on readings of check meter. Disposed of in above terms."

5. Being aggrieved with the decision of POI dated 16.05.2011 (hereinafter referred to as the impugned decision). MEPCO filed an appeal before the Advisory Board, Government of Punjab Lahore (hereinafter referred to as the Advisory Board) on 17.12.2011. The Advisory Board disposed of the appeal vide its decision dated 10.09.2015 with the direction to MEPCO to file the same before a proper forum.
6. Pursuant to the decision dated 10.09.2015 of the Advisory Board, MEPCO has filed the instant appeal before NEPRA under section 38 (3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (hereinafter referred to as the Act) against the impugned decision. The respondent was issued a notice for filing reply/parawise comments, which were not filed.



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7. Hearing of the appeal was fixed for 26.02.2016 at Multan in which, Sardar Mazhar Abbas Mahr Advocate appeared on behalf of MEPCO and no one appeared for the respondent. As point of the limitation was noticed therefore in the outset of the hearing, the learned counsel for MEPCO was asked to argue on this point. The learned counsel for MEPCO contended that initially an appeal against the impugned decision was filed before the Advisory Board, which was returned and the same was subsequently filed before NEPRA. According to the learned counsel, certified copy of the impugned decision was delivered to MEPCO on 22.12.2015 and the appeal was filed before NEPRA on 08.01.2016. The learned counsel submitted that the delay in filing the appeal was not intentional or deliberate and was liable to be condoned. He pleaded that if the delay was not condoned, MEPCO would suffer irreparable loss and many complications would arise. He claimed mercy in this regard.
8. Arguments of MEPCO were heard and the record placed before us was examined. It was observed that the impugned decision was announced on 16.05.2011 and the appeal was filed before the Advisory Board on 17.12.2011 after a lapse of 214 days. Subsequent to the decision of the Advisory Board dated 10.09.2015, the appeal was filed before NEPRA on 08.01.2016 after lapse of 120 days. It may be noted that after the insertion of sub section (3) in the section 38 of the Act on 28.09.2011, the appeal against the impugned decision of POI is competent before NEPRA. It is relevant to mention that prior to the insertion of said section, the appeal was to be filed before the Advisory Board within 30 days of announcement of the decision by POI as envisaged in the Clause 10 of the Punjab (Establishment and Powers of office of Inspection) order, 2005. Pursuant to section 38 (3) of the Act, an appeal against the impugned decision of POI should be filed before NEPRA within 30 days, but the instant appeal was filed after 1,622 days of announcement of the impugned decision. It may also be observed that if it is considered that the time period to start from the date of decision of Advisory Board, even then the same is not filed within 30 days. Obviously, the appeal was filed by MEPCO much after expiry of the time limit as prescribed in the law and was liable to be dismissed on the ground of limitation. MEPCO



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has failed to explain/justify the delay in filing the appeal and it is concluded that the appeal is barred by time and therefore dismissed accordingly.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Date: 09.03.2016

