



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

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No. NEPRA/Appeal/017/2024/ 333

April 11, 2025

1. Muhammad Haroon S/o. Gul Sadbar, R/o. Kas Toor, Warsak, Buner
2. Hashim Khan S/o. Umar, R/o. Nansar, Bampokha, Buner
3. Amrali Shah S/o. Shahza R/o. Jawkhela, Buner
4. Muhammad Ghani S/o. Masud, Resdient of Nansir, District Buner
5. Muhammad Shareef S/o. Mahmood, Daggar Kalay, Buner
6. Said Muhammad Shuab C/o. Star Marble Factory, Buner
7. Habibullah S/o. Syed Mahmood, R/o. Ghazi Khaney, Buner
8. Abdul Nasir Khan S/o. Naseem Khan R/o. Ghazi Khaney, Buner
9. Chief Executive Officer, PESCO Ltd, WAPDA House, Sakhi Chashma, Shami Road, Peshawar
10. Saeed Khan Akhunzada, Advocate High Court, Chamber No. 19, Muslim Block, District Courts, F-8 Markaz, Islamabad (Cell No. 0300-8597974)
11. Executive Engineer (Operation), PESCO Ltd, Buner Division, Buner
12. Sub Divisional Officer (Operation), PESCO Ltd, Daggar-I Sub Division, Daggar
13. POI/Electric Inspector, Swat Regional Office Shahi Mohallah, Saidu Sharif, Near Saidu Sharif Science College (Phone No. 0946-722443)

Subject: Appeal No.017/2024 (PESCO Vs. Muhammad Haroon & Others) Against the Decision Dated 24.10.2023 of the Provincial Office of Inspection to Government of the Khyber Pakhtunkhwa Swat Region, Swat

Please find enclosed herewith the decision of the Appellate Board dated 11.04.2025 (04 pages), regarding the subject matter, for information and necessary action, accordingly.

Encl: As Above

(Ikram Shakeel)
Deputy Director
Appellate Board

Forwarded for information please.

1. Director (IT) –for uploading the decision of the Appellate Board on the NEPRA website



National Electric Power Regulatory Authority

Before The Appellate Board

In the matter of

Appeal No.017/POI-2024

Peshawar Electric Supply Company Limited

.....Appellant

Versus

| | |
|---|----------------------|
| Muhammad Haroon S/o. Gul Sadbar, R/o. Kas Toor, Warsak, Buner |Respondent No.1 |
| Hashim Khan S/o. Umar, R/o. Nansar, Bampokha, Buner |Respondent No.2 |
| Amrali Shah S/o. Shahza R/o. Jawkhela, Buner |Respondent No.3 |
| Muhammad Ghani S/o. Masud, Resdient of Nansir, District Buner |Respondent No.4 |
| Muhammad Shareef S/o. Mahmood, Daggar Kalay, Buner |Respondent No.5 |
| Said Muhammad Shuab C/o. Star Marble Factory, Buner |Respondent No.6 |
| Habibullah S/o. Syed Mahmood, R/o. Ghazi Khaney, Buner |Respondent No.7 |
| Abdul Nasir Khan S/o. Naseem Khan R/o. Ghazi Khaney, Buner |Respondent No.8 |

APPEAL U/S 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997

For the Appellant:

Mr. Saeed Khan Akhunzada Advocate
Mr. Muhammad Numan SDO
Mr. Abdul Wadood RO

For the Respondent:

Nemo

DECISION

1. Through this decision, the appeal filed by Peshawar Electric Supply Company Limited (hereinafter referred to as the "Appellant") against the decision dated 24.10.2023 of the Provincial Office of Inspection, Swat Region, Khyber Pakhtunkhwa (hereinafter referred to as the "POI") is being disposed of.
2. Brief facts of the case are that the following are the industrial consumers (hereinafter referred to as the "Respondents") of the Appellant having tariff category B-2. Audit Department vide audit note No.143 dated 17.08.2023 pointed out the relief afforded to the

Appeal No.017/POI-2024

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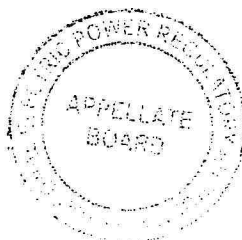


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below-mentioned Respondent having sanctioned load above 70 kW. Accordingly, the Appellant debited the following detection bills to the Respondents in July 2023 based on audit observation:

| S# | Title | Ref. No. | Amount (Rs.) | Period |
|----|------------------|------------------|--------------|----------------------|
| 1. | Muhammad Haroon | 30-26541-0249302 | 250,000/- | Jul-2020 to Sep-2020 |
| 2. | Hashim Khan | 30-26541-0153705 | 250,000/- | Jul-2020 to Sep-2020 |
| 3. | Amrali Shah | 30-26541-0826804 | 250,000/- | Jul-2020 to Sep-2020 |
| 4. | Muhammad Ghani | 30-26541-0296207 | 250,000/- | Jul-2020 to Sep-2020 |
| 5. | Muhammad Shareef | 30-26541-0768701 | 250,000/- | Jul-2020 to Sep-2020 |
| 6. | Said Muhammad | 30-26542-0159006 | 250,000/- | Jul-2020 to Sep-2020 |
| 7. | Habibullah | 30-26541-0712725 | 150,000/- | Jul-2020 to Sep-2020 |
| 8. | Abdul Nasir | 30-26541-0714405 | 150,000/- | Jul-2020 to Sep-2020 |

3. Being aggrieved, the Respondents filed complaints before the POI and challenged the above detection bills. Complaints of the Respondents were clubbed and disposed of by the POI vide single consolidated decision dated 24.10.2023, wherein the Appellant was directed to withdraw the above detection bills debited against the billing accounts of the Respondents and charge the bills as per actual consumption.
4. Subject appeal has been filed against the afore-referred decision dated 24.10.2023 of the POI (hereinafter referred to as the "impugned decision") by the Appellant before the NEPRA along with an application for the condonation of delay, wherein the Appellant contended that the impugned decision was not communicated in time and due to insufficient staff, the rush of work and due to unintentional oversight of the file, the delay (if any) occurred; that the appeal though seems to be time-barred, however, the case should be decided on merits instead of technicalities as per dictums of superior courts; that the limitation does not run against the void order, which can be condoned in the interest of justice.
5. Notice dated 11.03.2024 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days, which were not filed.

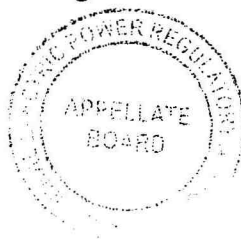




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6. Hearing in the matter was conducted at NEPRA Regional Office Peshawar on 17.03.2025, wherein, a counsel alongwith official for the Appellant tendered appearance and no one represented the Respondent. In response to the question of limitation raised by this forum, learned counsel for the Appellant contended that the delay in filing the appeal is neither intentional nor deliberate and the appeal was filed lately due to late receipt of the impugned decision. Learned counsel for the Appellant prayed that the delay in filing the appeal be condoned in the best interest of justice and that the case be decided on merits instead of technical grounds.
7. Arguments were heard and the record was perused. Following are our observations:
- 7.1 While addressing the point of limitation, it is observed that the Appellant obtained a copy of the impugned decision dated 24.10.2023 on 26.10.2023 and subsequently preferred the instant appeal before NEPRA on 22.01.2024 after the prescribed time limit of 30 days. This shows that the Appellant filed the instant appeal before NEPRA after a lapse of Eighty Eight (88) days from the date of receipt of the impugned decision.
- 7.2 As per sub-section (3) of Section 38 of the NEPRA Act 1997, any person aggrieved by the decision of the POI may prefer an appeal to NEPRA within thirty days of receipt of the order. Further, it is supplemented with Regulation 4 of the NEPRA (Procedure for Filing Appeals) Regulations, 2012 (the "Appeal Procedure Regulations") which also states that the Appeal is required to be filed within 30 days of the receipt of the impugned decision of POI by the Appellant, however, a margin of 7 days' is provided in case of submission through registered post, and 3 days in case of submission of appeal through courier is given in the Appeal Procedure Regulations. Reliance in this regard is placed on judgment dated 25.04.2016 of the honorable Lahore High Court Lahore rendered in the Writ Petition Nos.16172/15, 1637/15, 14895/15, 13470/15, 29335/15, 19916/15, 11039/15, 16677/15, 19763/15, 29623/15, 13908/15 18195/15, 19762/15, 19882/15, 812/15 & 5119/15, wherein it was held that the POI is bound to transmit copy of the decision to the parties and the period of limitation is to be counted from the date of receipt of the copy of such decision, the relevant excerpt of the said judgment is reproduced below for the sake of convenience:

"12. The above discussion leads me to irresistible conclusion that the Provincial Office of Inspections/Electric Inspector is bound to transmit the copy of the order to the aggrieved person through the modes provided under Regulation 4 of



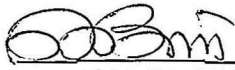
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Regulation 2012 and in this way, the period of limitation for filing an appeal in terms of subsection (3) of section 38 will be calculated from the date of receipt of order."

7. In view of the foregoing discussion, we opined that the delay of Eighty Eight (88) days in filing the appeal before the NEPRA from the date of receipt of the impugned decision is not condonable as no sufficient reasons have been given by the Appellant to justify the delay in filing the appeal. As such the appeal filed before NEPRA is time-barred and dismissed.


Abid Hussain
Member/Advisor (CAD)

Dated: 11-04-2025


Naweed Illahi Sheikh
Convener/DG (CAD)


Muhammad Irfan-ul-Haq
Member/ALA (Lic.)

