



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

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No. NEPRA/Appeal/068/2024/ *475*

May 23, 2025

- | | |
|---|--|
| 1. Israr Khan,
S/o. Haji Umar Wali,
Owner of Stone Crush Machine,
Village Chatpat, P.O. Chakdara,
Tehsil Adenzai, District Dir Lower
Cell No. 0346-8001277 | 2. Chief Executive Officer,
PESCO Ltd,
WAPDA House, Sakhi Chashma,
Shami Road, Peshawar |
| 3. Executive Engineer (Operation),
PESCO Ltd,
Timergera Division,
Timergera | 4. Sub Divisional Officer (Operation),
PESCO Ltd,
Chakdara Sub Division,
Chakdara |
| 5. POI/Electric Inspector,
Peshawar Region,
Benevolent Fund Building,
3rd Floor, Near Jans Bakers,
Peshawar Cantt,
Phone No. 091-9211343 | |

Subject: Appeal No.068/2024 (PESCO vs. Israr Khan) Against the Decision Dated 02.08.2023 of the Provincial Office of Inspection to Government of the Khyber Pakhtunkhwa Peshawar Region, Peshawar

Please find enclosed herewith the decision of the Appellate Board dated 23.05.2025 (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.068/POI-2024

Peshawar Electric Supply Company Limited

.....Appellant

Versus

Israr Khan S/o. Haji Umar Wali, owner of stone crush machine,
Village Chatpat, P.O. Chakdara, Tehsil Adenzai,
District Dir Lower

.....Respondent

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

For the Appellant:

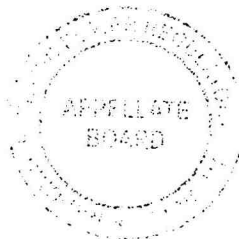
Mr. Saeed Khan Akhonzada Advocate
Mr. Muhammad Nuaman, SDO

For the Respondent:

Mr. Muhammad Niaz

DECISION

1. Brief facts leading to the filing of instant appeal are that Israr Khan (hereinafter referred to as the "Respondent") is an industrial consumer of Peshawar Electric Supply Company Limited (hereinafter referred to as the "Appellant") bearing Ref No.30-26533-0175926 with a sanctioned load of 160 kW and the applicable Tariff category is B-2(b). During the checking dated 25.05.2022 of the Appellant, the impugned meter of the Respondent was found 33% slow due to one phase being dead. Therefore, a detection bill of Rs.366,207/- for 16,600 units for the period from February 2022 to April 2022 (3 months) was debited to the Respondent by the Appellant in October 2022.
2. Being aggrieved, the Respondent filed a complaint before the Provincial Office of Inspection, Peshawar Region, Khyber Pakhtunkhwa (hereinafter referred to as the "POI") on 23.06.2023 and assailed the above detection bill. The POI vide decision dated 02.08.2023 cancelled the detection bill of Rs.366,207/- for 16,600 units for the period from February 2022 to April 2022 (3 months) and directed the Appellant to revise the same for



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net 5,637 units + 26 kW MDI.

3. Subject appeal has been filed against the afore-referred decision dated 02.08.2023 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 it was informed by the Respondent for the announcement of the impugned decision; that 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.
4. Notice dated 31.07.2024 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days, which were filed on 13.08.2024. In the reply, the Respondent rebutted the version of the Appellant regarding charging the impugned decision on account of 33% slowness and defended the impugned decision for revision of the same for one month.
5. Hearing in the matter was conducted at NEPRA Regional Office Peshawar on 17.03.2025, wherein both parties tendered appearance. 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 late due to the late receipt of the impugned decision. Learned counsel for the Appellant averred that the copy of the impugned decision was obtained on 10.04.2024, thereafter, the Appellant preferred instant appeal before the NEPRA. 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. On the contrary, the representative for the Respondent supported the impugned decision and prayed for upholding the same.
6. Arguments were heard and the record was perused. Following are our observations:
 - 6.1 While addressing the point of limitation, if presumed that the Appellant obtained a copy of the impugned decision dated 02.08.2023 on 10.04.2024 and subsequently preferred the instant appeal before NEPRA on 03.07.2024, even then, the subject appeal was filed after the prescribed time limit of 30 days. This shows that the Appellant filed the instant appeal before NEPRA after a lapse of eighty-five (85) days from the date of receipt of the impugned decision.
 - 6.2 As per sub-section (3) of Section 38 of the NEPRA Act 1997, any person aggrieved by the

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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.

6.3 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 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."

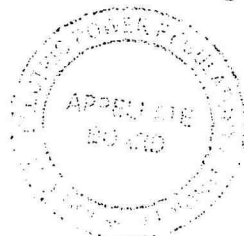
6.4 In furtherance, the honorable Supreme Court of Pakistan in its judgment reported as 2024 SCMR 1021 that the delay in filing the appeal due to lengthy procedure cannot be condoned, the relevant excerpt is reproduced below:

(a) Supreme Court Rules, 1980---

---O XIII, R. & OXXXIII, R6-Government as petitioner before the Supreme Court Time barred petition filed by the Government--Plea that administrative delays due to lengthy procedure prevented the Government from filing the petition within the limitation period-Such plea cannot be considered 'sufficient cause' or a reasonable ground in every case for condonation of delay. No preferential treatment can be accorded to Government Departments for condoning the delay."

7. In view of the foregoing discussion, we opined that the delay of eight five (85) 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

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delay in filing the appeal. As such, the appeal filed before NEPRA is time-barred and dismissed.

Abid Hussain
Member/Advisor (CAD)

Naweed Illahi Sheikh
Convener/DG (CAD)

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

Dated: 23-05-2025

