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

NEPRA Office , Ataturk Avenue (East), G5/1, Islamabad
Tel. No.+92 051 2013200 **Fax No.** +92 051 2600030
Website: www.nepra.org.pk **E-mail:** office@nepra.org.pk

No. NEPRA/Appeal/117/2022/ 704 December 05, 2023

1. Bilal Ahmed,
S/o. Haji Ahmad Sher,
R/o. Hazar Khawani Road,
Gunj, Peshawar

2. Chief Executive Officer
PESCO Ltd,
WAPDA House, Sakhi Chashma,
Shami Road, Peshawar

3. Sub Divisional Officer (Operation),
PESCO Ltd,
Sikandar Pura Sub Division,
Peshawar

4. POI/Electric Inspector,
Peshawar Region,
Benovelent Fund Building,
3rd Floor, Near Jan's Bakers,
Peshawar Cantt

Subject: **Appeal No.117/2022 (PESCO Vs. Bilal Ahmed) Against the Decision Dated 18.02.2022 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 05.12.2023 (04 pages), regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(Ikram Shakeel)
Deputy Director (AB)

Forwarded for information please.

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

National Electric Power Regulatory Authority

Before The Appellate Board

In the matter of

Appeal No.117/POI-2022

Peshawar Electric Supply Company Limited .....Appellant

Versus

Bilal Ahmed S/o. Haji Ahmed Sher,
R/o. Hazar Khawani Road, Gunj, Peshawar .....Respondent

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

For the Appellant:
Mr. Tufail Muhammad Director Commercial

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 18.02.2022 of the Provincial Office of Inspection, Peshawar Region, Peshawar (hereinafter referred to as the "POI") is being disposed of.

2. Brief facts of the case are that Mr. Bilal Ahmed (hereinafter referred to as the Respondent) is an industrial consumer of the Appellant bearing Ref No.30-26122-0050002-U with sanctioned load of 120 kW and the applicable tariff category is B-2(b). The M&T team of the Appellant visited the premises of Respondent on 26.01.2022 and reportedly, the impugned billing meter of the Respondent was found

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33% slow due to one phase being dead. Thereafter the Appellant approached the POI vide application dated 07.02.2022 for vetting assessment. POI vide decision dated 18.02.2022 allowed the Appellant to recover the detection bill against 13,479 units+ 100 kW MDI for two months i.e. December 2021 and January 2022 from the Respondent to account for 33% slowness as per Clause 4.3.3c(ii) of the CSM-2021.

3. Through the instant appeal, the afore-referred decision dated 18.02.2022 of the POI has been impugned by the Appellant before the NEPRA. In the appeal, the Appellant opposed the impugned decision, *inter alia,* on the following grounds that the consumption of the Respondent was declined from June 2021 to January 2022 due to malfunctioning of the impugned meter but the POI did not consider this fat and allowed the recovery of slowness for two months only; that the detection bill is recoverable maximum for six months in case of defective CT/PT as per Chapter 9 of the CSM-2021 and that the appeal be accepted and the case is liable to be decided based on documentary evidence.

4. **Proceedings by the Appellate Board**

Upon filing of the instant appeal, notice dated 26.10.2022 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days, which however were not submitted.

5. **Hearing**

5.1 Hearing was initially conducted at NEPRA Regional Office Peshawar on 12.01.2023 which however was adjourned due to the non-appearance of the Respondent. Finally, hearing was held at NEPRA Head Office Islamabad on 27.09.2023, wherein

the official of the Appellant was present whereas the Respondent again did not tender appearance. In response to the question of limitation raised by this forum, the representative for the Appellant stated that the delay in filing the appeal was not intentional but due to the internal departmental process. He prayed that the delay in filing the appeal be condoned and the appeal be decided on merits instead of technical grounds.

6. Arguments heard and the record perused. Following are our observations:

6.1 **Limitation for filing Appeal**:

While addressing the point of limitation, it is observed that a copy of the impugned decision was obtained by the Appellant on 25.02.2022 and the appeal was filed before the NEPRA on 04.08.2022 after the prescribed time limit of 30 days. This shows that the Appellant filed the instant appeal before NEPRA after a lapse of one hundred sixty-one (161) days from the date of receipt of the impugned decision. 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. Thus, the delay of one hundred sixty-one (161) 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 condonation of the delay.

7. Foregoing in view, the appeal filed before NEPRA is time-barred and; hence dismissed.

Abid Hussain
Member

Muhammad Irfan-ul-Haq
Member

Naweed Illahi Sheikh
Convener

Dated: 05-12-2023

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