



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

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No. NEPRA/AB/Appeal/026/POI/2021/363

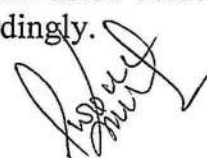
July 06, 2023

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|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Muhammad Minhas,
S/o. Fazal ur Rehman Malik,
Awan Cotton Waste, R/o. Chak No. 77/GB,
Through Yasir Manzoor,
Occupier Consumer, Satiana Road,
Faisalabad | 2. Chief Executive Officer,
FESCO Ltd,
West Canal Road, Abdullah Pur,
Faisalabad |
| 3. Malik Asad Akram Awan,
Advocate High Court,
Sargodha Khushab Law Chambers,
First Floor, Turner Tower,
9-Turner Road, Lahore | 4. Ch. Muhammad Imran Bhatti,
Advocate High Court,
44-District Courts, Faisalabad |
| 5. Sub Divisional Officer,
FESCO Ltd,
Khanuana Sub Division,
Satiana | 6. POI/Electric Inspector,
Energy Department, Govt. of Punjab,
Opposite Commissioner Office,
D.C.G Road, Civil Lines,
Faisalabad Region, Faisalabad |

Subject: Appeal Titled FESCO Vs. Muhammad Minhas Against the Decision Dated 27.10.2020 of the Provincial Office of Inspection to Government of the Punjab Faisalabad Region, Faisalabad

Please find enclosed herewith the decision of the Appellate Board dated 06.07.2023, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above


(Ikram Shakeel)
Deputy Director (M&E)/
Appellate Board

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.026/POI-2021

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Muhammad Minhas S/o Fazal ur Rehman Malik,
Awan Cootton Waste, R/o. Chak No.77/GB, Through
Yasir Manzoor, Occupier, Satiana Road, Faisalabad

.....Respondent

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

For the Appellant:

Mr. Adnan Maseeh SDO

Mr. Azhar Hussain Court Clerk

For the Respondent:

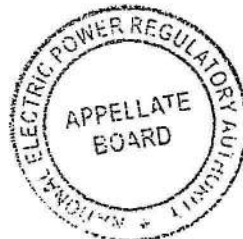
Ch. M. Imran Bhatti Advocate

DECISION

1. Through this decision, the appeal filed by Faisalabad Electric Supply Company Limited (hereinafter referred to as the "Appellant") against the decision dated 27.10.2020 of the Provincial Office of Inspection, Faisalabad Region, Faisalabad (hereinafter referred to as the "POI") is being disposed of.
2. Briefly speaking, Mr. Muhammad Minhas (hereinafter referred to as the "Respondent") is an industrial consumer of the Appellant bearing Ref No.24-13145-5504305-R with sanctioned load of 69 kW and the applicable tariff category is B-2(b). During the checking of the Metering & Testing (M&T) team of the Appellant

Appeal No.026/POI-2021

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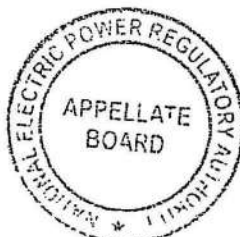
National Electric Power Regulatory Authority

on 21.03.2020, the billing meter was found defective with display wash and the backup meter was found running 66% slow. The Appellant charged the bills for the months i.e. April 2020 and May 2020 to the Respondent on DEF-EST code.

3. The Respondent filed a complaint before the POI on 29.04.2020 and assailed the bills of April 2020 and May 2020. The complaint of the Respondent was disposed of vide the POI decision dated 27.10.2020, wherein the bills of April 2020 and May 2020 were cancelled and the Appellant was allowed to charge the revised bill for 11,898 off-peak + 3,468 peak) units to the Respondent. The Appellant was further directed to overhaul the billing account of the Respondent, accordingly.
4. Through the instant appeal, the afore-referred decision dated 27.10.2020 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 POI did not apply his judicious mind while passing the impugned decision; that the POI exercised his jurisdiction illegally vested in him under the law and in contradiction of the law; that the POI did not take into account that the detection bill was rightly worked out on the basis of consumption data of the Respondent; that the slowness was established during the POI joint checking dated 14.09.2020 and that the impugned decision is liable to be set aside.

5. Proceedings by the Appellate Board

- 5.1 Upon filing of the instant appeal, notice dated 12.02.2021 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days. The Respondent submitted reply to the Appeal on 09.03.2021, wherein he objected to the



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maintainability of the appeal *inter alia*, on the following grounds that the Appellant debited irregular billing, which was rightly decided by the POI with proper appreciation of facts and law; that the appeal was filed by the Appellant without lawful authority, hence the same is liable to be dismissed with special cost of Rs.25,000/-.

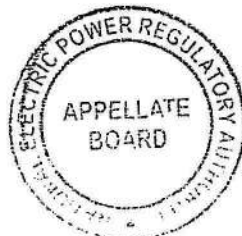
6. Hearing

Hearing in the matter of the subject Appeal was initially conducted at NEPRA Regional Lahore on 14.10.2022, which however was adjourned on the request of the Appellant. Hearing of the appeal was again conducted at NEPRA Regional Office Lahore on 02.06.2023, wherein both parties were in attendance. At the outset of hearing, counsel for the Respondent raised the preliminary objection regarding limitation and prayed that the fate of delay in filing the appeal be decided before going into the merits of the case. Reliance was placed on the judgments reported in 2001 SCMR 1429, 2011 SCMR 676, 1990 SCMR 1519, NLR 2008 Civil (SC) 557, and 2023 SCMR 476. In response, the representatives of the Appellant could not justify the delay in filing the appeal before NEPRA.

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

7.1 Limitation for filing Appeal:

Before going into the merits of the case, the preliminary objection of the Respondent regarding limitation needs to be addressed. It is observed that copy of the impugned decision was obtained by the Appellant on 02.11.2020 and the appeal was filed before the NEPRA on 28.12.2020 after the prescribed time limit of 30 days. This




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shows that the Appellant filed the instant appeal after a lapse of fifty-six (56) 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. Moreover, the Appellant did not append an application for condonation of delay in support of filing the instant appeal. Thus, the delay of fifty-six (56) 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.

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


Abid Hussain
Member


Naweed Illahi Sheikh
Convener


Muhammad Irfan-ul-Haq
Member

Dated: 06-07-2023

