



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

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No. NEPRA/AB/Appeal/081/2022/293

November 18, 2022

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| 1. Younas Fayyaz,
S/o. Muhammad Fayyaz,
R/o. Shahbaz Plaza, 3 rd Floor,
Flat No. 10, Liaquat Colony,
Near Taxi Stand, Hyderabad | 2. Chief Executive Officer,
HESCO Ltd.,
WAPDA Offices Complex,
Hussainabad, Hyderabad |
| 3. Executive Engineer (Operation),
HESCO Ltd,
Phulleli Operation Division,
Phulleli, Hyderabad | 4. POI/Electric Inspector,
Hyderabad Region,
Government Building No. 48/B,
Civil Lines, Hyderabad |

Subject: **Appeal Titled HESCO Vs. Younas Fayyaz Against the Decision Dated 17.12.2019 of the Provincial Office of Inspection to Government of the Sindh Hyderabad Region, Hyderabad**

Please find enclosed herewith the decision of the Appellate Board dated 12.11.2022, 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. Additional Director (IT) –for uploading the decision on NEPRA website



National Electric Power Regulatory Authority

Before The Appellate Board

In the matter of

Appeal No. 081/POI-2022

Hyderabad Electric Supply Company Limited

.....Appellant

Versus

Younas Fayyaz s/o Muhammad Fayyaz, R/o Shahbaz Plaza, 3rd Floor,
Flat No.10, Liaquat Colony, Near Taxi Stand, Hyderabad

.....Respondent

APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 17.12.2019 PASSED BY THE PROVINCIAL OFFICE OF INSPECTION HYDERABAD REGION HYDERABAD

For the Appellant:

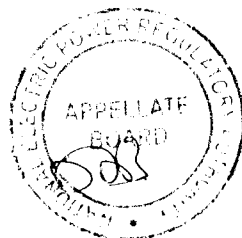
Mr. Rana. M. Shafique XEN
Mr. Zahid Hussain DAO
Mr. Muhammad Touseef

For the Respondent:

Mr. Younas Fayyaz

DECISION

1. As per fact of the case, the Respondent namely, Mr. Younas Fayyaz is a domestic consumer of the Hyderabad Electric Supply Company Limited (hereinafter referred to as the "Appellant") bearing Ref No.06-37243-04045600 having sanctioned load of 1 kW and the applicable tariff category is A-1R.
2. The Respondent filed a complaint before the Provincial Office of Inspection Hyderabad Region, Hyderabad (the "POI") on 22.04.2019 and disputed the bills for the period from





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September 2016 to September 2019 on the plea that the excessive billing was done by the Appellant during the above said period without any justification. The complaint of the Respondent was disposed of by the POI vide decision dated 17.12.2019, wherein the bills charged by the Appellant for the period September 2016 to September 2019 along with late payment surcharges (LPS) were cancelled. As per the POI decision dated 17.12.2019, the Appellant was directed to revise the bills @ 146 units per month for the period September 2016 to September 2019.

3. Subject appeal was initially filed against the afore-referred decision dated 17.12.2019 of the POI (hereinafter referred to as the “impugned decision”) by the Appellant before the NEPRA on 02.12.2021, which was returned owing to certain deficiencies on 29.12.2021. The Appellant resubmitted the appeal before the NEPRA on 25.05.2022 along with an application for the condonation of delay in filing the appeal. In the appeal, the Appellant opposed the impugned decision, *inter alia*, on the following grounds that the Respondent was using electricity directly for which detection bills were charged to the Respondent and a letter was written to police for registration of FIR against him; that the copy of the said letter was produced before the POI; that the detection bills charged to the Respondent are justified and payable by the Respondent; that the POI did not consider the documentary evidence and factual position of the Appellant and passed the impugned decision against the justice and that the impugned decision be set aside.

4. Proceedings by the Appellate Board

- 4.1. Upon the filing of the instant appeal, a Notice dated 24.06.2022 was sent to the



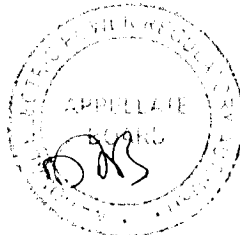


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Respondent for filing reply/para-wise comments to the appeal within ten (10) days. The Respondent submitted his reply before the NEPRA on 07.07.2022. In his reply, the Respondent raised the preliminary objection regarding limitation and submitted that the appeal was filed before the NEPRA after a lapse of more than three years, hence the same is time-barred being filed after the expiry of 30 days from the date of receipt of the impugned decision. The Respondent further submitted that his family was residing in single room of the premises three years ago and he requested the Appellant time and again for disconnection of the electric supply and removal of the meter but no action was taken by the Appellant. As per Respondent, four families living in the remaining portions of the said premises are using electricity through hook connection with the aid of the officials of the Appellant but the Appellant raised the detection bills against his connection instead of taking action against the persons involved in the direct theft of electricity. The Appellant finally prayed for the dismissal of the appeal and the maintainability of the impugned decision.

5. Hearing

- 5.1. Hearing in the matter of the subject Appeal was scheduled for 28.10.2022 at NEPRA Regional Office Karachi for which notices dated 21.10.2022 were issued to both parties (the Appellant and Respondent). On the date of the hearing, both parties were present. At the outset of the hearing, the question of limitation was raised by this forum. In response, the Appellant submitted that the impugned decision was passed by the POI on 17.12.2019, copy of which is received on 20.12.2019, and the appeal was filed before the NEPRA on 02.12.2021. The Appellant further submitted that the delay in filing the appeal was not intentional and the same was due to shortage of staff





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and rush of work. The representative for the Appellant prayed that the application may be condoned in the best interest of justice and the appeal be decided on merits instead of technical grounds. On the contrary, the Respondent reiterated the arguments as contained in reply/para-wise comments to the appeal, defended the impugned decision, and prayed for the dismissal of appeal being barred by time.

6. Arguments were heard and the record placed before us was examined. Following are our findings:

- 6.1 Before going into the merits of the case, the point of limitation raised by the Respondent needs to be addressed. It is observed that the impugned decision was announced by the POI on 17.12.2019, copy of the same was obtained by the Appellant on 20.12.2019 and the present appeal was preferred before the NEPRA on 02.12.2021 against the impugned decision dated 17.12.2019. As per Section 38(3) of the NEPRA Act, any aggrieved person may file an appeal before NEPRA within 30 days from the date of receipt of the impugned decision. Therefore the appeal is delayed by seven hundred and fourteen (714) days from the date of receipt of the impugned decision.
- 6.2 The initially submitted appeal was deficient in respect of compliance with the relevant provisions of the NEPRA (Procedure for filing Appeals) Regulations, 2012; therefore the same was returned to the Appellant on 29.12.2021. The Appellant resubmitted the appeal on 25.05.2022 along with an application for the condonation of delay. In the said condonation application, the Appellant stated that the delay in filing the appeal is behind the control of the Appellant, which may be condoned in the interest of justice.
- 6.3 As such the appeal was filed before the NEPRA on 02.12.2021 i.e. after a lapse of








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seven hundred and fourteen (714) days from the date of receipt of the impugned decision i.e. 20.12.2019 and no sufficient reasons have been given by the Appellant to justify the condonation of delay. Hence the application for the condonation of the delay is rejected.

7. Forgoing in view, the appeal is barred by time, hence dismissed.


Syed Zawar Haider
Member


Abid Hussain
Convener


Muhammad Irfan-ul-Haq
Member

Dated: 12/11/2022

