



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

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No. NEPRA/Appeal/037/2024/ *1008*

December 03, 2024

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|-----------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|
| 1. Hakim Ali,
House No. 18, Bismillah Town,
Mir Pur Khas Road, Site Area,
Hyderabad
Cell No. 0333-2644366 | 2. Chief Executive Officer,
HESCO Ltd,
WAPDA Offices Complex,
Hussainabad, Hyderabad |
| 3. Executive Engineer (Operation),
HESCO Ltd,
Latifabad-I Division,
Hyderabad
Phone No. 0333-2805023 | 4. Sub Divisional Officer (Operation),
HESCO Ltd,
Hali Road Sub Division,
Hali Road, Hyderabad |
| 5. POI/Electric Inspector,
Hyderabad Region,
Civil Line Banglow No. 48-B,
Opposite Income Tax Office,
Hyderabad | |

Subject: **Appeal No.037/2024 (HESCO Vs. Hakim Ali) Against the Decision Dated 11.07.2023 of the Provincial Office of Inspection to Government of the Sindh Hyderabad Region, Hyderabad**

Please find enclosed herewith the decision of the NEPRA Appellate Board dated 02.12.2024 (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.037/POI-2024

Hyderabad Electric Supply Company Limited

.....Appellant

Versus

Hakim Ali House No.18, Bismillah Town,
Mirpurkhas Road, Site Area, Hyderabad

.....Respondent

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

For the Appellant:

Mr. Ghulam Farooq XEN

For the Respondent:

Mr. Hakim Ali

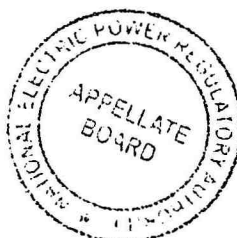
DECISION

1. Through this decision, the appeal filed by Hyderabad Electric Supply Company Limited (hereinafter referred to as the "Appellant") against the decision dated 11.07.2023 of the Provincial Office of Inspection, Hyderabad Region, Hyderabad (hereinafter referred to as the "POI") is being disposed of.
2. Brief facts of the case are that Hakim Ali (hereinafter referred to as the "Respondent") is a domestic consumer of the Appellant bearing Ref No.02-37151-0125427-U with sanctioned load of 04 kW and the applicable tariff category is A-1R. The impugned billing meter of the Respondent with vanished display was replaced with a new meter by the Appellant in September 2020. Subsequently, the M&T team of the Appellant vide report dated 06.07.2021 declared that 85,618 pending units and damaged LCD of the impugned meter. Accordingly, the Appellant debited a detection bill of 84,118 units to the Respondent in November 2021 on

Appeal No.037/POI-2024

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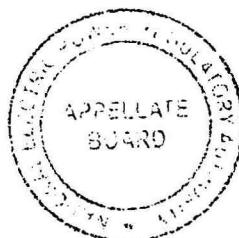
account of uncharged units.

3. Being aggrieved with the above actions of the Appellant, the Respondent filed a complaint before the POI and challenged the above detection bill along with the bills for the period from June 2015 to August 2020. The complaint of the Respondent was disposed of by the POI vide decision dated 11.07.2023, wherein the bills for the period from May 2014 to August 2020 and the detection bill of 84,118 units debited in November 2021 were cancelled and the Appellant was directed to debit the revised bill of net 15,228 units to the Respondent against the disputed period.
4. The Appellant has filed the instant appeal against the afore-said decision dated 11.07.2023 of the POI (hereinafter referred to as the “impugned decision”) before the NEPRA. In its appeal, the Appellant opposed the impugned decision *inter alia*, on the following main grounds that the POI without visiting the premises revised the bills @ 657 units/month for the disputed period; that the display of the impugned meter remained vanished from February 2016 to October 2021 and nil consumption was charged to the Respondent from August 2016 to October 2017; that the POI without scrutinizing the record made available to him has rendered the impugned decision; and the same is liable to be set aside being unjustified.

5. Proceedings by the Appellate Board

Upon the filing of the instant appeal, notice dated 06.06.2024 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days, which were filed on 12.07.2024. In his reply, the Respondent prayed for dismissal of the appeal on the grounds of limitation and submitted that the appeal filed before the NEPRA is barred by time being filed after a lapse of 300 days. The Respondent submitted that the Appellant debited the bill of July 2016 without reading and the meter status shown as defective against which the Appellant was approached time and again but the impugned meter was not changed timely by them. The Respondent further submitted that the impugned meter was replaced in September 2020, thereafter the consumption of the premises remained between 300-400 units per month; that the Appellant debited the impugned detection bill after a lapse of fourteen months from the date of

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MCO; that the impugned meter was not checked in the presence of Respondent, hence no detection bill is recoverable against him; that the impugned decision is liable to be maintained.

6. Hearing

A hearing was conducted at NEPRA Regional Office Hyderabad on 09.10.2024, wherein, both parties tendered appearance. At the outset of the hearing, the Respondent raised the preliminary objection that the appeal is time-barred and the same is liable to be dismissed on the grounds of limitation. In response, the Appellant contended that the delay in filing the appeal is neither intentional nor deliberate, hence the delay in filing the appeal be condoned in the best interest of justice and the case be decided on merits instead of technical grounds. On merits, the Appellant averred that the detection bill of 84,118 units was charged to the Respondent on account of pending units, which is justified and payable by the Respondent as he enjoyed the free electricity privilege since long due to the vanished display of the impugned meter. The Respondent opposed the version of the Appellant and argued that the display of the impugned meter became defective in July 2016 against which he approached the Appellant time and again but the Appellant instead of replacement of the impugned meter debited irregular, unjustified bills for five years. The Respondent finally that the impugned decision is liable to be upheld.

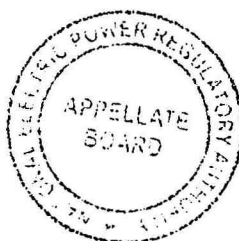
7. Arguments were heard and the record was perused. Following are our observations:

7.1 Limitation for filing Appeal:

While addressing the point of limitation raised by the Respondent, it is observed that a copy of the impugned decision dated 11.07.2023 was initially obtained by the Appellant on 17.07.2023 as evident from the impugned decision and processed a credit adjustment of Rs.2,143,181/- vide letter dated 05.01.2024. Subsequently, the Appellant obtained the attested copy of the impugned decision on 19.03.2024 and preferred the instant appeal before NEPRA on 25.04.2024 after the prescribed time limit of 30 days. This shows that the Appellant filed the instant appeal before NEPRA after a lapse of two hundred eighty-four (284) 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.

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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 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."

8. In view of the foregoing discussion, we opined that the delay of two hundred eight-four (284) 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)

Naweed Illahi Sheikh
Convener/DG (CAD)

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

Dated: 02-12-24

