



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

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No. NEPRA/Appeal/161/POI/2018/ *2297-2301*

October 17, 2019

- |  |   |
|--|---|
| 1. Syed Sharafat Hussain<br>Power Consultant,<br>PTCL Headquarters,<br>Sector G-8/4, Islamabad   | 2. Chief Executive Officer<br>IESCO Ltd,<br>Head Office, St. No. 40,<br>Sector G-7/4, Islamabad     |
| 3. Faisal Bin Khurshid,<br>Advocate Supreme Court,<br>Al Rushd Advocates,<br>32-Haroon-Ur-Rasheed Block,<br>Near Post Office, Johar Road,<br>F-8 Markaz, Islamabad | 4. Sub Divisional Officer<br>IESCO Ltd,<br>F-6 Sub Division,<br>Maqbool Market, F-7/4,<br>Islamabad |
| 5. Electric Inspector/POI,<br>Islamabad Region,<br>XEN Office, Irrigation & Power Department,<br>Rawal Dam Colony, Park Road,<br>Islamabad                         |   |

Subject: **Appeal Titled IESCO Vs. PTCL Against the Decision Dated 30.09.2011 of the Provincial Office of Inspection to Government of the Punjab Islamabad Region, Islamabad**

Please find enclosed herewith the decision of the Appellate Board dated 15.10.2019, regarding the subject matter, for information and necessary action accordingly.

**Encl: As Above**

No. NEPRA/Appeal/161/POI/2018/ *2302*

Forwarded for information please.

(Ikram Shakeel)

October 17, 2019

  
**Assistant Director**  
**Appellate Board**

1. Registrar
2. Director (IT) --for uploading the decision on NEPRA website



# National Electric Power Regulatory Authority

## Before Appellate Board

In the matter of

### Appeal No.161/2018

Islamabad Electric Supply Company Limited

.....Appellant

Versus

Syed Sharafat Hussain, Power Consultant,  
PTCL Headquarters, Sector G-8/4, Islamabad

.....Respondent

**APPEAL FILED UNDER SECTION 38(3) OF REGULATION OF GENERATION,  
TRANSMISSION AND DISTRIBUTION ACT 1997 AGAINST THE DECISION  
DATED 30.09.2011 OF PROVINCIAL OFFICE OF INSPECTION, ISLAMABAD  
REGION, ISLAMABAD**

For the appellant:

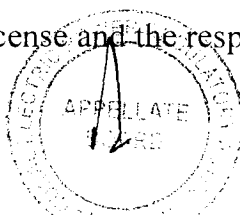
Mr. Faisal Bin Khurshid Advocate  
Mr. Umair Aslam Add. XEN

For the respondent:

Syed Sharafat Hussain

## DECISION

1. Through this decision, an appeal filed by Islamabad Electric Supply Company Limited (hereinafter referred to as IESCO) against the decision dated 30.09.2011 of the Provincial Office of Inspection, Islamabad Region, Islamabad (hereinafter referred to as POI) is being disposed of.
2. IESCO is a licensee of National Electric Power Regulatory Authority (hereinafter referred to as NEPRA) for distribution of electricity in the territory specified as per terms and conditions of the license and the respondent is its commercial consumer





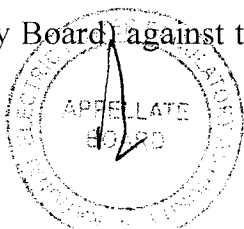
## National Electric Power Regulatory Authority

(PTCL) bearing Ref No.24-13125-5508316-U with a sanctioned load of 538 kW under A-2(c) tariff. On the direction of NEPRA vide letter No. TCD 02/3189-2010 dated 06.08.2010, old TOU billing meter of the respondent was replaced with a new meter by IESCO vide meter change order (MCO) dated 12.08.2010. Subsequently, the old meter of the respondent was found 8% slow during metering and testing (M&T) IESCO checking, hence notices dated 31.08.2010 and dated 11.10.2010 were served to the respondent regarding the above discrepancy. IESCO charged the detection bill of Rs.802,082/- for 71,770 units/158.26 kW MDI for the period March 2010 to September 2010 to the respondent @ 8% slowness of the old meter.

3. Being aggrieved, the respondent filed a complaint before the POI against the above detection bill. POI disposed of the matter vide its decision dated 30.09.2011 and concluded as under:

*"In view of the above facts, it is held that the detection raised/claimed for the period 03/2010 to 09/2010 on 8% slowness basis is not correct which should be withdrawn. IESCO should revise the detection bill for the period 06/2010 to replacement of the meter of the petitioner for the cost of 40715 units instead of 71770 units, 92.69 MDI instead of 158.26 KW MDI. The consumer already paid the 50% amount of the detection bill. The respondents are further directed to overhaul the account of the petitioner and all debits and credits are adjusted accordingly. Further, no late payment surcharge is livable. The already late payment surcharge so levied should also be waived off. The case is hereby disposed of in terms of the above findings/order."*

4. IESCO had initially filed the appeal before the Advisory Board, Government of Punjab Lahore (the Advisory Board) against the decision dated 30.09.2011 of POI

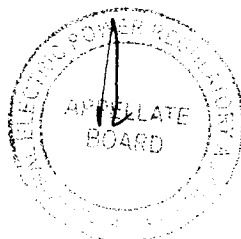




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(hereinafter referred to as the impugned decision). During the pendency of the appeal before the Advisory Board, IESCO filed W.P. No. 176692/2018 in the Lahore High Court and the honorable High Court vide order dated 09.03.2018 directed the Advisory Board to pass a speaking order within 30 days from the date of receipt of the order. Consequently, the Advisory Board vide its decision dated 16.07.2018 returned the appeal to IESCO for filing the same before the appropriate forum as per law.

5. IESCO has the filed the instant appeal before NEPRA, wherein it is inter alia, contended that the new TOU billing meter was installed on the premises of the respondent on 12.08.2010 and the old removed meter of the respondent was checked by M&T IESCO and found 8% slow. As per IESCO, the detection bill of Rs.802,082/- for 71,770 units/158.26 kW MDI for the period March 2010 to September 2010 was debited to the respondent to recover the loss sustained due to 8% slowness of the old meter but POI wrongly declared the above detection bill as null and void without perusing the facts of the case. IESCO explained that the appeal against the impugned decision was initially filed before the Advisory Board and to expedite the matter. WP No.176692/2018 was filed before Lahore High Court, Lahore. The honorable High Court vide order dated 09.03.2018 disposed of the matter and the Advisory Board decided the appeal vide order dated 16.07.2018 and the appellant received the copy of the said order on 27.07.2018. IESCO submitted





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that the instant appeal was filed within the time and prayed for setting the impugned decision.

6. Notice of the appeal was issued to the respondent for filing reply/para-wise comment, which were filed on 31.07.2019. In his reply, the respondent submitted that IESCO charged a detection bill of Rs.802,082/- for 71,770 units/158.26 kW MDI for the period March 2010 to September 2010 @ 8% slowness of the old meter, which was assailed before POI. The respondent objected the maintainability of the appeal on the ground of limitation and contended that the POI pronounced the decision on 30.09.2011 but the appeal was filed before the Advisory Board Lahore on 09.01.2012 after elapse of 101 days. As per respondent, the Advisory Board announced the decision on 16.07.2018 and returned the appeal to IESCO for lodging the same before the appropriate forum, hence the Advisory Board has no jurisdiction to condone the delay in filing the appeal against the impugned decision. The respondent finally prayed for dismissal of the appeal on the ground of limitation.
7. Notice was issued and hearing of the appeal was held in NEPRA head office on 24.09.2019 in which both the parties were in attendance. In response to the question of limitation raised by this forum, learned counsel for IESCO pleaded that the impugned decision was announced by POI on 30.09.2011 against which the appeal was filed in time before the Advisory Board on 09.01.2012 but the Advisory Board kept it pending and after the direction of Lahore High Court, Lahore, the Advisory Board decided the appeal vide the order dated 16.07.2018, the appellant got the copy

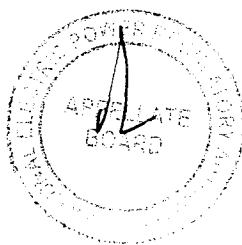




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of the said decision on 27.07.2018 and the appeal was filed before NEPRA on 16.08.2018. As per learned counsel for IESCO, the time consumed during this process is liable to be excluded. Learned counsel for IESCO finally prayed for the condonation of the delay and the decision on merits.

8. We have heard the arguments of both the parties and examined the record placed before us. As the point of limitation was raised, therefore it will be judicious to decide the matter on limitation in the first instance. It is observed that the impugned decision was announced on 30.09.2011, admittedly copy of the same was received by IESCO on 30.11.2011 and the appeal was filed before the NEPRA on 16.08.2018 after a lapse of more than 6 years. As per IESCO, the appeal was filed before the Advisory Board on 09.01.2012 and the time was lost due to the pendency of the appeal at the wrong forum, which is liable to be condoned. For the sake of arguments, if we suppose that IESCO was under the impression to file the appeal against the impugned decision before the provincial government, it is noted that the appeal was filed before the Advisory Board on 09.01.2012 after the expiry of 40 days of receipt of the impugned decision. Prior to the insertion of subsection 3 of Section 38 of NEPRA Act, 1997 on 25.09.2011, any aggrieved person could file an appeal against the final order made by the Provincial Office of Inspection before the Advisory Board within 30 days in pursuance of clause 10 of the Punjab (Establishment and Powers of Office of Inspection) Order, 2005. It is noticed that





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even before the wrong forum, the appeal was filed after the time limit provided in the Punjab (Establishment and Powers of Office of Inspection) Order, 2005.

9. From the discussion made above, we have reached to the conclusion that the appeal filed by IESCO is time-barred, hence dismissed on the ground of limitation.

Muhammad Qamar-uz-Zaman  
Member

Muhammad Shafique  
Member

Nadir Ali Khoso  
Convener

Dated: 15.10.2019

