



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

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No. NEPRA/Appeal/012/2021/ 66/

November 20, 2023

- | | |
|---|---|
| 1. Muhammad Muzahir Ch.,
S/o. Ch. Muhammad Ismail,
R/o. House No. 476, Street No. 14,
Gulistan Colony, Mustafabad,
Lahore | 2. Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore |
| 3. Rai Abid Ali Kharal,
Advocate High Court,
Elahi Law Associates, Office No. 25,
3 rd Floor, Ali Plaza, 3-Mozang Road,
Lahore | 4. Assistant Manager (Operation),
LESCO Ltd,
Mustafabad Sub Division,
Lahore |
| 5. POI/Electric Inspector,
Lahore Region, Energy Department,
Govt. of Punjab, Block No. 1,
Irrigation Complex, Canal Bank,
Dharampura, Lahore | |

Subject: Appeal Titled LESCO Vs. Muhammad Muzahir Ch. Against the Decision Dated 06.08.2019 of the Provincial Office of Inspection to Government of the Punjab Lahore Region, Lahore

Please find enclosed herewith the decision of the Appellate Board dated 20.11.2023 (03 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. 012/POI-2021

Lahore Electric Supply Company Limited

.....Appellant

Versus

Muhammad Muzahir Ch. S/o. Ch. Muhammad Ismail,
R/o. House No.476, Street No.14, Gulistan Colony,
Mustafabad

.....Respondent

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

For the Appellant:

Rai Abid Ali Kharal Advocate
Mr. Muhammad Fahad Tanveer Court Clerk

For the Respondent:

Nemo

DECISION

1. Briefly speaking, Mr. Muhammad Muzahir Ch. (hereinafter referred to as the "Respondent") is a domestic consumer of Lahore Electric Supply Company Limited (hereinafter referred to as the "Appellant") bearing Ref No.08-11341-0742700-U with sanctioned load of 1 kW and the applicable tariff category is -A-1(a).
2. The Respondent filed a complaint before the Provincial Office of Inspection, Lahore Region, Lahore (hereinafter referred to as the "POI") and assailed the bill of Rs.64,835/- charged by the Appellant for April 2019 and added to the bill for May 2019. According to the decision of the POI, several opportunities of hearings i.e. 09.07.2019, 23.07.2019, and 06.08.2019 were provided to both parties but the Appellant failed to appear before the POI and submit the reply/para-wise comments despite repeated notices. The matter was decided ex-parte vide the decision dated 06.08.2019 and the impugned bill of Rs.64,835/- for April 2019 was declared null and void and the Appellant was directed to overhaul the billing account of the Respondent, accordingly.
3. Subject appeal has been filed by the Appellant against the POI decision dated 06.08.2019

Appeal No.012/POI-2021

Page 1 of 3



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National Electric Power Regulatory Authority

(hereinafter referred to as the “impugned decision”) before the NEPRA. In its appeal, the Appellant, *inter alia*, prayed for setting aside the impugned decision on the main grounds; that no notices have been received from POI, hence non-appearance was not deliberate; that the honorable Supreme Court of Pakistan and High Courts decided that the cases be decided on merits instead of technical grounds, reliance in this regard is placed on the various judgments of superior courts reported in PLJ 2010 Pesh1 DB, PLD 1976 Kar 1098 and 2004 MLD 159; that the POI has not thrashed out the consisting reasons and assed the illegal order; that the impugned decision is bad in law and against the facts of the case.

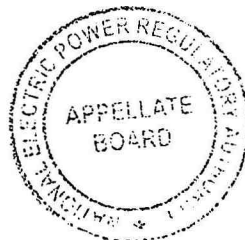
4. Proceedings by the Appellate Board

- 4.1 Upon the filing of the instant appeal, a Notice dated 29.01.2021 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days, which were submitted on 06.02.2021. In the reply, the Respondent contended that the appeal filed before the NEPRA is time-barred; that the Appellant failed to appear and submit the documents before the POI despite repeated notices; that the Appellants were well aware of the proceedings before the POI and did not join the said proceedings with malafide intention; that the impugned decision is liable to be maintained and the appeal is liable to be dismissed with cost of Rs.80,000/-.

5. Hearing

- 5.1 Hearings in the matter were conducted on 16.06.2022, 29.09.2022, and 02.06.2023 at NEPRA Regional Office Lahore, which however were adjourned on the request of either the Appellant or the Respondent. Finally, the hearing was fixed for 08.09.2023 at Lahore, which was attended by counsel for the Appellant, whereas the Respondent did not tender appearance. Learned counsel for the Appellant *inter alia*, contended that neither any notice was served by the POI nor any intimation was given by the Respondent regarding the proceedings before the POI, hence the impugned decision could not be decided on ex-parte basis. Learned counsel for the Appellant prayed for setting aside the impugned decision and for remanding back the matter to POI for decision afresh after hearing both parties.

6. We have heard the arguments and examined the record placed before us. Our observations are as under:



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National Electric Power Regulatory Authority

6.1 Preliminary Objection of the Respondent regarding limitation:

While addressing the preliminary objection of the Respondent, it is observed that the Appellant got the certified copy of the impugned decision on 28.09.2020, and the appeal was filed before the NEPRA on 13.10.2020 within 30 days from the date of receipt of the impugned decision as per Section 38(3) of the NEPRA Act. Hence objection of the Respondent has no force and is rejected.

6.2 The Appellant claims that no notices were served by the POI with regard to the proceedings of the Respondent's complaint, hence the impugned ex-parte decision be set aside and the matter be remanded back to the POI for the decision on merits. Since the factual controversies are involved in the case, which needs detailed investigation to determine the fate of the bill of Rs.64,835/- charged for April 2019. Hence, the impugned decision is set aside and the matter is remanded back to the POI for deciding afresh after providing the opportunity of hearing to both parties in accordance with law.

Abid Hussain
Member

Muhammad Irfan-ul-Haq
Member

Naweed Illahi Sheikh
Convener

Dated: 20-11-2023

