



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

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No. NEPRA/Appeal/122/2020/097

February 09, 2023

- | | |
|---|---|
| 1. M/s. Crescent Educational Trust,
Through Vice President Administration,
Major (R) Hameed Ullah Awan,
352-Shadman Colony, 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. Muhammad Akram Qureshi,
Advocate Supreme Court of Pakistan,
Office No. 6, Ground Floor, SAF Centre,
8-Fane Road, Lahore |
| 5. Deputy Manager (Operation),
LESCO Ltd,
Civil Lines Division,
Lahore | 6. POI/Electric Inspector,
Lahore Region, Energy Department,
Govt. of Punjab, Block No. 1,
Irrigation Complex, Canal Bank,
Dharampura, Lahore |

Subject: **Appeal Titled LESCO Vs. M/s. Crescent Educational Trust Against the Decision Dated 29.10.2019 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 06.02.2023, 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. 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.122/POI-2020

Lahore Electric Supply Company LimitedAppellant

Versus

M/s. Crescent Educational Trust, Through Vice President
Administration, Major ® Hameed ullah Awan,
Shadman Colony, LahoreRespondent

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

For the Appellant:

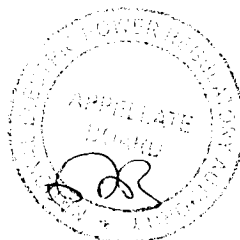
Rai Abid Ali Advocate
Hafiz Zarar Umar SDO

For the Respondent:

Mr. Zain Qureshi Legal Advisor

DECISION

1. Through this decision, the appeal filed by the Lahore Electric Supply Company Limited (hereinafter referred to as the “Appellant”) against the decision dated 29.10.2019 of the Provincial Office of Inspection, Lahore Region, Lahore (hereinafter referred to as the “POI”) is being disposed of.
2. Briefly speaking, M/s. Crescent Educational Trust (hereinafter referred to as the “Respondent”) is a domestic consumer of the Appellant bearing Ref No.24-11252-095001-U with sanctioned load of 89kW and the applicable tariff category is A-1(b). The Appellant has claimed that the TOU billing meter of the Respondent





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was found showing intermittent behavior and the backup meter was found working within specified limits during the checking dated 10.11.2017. Resultantly, a detection bill amounting to Rs.2,345,338/- against 105,455 units for the period from 07.06.2012 to 10.11.2017 was debited to the Respondent due to the difference in readings between the TOU billing and backup meters and added to the bill for November 2017.

3. Being aggrieved, the Respondent filed a complaint before the POI on 14.01.2018 against the charging of the above detection bill. Subsequently, two new meters were installed in series with the backup meter of the Respondent by the Appellant on 19.01.2018. The complaint of the Respondent was disposed of vide the POI decision dated 29.10.2019, wherein the detection bill of Rs.2,345,338/- against 105,455 units for the period from 07.06.2012 to 10.11.2017 debited to the Respondent due to the difference in readings between the TOU billing and backup meters was cancelled. However, the Appellant was directed to charge the revised bills for two months i.e. September 2017 and October 2017 and onwards after adding 14.07% slowness of the impugned billing meter. The Appellant was further directed to overhaul the billing account of the Respondent after adjusting the payment made against the above detection bill.
4. Through the instant appeal, the afore-referred decision dated 29.10.2019 of the POI has been impugned by the Appellant before the NEPRA along with an application for the condonation of delay. In the appeal, the Appellant opposed the impugned decision, *inter alia*, on the following grounds that the impugned billing meter of the Respondent was found showing intermittent behavior, and the backup meter was





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found working ok during checking dated 10.11.2017, therefore a detection bill of Rs.2,345,338/- against 105,455 units for the period from 07.06.2012 to 10.11.2017 was debited to the Respondent due to the difference in readings between the billing and backup meters; that the POI did not apply his independent and judicious mind while passing the impugned decision; that the same was based on illegal assumptions and presumptions; that the POI has not thrashed out the consisting reasons of the Appellant in the matter and passed the illegal order; that the POI failed to decide the matter within 90 days as envisaged in Section 26(6) of the Electricity Act 1910; and that the impugned decision is liable to be set aside. In the application for condonation of delay, the Appellant submitted that the Respondent had settled the matter out of court and paid the disputed amount in installments and the Appellant was under impression that the Respondent withdrew his case; that the POI did not give any intimation for the announcement of the impugned decision dated 29.10.2019; that the Appellant got acknowledge after the Respondent approached for implementation of the impugned decision, therefore the appeal is filed before the NEPRA within the time limit from the date of receipt of the impugned decision. The Appellant pleaded that the delay if any in filing the appeal be condoned in the interest of justice and relied upon the judgment of the Supreme Court of Pakistan cited as 2003 PLC (CS) 796.

5. Proceedings by the Appellate Board

- 5.1 Upon filing of the instant appeal, a notice dated 21.10.2020 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 08.12.2020, wherein he objected





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to the maintainability of the appeal *inter alia*, on the following grounds that the Appellant were well aware about the pronouncement of the impugned decision as the POI passed the same after hearing both parties; that the Appellant filed the instant appeal before the NEPRA after a delay of more than one year; that the impugned meter was replaced without got checked by the POI; that the detection bill of Rs.2,345,338/- against 105,455 units for the period from 07.06.2012 to 10.11.2017 was charged in violation of Clause 4.4(e) of the Consumer Service Manual 2010 (the “CSM”); that said clause of the CSM allows the Appellant to charge the bills maximum for two billing cycles in case of defective meter; that the impugned billing meter was found running 14.07% slow as compared to the backup meter; that the time limit of 90 days is not applicable for the POI functioning under Section 38 of the NEPRA Act; that the Appellant failed to justify the delay in filing the instant appeal; and that the appeal is liable to be dismissed on sole ground of limitation.

6. **Hearing**

6.1 Hearing in the matter of the subject Appeal was initially conducted at Lahore on 29.09.2022, which however was adjourned for 24.11.2022 due to the non-appearance of the main counsel for the Respondent. Hearing of the appeal was again conducted at NEPRA Regional Office on 24.11.2022, wherein both parties were in attendance. At the outset of hearing, counsel appearing for the Respondent repeated the objection regarding limitation and prayed that the fate of delay in filing the appeal be decided before the determination of the disputed bill. In response, learned counsel for the Appellant stated that the POI did not intimate for the announcement of the impugned





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decision and the Appellant come to know after the submission of the application of the Respondent for its implementation; therefore the Appellant rushed to obtain a copy of the impugned decision and filed the appeal before NEPRA. On merits, learned counsel for the Appellant repeated the same grounds as given in the memo of the appeal and stated that the impugned billing meter was found running slow with erratic behavior during checking dated 10.11.2017, therefore a detection bill of Rs.2,345,338/- against 105,455 units for the period from 07.06.2012 to 10.11.2017 was debited to the Respondent due to the difference in readings between the TOU billing and backup meters. He defended the charging of the above detection bill and prayed for setting aside the impugned decision being contrary to the facts of the case.

6.2 The Respondent supported the impugned decision and argued that POI decided the matter on facts and as per applicable provisions of law. He finally prayed for upholding the impugned decision and for the dismissal of the appeal being barred by time.

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. The Respondent claimed that the first copy of the impugned decision was obtained by the Appellant on 17.06.2020 and the appeal was filed before the NEPRA on 30.09.2020 after the prescribed time limit of 30 days. This shows that the Appellant filed the instant appeal after a lapse of 106 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





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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. Thus, the delay of 106 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. The application for the condonation of the delay filed by the Appellant is rejected being devoid of force.

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

Muhammad Irfan-ul-Haq

Member

Abid Hussain
Convener

Dated: 06/02/2023

