



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

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No. NEPRA/Appeal/051/2023/ 677


November 20, 2023

1. Haroon ur Rashid,
M/s. Faisala Naveed Textile Mills (Pvt.) Ltd,
Gadoon, Swabi
2. Chief Executive Officer
PESCO Ltd,
WAPDA House, Sakhi Chashma,
Shami Road, Peshawar
3. Executive Engineer (Operation),
PESCO Ltd,
Topi Division, Swabi
4. Sub Divisional Officer (Operation),
PESCO Ltd,
Gadoon Sub Division,
Swabi
5. POI/Electric Inspector,
Nowshera Region,
Tehsil Road, Near Police Station,
Nowshera Kalan, Nowshera

Subject: **Appeal Titled Haroon ur Rashid Vs. PESCO Against the Decision Dated 29.12.2022 of the Provincial Office of Inspection to Government of the Khyber Pakhtunkhwa, Nowshera Region, Nowshera**

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.051/POI-2023

Haroon ur Rasheed, M/s. Faisal/Naveed Textile Mills,
(Pvt.) Ltd, Gadoon, Swabi

.....Appellant

Versus

Peshawar Electric Supply Company Limited

.....Respondent

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

For the Appellant:

Mr. Taj CEO

Mr. Haroon-ur-Rasheed Director

For the Respondent:

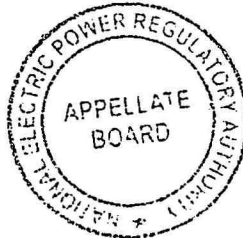
Mr. Tufail Muhammad Director Commercial

DECISION

1. Through this decision, the appeal filed by Mr. Haroon-ur-Rasheed (hereinafter referred to as the "Appellant") against the decision dated 29.12.2022 of the Provincial Office of Inspection, Nowshera Region, Khyber Pakhtunkhwa (hereinafter referred to as the "POI") is being disposed of.
2. Brief facts of the case are that the Appellant is an industrial consumer of Peshawar Electric Supply Company Limited (hereinafter referred to as the "Respondent") bearing Ref No.30-26842-0037401 with sanctioned load of 499 kW and the applicable tariff category is B-2(b). M&T team of the Respondent visited the premises of the Appellant on 05.11.2020 and reportedly, the impugned billing meter of the Appellant was found 66% slow due to two phases being dead. Notice dated 29.12.2020 was issued to the Appellant regarding 66% slowness of the impugned meter and debited a detection bill of Rs.5,873,522/- against 319,254 units for two months i.e. 03.09.2020 to 04.11.2020 to the Appellant, which was

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challenged by him before the POI, Peshawar Region, Khyber Pakhtunkhwa on 20.05.2021. The POI vide decision dated 26.07.2021 allowed the Respondent to recover the detection bill for forty-six days from the period from 13.09.2020 to 29.10.2020 from the Appellant @ 66% slowness of the impugned meter.

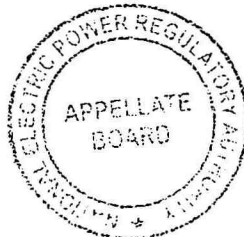
3. Being dissatisfied, the Respondent challenged the afore-referred decision of the POI, Peshawar Region before the Secretary Energy, Khyber Pakhtunkhwa, who vide order dated 13.01.2022 remanded back the matter to the POI, Nawshera Region, Khyber Pakhtunkhwa. Accordingly, the Appellant filed an application before the POI, Nawshera Region Khyber Pakhtunkhwa on 18.02.2022 and impugned the above detection bill. The POI Nawshera Region Khyber Pakhtunkhwa disposed of the matter with the direction to the Respondent to recover 66% slowness for two months only and afford the benefit of ZRI and LPS charges.
4. Through the instant appeal, the afore-referred decision dated 29.12.2022 of the POI has been impugned by the Appellant before the NEPRA. In the appeal, the Appellant opposed the impugned decision, *inter alia*, on the following grounds that the Respondent neither served notice nor changed the meter after according to approval of the CEO; that the Respondent violated the provisions of the applicable law, which allows the Respondent to recover the detection bill on the basis of consumption of last eleven months or consumption of corresponding month of the previous year; that the impugned decision is liable to be set aside and the Respondent be restrained to debit the detection bill @ 66% slowness of the meter.

5. **Proceedings by the Appellate Board**

Upon filing of the instant appeal, notice dated 17.05.2023 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days, which however were not submitted.

6. **Hearing**

Hearing was conducted at NEPRA Head Office Islamabad on 27.09.2023 which was attended by both parties. In response to the question of limitation raised by this forum, the representative for the Appellant stated that the delay in filing the appeal was neither



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intentional nor deliberate, hence the same may be condoned and the appeal be decided on merits instead of technical grounds.


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

7.1 Limitation for filing Appeal:

While addressing the point of limitation, it is observed that a copy of the impugned decision was obtained by the Appellant on 29.12.2022 and the appeal was filed before the NEPRA on 19.04.2023 after the prescribed time limit of 30 days. This shows that the Appellant filed the instant appeal before NEPRA after a lapse of one hundred eleven (111) 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 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 one hundred eleven (111) 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.

8. Foregoing in view, the appeal filed before NEPRA is time-barred and; hence dismissed.


Abid Hussain
Member


Muhammad Irfan-ul-Haq
Member


Naweed Illahi Sheikh
Convener

Dated: 20-11-2023

