



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

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No. NEPRA/Appeal/107/2022/ 674

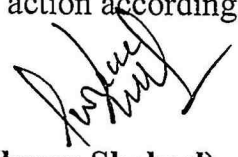
November 20, 2023

- |  |   |
|--|---|
| 1. Haji Rahim,<br>Rahim Plaza, Board Bazar,<br>Peshawar  | 2. Chief Executive Officer<br>PESCO Ltd,<br>WAPDA House, Sakhi Chashma,<br>Shami Road, Peshawar         |
| 3. Saeed Khan Akhunzada,<br>Advocate High Court,<br>Chamber No. 19, Muslim Block,<br>District Courts, F-8 Markaz,<br>Islamabad             | 4. Sub Divisional Officer (Operation),<br>PESCO Ltd,<br>University Town No. 1 Sub Division,<br>Peshawar |
| 5. POI/Electric Inspector,<br>Peshawar Region,<br>Benovelent Fund Building,<br>3 <sup>rd</sup> Floor, Near Jan's Bakers,<br>Peshawar Cantt |   |

Subject: **Appeal Titled PESCO Vs. Rahim Plaza Against the Decision Dated 14.04.2021 of the Provincial Office of Inspection to Government of the Khyber Pakhtunkhwa, Peshawar Region, Peshawar**

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.107/POI-2022

Peshawar Electric Supply Company Limited

.....Appellant

Versus

Haji Rahim, Rahim Plaza, Board Bazar, Peshawar

.....Respondent-I

&

Khyber Medical College

.....Respondent-II

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

For the Appellant:

Mr. Alam-Zeb SDO

For the Respondent:

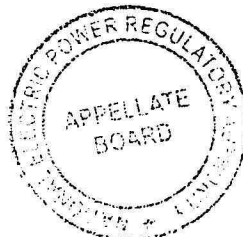
Mr. Alam Gul

### DECISION

1. Through this decision, the appeal filed by Peshawar Electric Supply Company Limited (hereinafter referred to as the "Appellant") against the decision dated 14.04.2021 of the Provincial Office of Inspection, Peshawar Region, Peshawar (hereinafter referred to as the "POI") is being disposed of.
2. Brief facts of the case are that M/s. Rahim Plaza (hereinafter referred to as the Respondent-I) is a commercial consumer of the Appellant bearing Ref No.30-26133-0020201 with sanctioned load of 121 kW and the applicable tariff category is A-2C, whereas M/s. Khyber Medical College (hereinafter referred to as the Respondent-II) is a bulk supply consumer of the Appellant bearing Ref No.30-26133-0003600 with applicable tariff category C-1. The M&T team of the Appellant visited the premises of Respondent No. I and II on 24.02.2021 and reportedly, the impugned billing meters of the Respondents were found

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33% slow. Therefore the Appellant debited the detection bills for ten months and four months to Respondent No. I and II respectively due to 33% slowness of the meters.

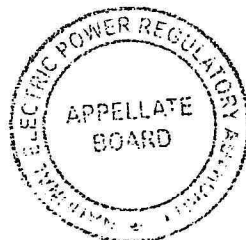
3. Being aggrieved, the Respondent No. I and II filed complaints before the POI and challenged the above detection bills debited by the Appellant. Both the complaints of the Respondent were clubbed and disposed of by the POI vide single consolidated decision dated 14.04.2021, wherein the Appellant was directed to debit the revised detection bills each for two months to the Respondent No. I and II to account for 33% slowness as per Clause 4.3.3c(ii) of the CSM-2021.
4. Through the instant appeal, the afore-referred decision dated 14.04.2021 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 No. I was found using electricity directly by bypassing the meter during checking in the year 2021 and the impugned meter of Respondent No. I was found 33% slow for which notice dated 19.02.2021 was issued to Respondent No. I and FIRs No./207/2021 dated 07.04.2021 and No.226/2021 dated 29.04.2021 were registered against Respondent No. I and II; that the impugned decision is against the facts and law of the case; that the POI has not applied its anxious mind to the fact that the Respondent was caught red-handed while stealing electricity along with slowness of the meter; that the POI has ignored the law and fact and has arbitrarily passed the impugned order and that the impugned decision is liable to be set aside.

5. **Proceedings by the Appellate Board**

Upon filing of the instant appeal, notice dated 26.09.2022 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**

- 5.1 Hearing was initially conducted at NEPRA Regional Office Peshawar on 12.01.2023 which was attended by both parties. The Respondent raised the preliminary objection of limitation and averred that the appeal filed before the NEPRA is hopelessly time-barred, hence the same is liable to be dismissed. Learned counsel for the Appellant requested to adjourn the



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case till next to prepare on limitation. Again, the hearing was held at NEPRA Head Office Islamabad on 26.09.2023, wherein both parties were in attendance. The Respondent pressed his objection on limitation. In response, the representative for the Appellant repudiated the version of the Respondent and argued that the delay in filing the appeal was not intentional but due to the internal departmental process. He prayed that the delay in filing the appeal be condoned and the appeal be decided on merits instead of technical grounds.


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


6.1 **Limitation for filing Appeal:**

Before going into the merits of the case, the preliminary objection of the Respondent regarding limitation needs to be addressed. It is observed that a copy of the impugned decision was obtained by the Appellant on 19.04.2021 and the appeal was filed before the NEPRA on 31.12.2021 after the prescribed time limit of 30 days. This shows that the Appellant filed the instant appeal after a lapse of 257 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 two hundred fifty-seven (257) 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

  
Naveed Illahi Sheikh  
Convener

  
Muhammad Irfan-ul-Haq  
Member

Dated: 20-11-2023

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