



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

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No. NEPRA/Appeal/128/POI/2022/ 6/3

January 27, 2023

- |  |  |
|--|--|
| 1. Ghulam Ali,<br>C/o. Bilal CNG, Ring Road,<br>Jamil Chowk, Peshawar  | 2. Chief Executive Officer<br>PESCO Ltd,<br>WAPDA House, Sakhi Chashma,<br>Shami Road, Peshawar  |
| 3. Sub Divisional Officer (Operation),<br>PESCO Ltd,<br>Gul Bahar-II Sub Division,<br>Near Khyber Pakhtunkhwa Hotel,<br>Jamil Chowk, Ring Road, Peshawar | 4. 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. Ghulam Ali Against the Decision Dated 26.01.2022 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 23.01.2023, 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 Appellate Board

In the matter of

## Appeal No.128/POI-2022

Peshawar Electric Supply Company Limited

.....Appellant

Versus

Ghulam Ali C/o Bilal CNG,  
Ring Road, Jamil Chowk, Peshawar

.....Respondent

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

For the Appellant:

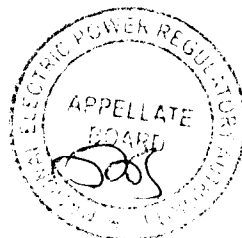
Mr. Muhibullah Khan Bangash SDO

For the Respondent:

Mr. Ghulam Ali

## DECISION

1. Brief facts leading to the filing of instant appeal are that Mr. Ghulam Ali (hereinafter referred to as the "Respondent") is a commercial (CNG Station) consumer of the Peshawar Electric Supply Company Limited (hereinafter referred to as the "Appellant") bearing Ref No.30-26216-0136962 with a sanctioned load of 152 kW and the applicable Tariff category is A-2(c). The billing meter of the Respondent was found 66% slow due to two phases being dead during the Appellant checking dated 01.10.2020. The Appellant vide letter dated 07.12.2020 requested the Provincial Office of Inspection, Peshawar Region, Khyber Pakhtunkhwa (hereinafter referred to as the "POI") for vetting of assessment due  
Appeal No.128/POI-2022



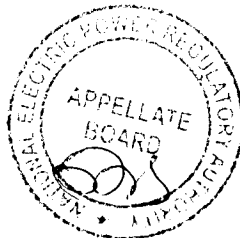


## National Electric Power Regulatory Authority

to slowness of the meter. Subsequently, the Appellant debited the detection bill amounting to Rs.815.087/- against 30,620 (off-peak=25,517+peak=5,103) units to the Respondent on the basis of vetting of the POI conveyed vide letter dated 15.12.2020 and added to the bill for February 2021. Later on, the Audit Department vide Audit Note No.21 dated 29.07.2021 pointed out less recovery of units due to 66% slowness of the billing meter of the Respondent and recommended to charge an amount of Rs.2,953,330/- against net 96,973 units containing two periods i.e. period-I=18.05.2020 to 17.07.2020 @ 33% slowness of the meter and Period-II=20.07.2020 to 19.09.2020 @ 66% slowness of the meter. Accordingly, the Appellant charged the above detection bill to the Respondent.

2. Being aggrieved, the Respondent assailed the arrears of Rs.4,754,814/- till November 2021 before the POI, which contained the abovementioned detection bill. The complaint of the Respondent was disposed of by the POI vide the decision dated 26.01.2022 with the following conclusion:

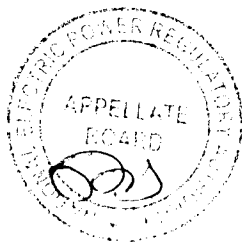
*“Hence, keeping in view the nature of the case and circumstances, the following is hereby ordered that the Respondents shall withdraw the amount of the assessment made against the petitioner vide audit note being unjustified, with reference to the judgment of the National Electric Power Regulatory Authority (NEPRA) order/judgment rendered in the Appeal No. NEPRA/Appeal/248-POI/66 dated 04, March 2021. A revised bill be prepared and delivered to the petitioner for payment.”*





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3. Subject appeal has been filed against the afore-referred decision dated 26.01.2022 of the POI by the Appellant before the NEPRA. In its appeal, the Appellant contended that the billing meter of the Respondent was found 66% slow by the Appellant on 01.10.2022, which was duly vetted by the POI vide decision dated 15.12.2020 and the Respondent was initially debited a bill of Rs.815,087/- against 30,620 units in February 2021. The Appellant further contended that the Audit Department vide Audit Note No.21 dated 29.07.2021 pointed out less recovery of units due to slowness of the meter and recommended to charge the detection bill of Rs.2,953,330/- against net 96,973 units containing two periods i.e. period-I=18.05.2020 to 17.07.2020 @ 33% slowness of the meter and Period-II=20.07.2020 to 19.09.2020 @ 66% slowness of the meter. Accordingly, the Appellant charged the detection bill of Rs.2,953,330/- against net 96,973 units containing two periods i.e. period-I=18.05.2020 to 17.07.2020 @ 33% slowness of the meter and Period-II=20.07.2020 to 19.09.2020 @ 66% slowness of the meter to the Respondent. As per the Appellant, an appeal was initially filed before the Advisory Board, which is pending before the same forum, however, pursuant to the direction of the Chief Commercial Officer conveyed vide letter dated 15.02.2022, the instant appeal is preferred before the NEPRA against the impugned decision of POI. The Appellant prayed that the appeal be accepted and the decision be passed as per documentary evidence.





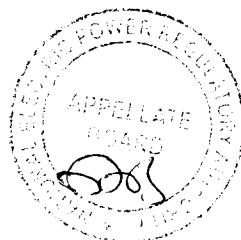
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#### 4. Proceedings by the Appellate Board

Upon filing of the instant appeal, a Notice dated 13.12.2022 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days. However, no reply/para-wise comments were received from the Respondent.

#### 5. Hearing

- 5.1 Hearing in the matter of the subject Appeal was fixed for 12.01.2023 at Peshawar and accordingly, the notices dated 05.01.2023 were sent to the parties (i.e. the Appellant and the Respondent) to attend the hearing. As per schedule, the hearing of the appeal was conducted at the NEPRA Regional Office, Peshawar on 12.01.2023 in which both parties were in attendance. During the hearing, the representative for the Appellant reiterated the same version as contained in the memo of the appeal and contended that 66% slowness was reported in the billing meter of the Respondent due to two defective CTs on 19.09.2020, which was subsequently verified by the POI and the Respondent was initially debited 30.620 units for one month as per the assessment of POI. The Appellant further contended that the Audit Department vide Audit Note No.21 dated 29.07.2021 observed that the meter under dispute remained slow for four months, whereas the recovery was done by the Appellant for only one month, therefore the Audit department recommended to charge the bill of Rs.2,953,330/- against net 96,973 units containing two periods i.e. period-I=18.05.2020 to 17.07.2020 @ 33% slowness of the meter and Period-II=20.07.2020 to 19.09.2020 @ 66% slowness of the meter.





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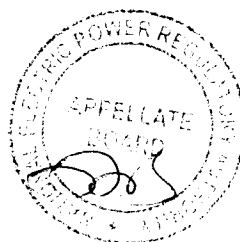
The Appellant termed the above bill as justified and payable by the Respondent.

5.2 The Respondent appearing in person repudiated the version of the Appellant, supported the impugned decision, and prayed for upholding the same.

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

6.1 Before going into the merits of the case, the point of limitation needs to be addressed, it is observed that the impugned decision was announced by the POI on 26.01.2022, and copy of the same was obtained by the Appellant on 01.02.2022 and the present appeal was preferred before the NEPRA on 18.05.2022 against the impugned decision dated 26.01.2022. As per Section 38(3) of the NEPRA Act, any aggrieved person may file an appeal before NEPRA within 30 days from the date of receipt of the impugned decision. Therefore the filing of the appeal is delayed by one hundred thirteen (113) days from the date of receipt of the impugned decision.

6.2 As regards the contention of the Appellant that the appeal was initially filed before the Advisory Board, Government of Khyber Pakhtunkhwa, it is clarified that after insertion of sub-section (3) of Section 38 of NEPRA Act on 25.09.2011, the Appellant PESCO is under obligation to file the appeal before NEPRA being competent forum within 30 days from the date of receipt of POI decision. However, the Appellant opted wrong forum i.e. Advisory Board, and waited for more than 3 months to file the Appeal No.128/POI-2022 before the NEPRA, which is not admirable. Moreover, the Appellant neither filed an application for the condonation





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of delay nor given sufficient reasons to justify the delay in filing the appeal before the NEPRA. In view of the foregoing discussion, we opined that the time consumed at the wrong forum cannot be condoned, as such the instant appeal filed before the NEPRA is barred by time and the same is liable to be dismissed on the sole ground of limitation.

7. Forgoing in view, the appeal is barred by time, hence dismissed.

Syed Zavar Haider  
Member

Abid Hussain  
Convener

Muhammad Irfan-ul-Haq  
Member

Dated: 23/01/2023.

