



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

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No. NEPRA/Appeal/051/2023/ 1012

December 03, 2024

- | | |
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| 1. Haroon ur Rasheed,
M/s. Faisala Naveed Textile Mills (Pvt.)
Ltd, Gadoon, Swabi
Cell No. 0333-3500099 | 2. Chief Executive Officer,
PESCO Ltd,
WAPDA House, Sakhi Chashma,
Shami Road, Peshawar |
| 3. Executive Engineer (Operation),
PESCO Ltd,
Topi Division, Swabi
Cell No. 0370-1340840 | 4. Sub Divisional Officer (Operation),
PESCO Ltd,
Gadoon Sub Division, Swabi
Cell No. 0370-1340842 |
| 5. POI/Electric Inspector,
Nowshera Region,
Tehsil Road, Near Police Station,
Nowshera Kalan, Nowshera | |

Subject: **Decision of the Appellate Board Regarding Review Petition Filed by Haroon ur Rasheed Against the Decision Dated 20.11.2023 of the Appellate Board in the Matter Titled "Haroon ur Rasheed Vs. PESCO"**

Please find enclosed herewith the decision of the Appellate Board dated 03.12.2024 (04 pages), regarding the subject matter, for information and necessary action, accordingly.

Encl: As Above

(Ikram Shakeel)
Deputy Director
Appellate Board

Forwarded for information please.

1. Director (IT) –for uploading the decision of the Appellate Board on the NEPRA website



National Electric Power Regulatory Authority

Before The Appellate Board

In the matter of

**REVIEW PETITION FILED BY HAROON-UR-RASHEED UNDER THE NEPRA
REVIEW (PROCEDURE) REGULATIONS, 2009 AGAINST THE DECISION
DATED 20.11.2023 OF NEPRA IN THE APPEAL NO.051/POI-2023**

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

.....Petitioner

Versus

Peshawar Electric Supply Company Limited

..... Respondent

For the Petitioner:

Mr. Haroon-ur-Rasheed Director

For the Respondent:

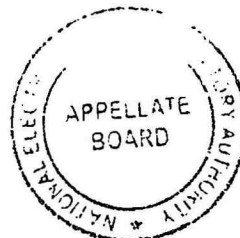
Mr. Irfan Ali XEN

Mr. Hammayun Khan SDO

DECISION

1. Through this decision, the review petition filed by Haroon-ur-Rasheed (hereinafter referred to as the "Petitioner") against the decision dated 20.11.2023 of the National Electric Power Regulatory Authority (hereinafter referred to as the "NEPRA") in Appeal No.051/POI-2023 titled "Haroon-ur-Rasheed Vs. PESCO" is being disposed of.
2. Briefly speaking, the Petitioner is an industrial consumer of Peshawar Electric Supply Company Limited (hereinafter referred to as the "Respondent") bearing Ref No.30-26842-0037401 with a sanctioned load of 499 kW and the applicable tariff category is B-2(b). Reportedly, the M&T team of the Respondent inspected the metering equipment of the Petitioner on 05.11.2020 and the impugned billing meter was found 66% slow due to two phases being dead stop. Notice dated 29.12.2020 thereof was issued to the Petitioner regarding 66% slowness of the impugned meter and a detection bill of Rs.5,873,522/- against 319,254 units for two months i.e. 03.09.2020 to 04.11.2020 was raised against the billing account of the Petitioner, which was initially challenged by him before the POI Peshawar Region, Khyber Pakhtunkhwa on 20.05.2021. The POI, Peshawar Region,

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Khyber Pakhtunkhwa vide decision dated 26.07.2021 directed the Respondent to debit the revised detection bill for forty-six (46) days i.e. from 13.09.2020 to 29.10.2020 to the Petitioner @ 66% slowness of the impugned meter against which the Respondent preferred an appeal before the Secretary Energy, Khyber Pakhtunkhwa, who vide order dated 13.01.2022 remanded back the matter to the POI, Nowshera Region, Khyber Pakhtunkhwa. Accordingly, the Petitioner filed an application before the POI, Nowshera Region Khyber Pakhtunkhwa on 18.02.2022 and impugned the above detection bill. The POI Nowshera Region Khyber Pakhtunkhwa vide order dated 29.12.2022 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.

3. The Petitioner filed appeal No.051/POI-2023 before the NEPRA against the above-referred decision of the POI, Nowshera Region, Khyber Pakhtunkhwa. NEPRA Appellate Board vide the decision dated 20.11.2023 (hereinafter referred to as the "impugned decision") dismissed the appeal on the ground of limitation against which the Petitioner filed the instant review petition before the NEPRA on 28.11.2023. In the review petition, the Petitioner opposed the impugned decision *inter alia*, mainly on the main grounds; (1) an attested copy of the decision dated 29.12.2022 of the POI, Nowshera Khyber Pakhtunkhwa was obtained on 13.04.2023 and the reason for the delay in provision of the attested copy was dispute fee, which was deposited with POI, Peshawar Region Khyber Pakhtunkhwa; (2) the POI Nowshera Khyber Pakhtunkhwa wrote a letter to the POI Peshawar Region, Khyber Pakhtunkhwa and after confirmation of the dispute fee issued the attested copy of the decision dated 29.12.2022; (3) therefore the review petition be accepted and the appeal be decided under the law.
4. Hearing in the matter of the subject review petition was conducted at NEPRA Head Office Islamabad on 12.09.2024, wherein both parties were present. At the outset of the hearing, the representatives for the Respondent raised the preliminary objection regarding limitation and supported the impugned decision with regard to the dismissal of the appeal. He prayed for the dismissal of the review petition being devoid of merits. On the contrary, the Petitioner rebutted the version of the Respondent and averred that the delay in filing the appeal was neither intentional nor deliberate but it is due to late delivery of the attested copy of the impugned decision. The Petitioner stated that the POI Nowshera Region, Khyber Pakhtunkhwa issued the attested copy of the impugned decision on 13.04.2023 after collection of the dispute challan fee. As per the Petitioner, the appeal was preferred

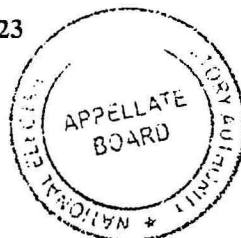
before the NEPRA within thirty days from the date of receipt of the attested copy of the impugned decision. He prayed for acceptance of the review petition and the decision on merits. To reach just conclusion, both parties were directed to submit documentary evidence to substantiate their version with regard to the point of limitation. Accordingly, the Petitioner filed written arguments before NEPRA on 25.09.2024 along with a copy of the application filed before POI Nowshera Khyber Pakhtunkhwa for provision of the attested copy. Similarly, the Respondent submitted a copy of the letter dated 19.09.2024 of the POI, Nowshera Region, Khyber Pakhtunkhwa before NEPRA on 26.09.2024.

5. Arguments were heard and the record was examined. Following are our observations:

5.1 While addressing the preliminary objection of the Respondent regarding the limitation, it is observed that the POI, Nowshera Region, Khyber Pakhtunkhwa announced the decision on 29.12.2022 against which the Petitioner filed Appeal No.051/POI-2023 before the NEPRA on 19.04.2023. NEPRA vide impugned decision dated 20.11.2023 dismissed the appeal being barred by time against which the Petitioner filed the instant review petition before the NEPRA on 28.11.2023.

5.2 In his review petition, the Petitioner took the stance that the copy of the impugned decision was obtained on 13.04.2023 after submission of the dispute challan fee and the appeal was filed before the NEPRA on 19.04.2023, which is within thirty days from the date of receipt of the attested copy of the decision dated 29.12.2022. In support of his version, the Petitioner submitted a copy of the application filed before POI Nowshera Khyber Pakhtunkhwa for the provision of an attested copy of the decision. On the other hand, a copy of the letter dated 19.09.2024 of the POI Nowshera Khyber Pakhtunkhwa as provided by the Respondent revealed that the Petitioner initially collected a copy of the decision dated 29.12.2022 of the POI on 27.02.2023 and subsequently received the attested copy of the said decision on 13.04.2023. This whole scenario indicates that the Petitioner was well aware with regard to the decision dated 29.12.2022 of the POI, however, the Petitioner failed to file the appeal before the NEPRA within the prescribed time limit of 30 days, as envisaged in Section 38(3) of the NEPRA Act 1997. In the presence of letter No. REI/NSR/FN 04/DN.347 dated 19.09.2024 of the POI, Nowshera Region, Khyber Pakhtunkhwa, we have no valid reason to accept the justification of the Petitioner with regard to the inordinate delay in filing the appeal.

5.3 In terms of Regulation 3 (2) of NEPRA (Review Procedure) Regulations, 2009, a motion

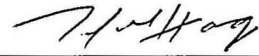


seeking review of any order of the Authority is competent only upon discovery of a mistake or error apparent on the face of the record or a new and important matter of evidence. In the instant review motion, no mistake or error apparent on the face of the record has been highlighted by the Petitioner. Further, the Petitioner has not come up with any new and important matter of evidence which was not considered by the Appellate Board while making its decision dated 20.11.2023. Therefore, there is neither any occasion to amend the impugned decision nor any error inviting indulgence as admissible in law.

6. In view of the above, the instant review motion of the Petitioner is dismissed being devoid of merits, and the decision dated 20.11.2023 of the Appellate Board is upheld.



Abid Hussain
Member/Advisor (CAD)



Muhammad Irfan-ul-Haq
Member/ALA (Lic.)



Naweed Illahi Sheikh
Convener/DG (CAD)

Dated: 03-12-2024

