



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

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No. NEPRA/AB/Appeal/205/2017/ 775-778


May 04, 2018

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| 1. Chief Executive Officer
M/s Chiltan Ghee Mills (Pvt.) Ltd,
Sirki Road, Quetta | 2. Chief Executive Officer
QESCO Ltd,
Zarghool Road, Quetta |
| 3. Executive Engineer
QESCO Ltd,
Operation Division,
Quetta | 4. POI/Electric Inspector
Energy Department,
Government of Balochistan,
Sariab Road, Mengal Abad Pirkaniabad,
Quetta |

Subject: Appeal Titled QESCO Vs. CEO Chiltan Ghee Mills (Pvt.) Ltd Against the Decision Dated 28.02.2017 the Provincial Office of Inspection to Government of the Balochistan Quetta Region, Quetta

Please find enclosed herewith the decision of the Appellate Board dated 03.05.2018, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above


(Ikram Shakeel)

No. NEPRA/AB/Appeal/205/2017/ 77/7

May 04, 2018

Forwarded for information please.

Assistant Director
Appellate Board

1. Registrar



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No. NEPRA/AB/Appeal/205/2017/ 779

May 04, 2018

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Assistant Director
Appellate Board

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National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-205/POI-2017

Quetta Electric Supply Company Limited

.....Appellant

Versus

Chief Executive Officer Chiltan Ghee Mills,
(Pvt) Ltd. Sirki Road, Quetta

.....Respondent

For the appellant:

Mr. Shahid Hussain Raisani XEN

For the respondent:

Sahibzada Muhammad Khan

DECISION

1. Through this decision, an appeal filed by Quetta Electric Supply Company Limited (hereinafter referred to as QESCO) against the decision dated 28.02.2017 of Provincial Office of Inspection, Energy Department, Government of Balochistan (hereinafter referred to as POI) under Section 38(3) of the NEPRA Act 1997 is being disposed of.
2. As per facts of the case the respondent is an industrial consumer of QESCO bearing Ref No.24-48115-1553201 with a sanctioned load of 501 kW under B-3 tariff. The respondent's Mill was initially running under the administration of Government of Balochistan and its electricity connection was energized through a separate 11 kV feeder with sanctioned load of 750 kW in the year 1975. Subsequently the respondent

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purchased the said mill from the Government of Balochistan in the year 1992 but could not run the mill. In the year 1994, the respondent approached QESCO for reduction of load from 750 kW to 499 kW and again requested for further reduction of load to 120 kW. QESCO approved the respondent's request of load reduction in the year 2000 and the sanctioned load was reduced to 501 kW. As per record, the respondent was utilizing 16 kW load for commercial purpose instead of sanctioned load 501 kW, since last seven years. Subsequently 11 kV Oil circuit breaker (OCB) of the above connection became defective in May 2013 and the respondent requested QESCO for charging the electricity bills as per Grid Station meter reading. Dispute of irregular billing till April 2014 was amicably settled between the parties and a rebate of Rs.1,546,165/- was afforded to the respondent by QESCO. Metering equipment of the respondent was checked by metering and testing (M&T) QESCO in September 2014 and recommended for replacement of 11 kV OCB panel along with the metering equipment vide letter dated 16.09.2014. The respondent made payment of electricity bills till September 2014, thereafter insisted for billing from the defective meter of the premises instead from grid station meter and defaulted payment of electricity bills. Electric supply of the respondent was disconnected by QESCO in February 2015 due to non-payment of electricity bills.

3. The respondent was aggrieved with the actions of QESCO, hence filed the complaint before POI and prayed for refund of 40,000 units till February 2015, for billing from the premises meter instead of grid station meter and for reconsideration of fixed charges

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levied by QESCO. A committee comprising of POI official, QESCO representative and the respondent was constituted on 24.04.2015 for joint inspection of electrical installation along with metering equipment of the respondent. The committee vide its letter dated 16.07.2015 declared 11 kV OCB panel in obsolete condition and recommended for replacement of the said panel. Thereafter the respondent filed another complaint dated 24.03.2016 before POI and assailed the fixed charges added in the bills by QESCO. Electric supply of the respondent was permanently disconnected by QESCO and P-Disc code was allotted to the respondent's connection in August 2016. The complaint of the respondent was disposed of by POI vide its decision dated 28.02.2017 with the following conclusion:

"In the light of above facts it was decided that the respondents i.e. QESCO should waive off 33600 KWH of the total disputed KWH also waive off 50% of the fixed charges levied till date when electricity supply to the consumer was disconnected. However the respondent should serve another bill to the consumer which includes liabilities other than waived off in the light of above decision. The QESCO is advised to bill consumer from the premises of the Chiltan Ghee mill instead from Grid station also 2% losses are admissible to be borne by the complainant due to feeder losses subject to insurance of secured independent feeder by QESCO which has been dedicated for only Chiltan Ghee Mill. The consumer shall replace age old 11 KV panel of Chiltan Ghee mill with new one at his own expenses for the safety and uninterrupted supply of electricity. The respondent is advised to strictly adhere to the NEPRA Rules and Regulations in its true spirit and avoid such violations of NEPRA Rules in future. In case such violations reported the matter shall be dealt with in accordance with NEPRA Fine Rules 2002."

4. Being dissatisfied with the decision dated 28.02.2017 of POI (hereinafter referred to as the impugned decision), QESCO has filed the instant appeal along with the application for condonation of the delay in filing the appeal. QESCO in its application prayed that



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the delay in submission of the appeal may kindly be condoned in the interest of justice, equity and fair play. On merits, QESCO submitted that 11 kV OCB panel of the respondent became defective in the year 2013 and the respondent requested for charging the electricity bill as per Grid Station meter. As per QESCO, the bills charged on grid station meter reading were accordingly paid by the respondent till September 2014, however the respondent agitated the billing from October 2014 and insisted QESCO to charge the electricity bills as per respondent's premises meter despite the fact that the electrical panel was defective. As per QESCO, electric supply of the respondent was disconnected temporarily in February 2015 and permanently disconnected in August 2016 due to non-payment of electricity dues. QESCO submitted that the aforesaid discrepancy in the metering equipment and electrical panel was confirmed by POI and recommendation was made for the replacement of 11 kV OCB, which however was not replaced. QESCO submitted that the billing done on the basis of grid station meter reading is justified and the respondent is responsible for payment of arrears of Rs.2,053,411/- accumulated till April 2017.

5. Notice of the appeal was served to the respondent for filing reply/parawise comments, which were filed on 12.01.2018. In his reply, the respondent objected the maintainability of the appeal on the ground of limitation and pleaded for upholding the impugned decision.
6. Hearing of the appeal was held in Quetta on 22.03.2018 in which Mr. Shahid Hussain Raisani XEN represented the appellant QESCO and Mr. Sahibzada Muhammad Khan



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the respondent appeared in person. XEN QESCO repeated the same arguments as taken in memo of the appeal and contended that the electricity bills charged to the respondent till September 2014 were paid, however the respondent agitated the billing from October 2014 and onwards. XEN QESCO further informed that electric supply of the respondent was temporarily disconnected in February 2015 due to non-payment of electricity bills and permanently disconnected in August 2016. According to XEN QESCO, the arrears of Rs.2,053,411/- accumulated till April 2017 are justified and payable by him. QESCO pleaded for setting aside the impugned decision. As regards the preliminary objection of the respondent regarding filing of time barred appeal, representative of QESCO averred that the delay in filing the appeal occurred due to the departmental process. According to XEN QESCO, an application for condonation of the delay was filed by QESCO, which may be accepted in the interest of justice. On the contrary, the respondent explained that meter of the premises is functioning correctly and defective trolley of OCB panel was now repaired. The respondent supported the impugned decision and pleaded for dismissal of the appeal being barred by time.

7. Having considered the objection so raised by the respondent, it is an admitted position that copy of the impugned decision was received by the appellant on 25.04.2017 but the appeal is filed on 05.12.2017 i.e., after lapse of 224 days whereas the period prescribed under the law is 30 days. As per the referred decision of Honorable Lahore High Court in WP 16172/15, it was concluded that the Provincial Office of Inspection is bound to transmit the copy of order to the aggrieved person and the period of limitation for filing

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an appeal will be calculated from the date of receipt of the order. In this case, it is an admitted position that the copy of the impugned order was received by the appellant on 25.04.2017 but there was delay in filing of appeal and for that very reason, the appellant filed an application for condonation of the delay. Now considering the reasons of delay, the sole ground so taken is that the delay is caused due to the reason that the matter remained under process in the department. The appellant is a Company incorporated under Companies Ordinance, 1984 and is supposed to do its business in accordance with law. Being a Company, it is supposed to take care of its rights in availing its legal remedies before legal forums within the time period prescribed under the law and there may be no excuse for delay in filing the appeal on the ground that there were some delays in internal process.

8. From what has been stated above, we are not convinced with the reasons given for delay in filing the appeal, hence the application for condonation of the delay is rejected and the appeal is dismissed being time barred.

Muhammad Qamar-uz-Zaman
Member

Nadir Ali Khoso
Convener

Muhammad Shafique
Member

Dated: 03.05.2018