



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

NEPRA Office, Atta Turk Avenue (East), G5/1, Islamabad
Tel. No. +92 051 2013200 Fax No. +92 051 2600028
Website: www.nepra.org.pk E-mail: office@nepra.org.pk

No. NEPRA/AB/Appeal-019/POI-2015/ 810-813

September 08, 2015

1. Nisar Ahmed,
S/o Noor Muhammad,
R/o Chak No. 64/JB,
Faisalabad
2. The Chief Executive Officer,
FESCO Ltd,
Canal Road, Faisalabad
3. Mehar Shahid Mehmood,
Advocate High Court,
Office No. 25, 3rd Floor,
Ali Plaza, 3-Mozang Road,
Lahore
4. Sub Divisional Officer (Op),
FESCO Ltd,
Jhang Road Sub Division,
Faisalabad

Subject: Appeal Titled FESCO Vs. Nisar Ahmed Against the Decision Dated 07.01.2015 of the Electric Inspector/POI to Government of the Punjab Faisalabad Region, Faisalabad

Please find enclosed herewith the decision of the Appellate Board dated 08.09.2015, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(M. Qamar Uz Zaman)

No. NEPRA/AB/Appeal-019/POI-2015/ 814

September 08, 2015

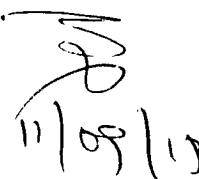
Forwarded for information please.


Member Appellate Board

1. Registrar
2. Director (CAD)
3. Electric Inspector/POI, Faisalabad Region
4. Master File

CC:

1. Chairman
2. Vice Chairman/Member (CA)
3. Member (Tariff)
4. Member (M&E)
5. Member (Licensing)


11/09/15
DRP-II
M/F

Registrar	9644
DY No.
Date	11-09-15



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-019/POI-2015

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Mr. Nisar Ahmed S/O Noor Muhammad R/o Chak No.64/JB, Faisalabad.

.....Respondent

For the appellant:

Mehar Shahid Mehmood Advocate

For the respondent:

Nemo

DECISION

1. Brief facts giving rise to the instant appeal are that Faisalabad Electric Supply Company Limited (hereinafter referred to as FESCO) is a licensee of National Electric Power Regulatory Authority (hereinafter referred to as NEPRA) for distribution of electricity in the territory specified as per terms and conditions of the license. The respondent is domestic consumer of FESCO bearing Ref No.13-13215-0727600 with a sanctioned load of 3 kW under A-1 tariff.



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2. As per facts of the case respondent received a notice dated 05.03.2012 regarding the difference of readings between billing meter and check meter and reportedly the billing meter was running slow. According to the respondent the meters were jointly checked in the presence of both the parties and Assistant Electric Inspector Faisalabad Region, Faisalabad on 27.03.2012 and resultantly the billing meter was found within B.S.S limit whereas the check meter was found defective. As informed by the respondent the result of checking was conveyed to both the parties by Provincial Office of Inspection/Electric Inspector Faisalabad Region, Faisalabad POI vide its letter dated 06.04.2012 but inspite of that FESCO charged a detection bill of Rs.47,344/- for 3,446 units along with current bill of Rs.4,309/- in the bill for May 2012 due to difference of readings of billing and check meters.
3. The respondent being aggrieved with the above mentioned bill challenged the same before Provincial Office of Inspection (hereinafter referred to as POI) who decided the matter vide its decision dated 07.01.2015 wherein it was concluded as under:-

"In view of the above, the case is disposed of in favour of petitioner/consumer Mr. Nisar Ahmed S/O Noor Muhammad R/O Chak No.64/J.B, Faisalabad on ex-parte basis. The amount of Rs.47344/- added as arrears and charged in the billing month of 05/2012 is held as null, void and illegal and petitioner is not liable to pay the same. FESCO Authority is directed to refund the disputed amount and over haul the account of the petitioner/consumer accordingly."
4. Being aggrieved with the above decision dated 07.01.2015 of POI, FESCO has filed the instant appeal wherein it is averred that the impugned decision of POI was illegal, unlawful, void without jurisdiction, misconceived, self contradictory, based on mere assertions of the respondent and the same was liable to be set aside. According to FESCO the POI did not apply his independent and judicious mind and passed the impugned order on the basis of illegal assumptions and presumptions. FESCO further stated that the meters of the respondent were checked on 17.03.2012 in his presence and the billing meter was found defective therefore, billing was shifted to the backup meter. FESCO contended that the



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detection bill for 3,446 units being the difference of billing meter and check meter was raised against the respondent. According to FESCO, that due to impugned decision Government ex-checker would suffer irreparable loss and injury. FESCO prayed that the impugned decision of POI may be set aside and the appeal be accepted.

5. A notice was issued to the respondent for filing reply/parawise comments which were not submitted.
6. After issuing notice to both the parties the appeal was heard in Lahore on 29.07.2015 in which there was no appearance for the respondent and Mr. Mehar Shahid Mehmood Advocate appeared for the appellant. The learned counsel for the appellant submitted that there arose a dispute of jurisdiction between Jhang and Narwala Sub divisions due to which the matter was not pursued before POI and the impugned decision was announced by POI without hearing to FESCO and on ex-parte basis. The learned counsel for FESCO requested that the case be remanded back to POI for hearing afresh so that FESCO may avail opportunity of hearing and the matter be decided on merit. According to the learned counsel the Electric Inspector was obligated to decide the matter within 90 days but the matter remained before him for more than 3 years. According the learned counsel for FESCO after expiry of 90 days the matter should have been referred to the Provincial Government for decision under section 26(6) of Electricity Act 1910 but it was not done which is violation of law and impugned decision is therefore illegal and be declared null and void.
7. We have heard arguments of learned counsel for FESCO and perused the record placed before us. There is force in the arguments of the learned counsel for FESCO that FESCO could not pursue the case before POI due to dispute of jurisdiction between two Sub divisions of FESCO and an ex-parte decision was given by POI. As regards the stance of learned counsel for FESCO regarding referring of the matter by POI to Provincial Government after expiry of 90 days it may be clarified that POI was adjudicating the matter under section 38 of the Regulation of Generation, Transmission and Distribution of Electric



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Power Act 1997 which does not specify any time limit for deciding the matter therefore, the objection of the learned counsel for the appellant is dismissed.

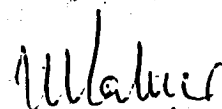
8. We are inclined to accept the request of learned counsel for FESCO. The impugned decision dated 07.01.2015 of POI is set aside and the case is remanded back to POI for deciding the matter on merit in accordance with law after providing opportunity of hearing to both the parties



Muhammad Qamar-uz-Zaman
Member



Muhammad Shafique
Member



Nadir Ali Khoso
Convener

Date: 08.09.2015