



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

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December 15, 2015

No. NEPRA/AB/Appeal-026/POI-2015/1178-1182

1. Mian Atif Adeel  
S/o Ch. Irshad Ahmed,  
P-165, Near Abu Bakar Siddique Mosque,  
Canal Road, Saeed Colony No. 2,  
Faisalabad
2. The Chief Executive Officer  
FESCO Ltd,  
Canal Road, Faisalabad
3. Mehar Shahid Mehmood,  
Advocate High Court,  
Office No. 25, 3<sup>rd</sup> Floor,  
Ali Plaza, 3-Mozang Road,  
Lahore
4. Sajid Pervez  
Sub Divisional Officer (Op),  
FESCO Ltd,  
Thekri Wala Sub Division,  
Faisalabad
5. The Electric Inspector  
Energy Department,  
Govt. of Punjab,  
Opposite Commissioner Office,  
D.C.G Road, Civil Lines,  
Faisalabad Region, Faisalabad

Subject: Appeal Titled FESCO Vs. Mian Atif Adeel Against the Decision Dated 02.03.2015 of the Electric Inspector/POI to Government of the Punjab Faisalabad Region, Faisalabad

Please find enclosed herewith the decision of the Appellate Board dated 14.12.2015, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(M. Qamar Uz Zaman)

December 15, 2015

No. NEPRA/AB/Appeal-026/POI-2015/1183

Forwarded for information please.

1. Registrar
2. Director (CAD)

CC:

1. Vice Chairman/Member (CA)

Member Appellate Board

Registrar	13126
Dy No.	16-12-15
Date	16/12/15

*[Handwritten Signature]*  
16/12/15  
- D/REG-I/SAR  
- M/L



# National Electric Power Regulatory Authority

## Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-026/POI-2015

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Mian Atif Adeel, S/o Ch. Irshad Ahmad, Prop: Ice Factory, Chak No. 245/RB, Near Sabzi Mandi,  
Faisalabad

.....Respondent

For the appellant:

Mehar Shahid Mehmood Advocate  
Sajid Pervez Sadhana SDO

For the respondent:

Nemo

### **DECISION**

1. Through this decision, an appeal filed by Faisalabad Electric Supply Company Limited (hereinafter referred to as FESCO) against the decision dated 02.03.2015 of Provincial Office of Inspection (POI) is being disposed of.
2. As per facts of the case, the respondent is an industrial consumer (Ice Factory) of FESCO bearing Ref No.24-13216-5603300 with a sanctioned load of 69kW under B-2b tariff.
3. As per record meters of the respondent were checked by Metering and Testing (M&T) FESCO on 16.07.2013 and reportedly display of the TOU billing meter was found washed out but the backup kWh meter was found within permissible limits. The respondent was charged a detection bill of Rs. 646,909/- for September 2013 in which MDI kW was charged on DEF-EST code basis of the TOU billing meter but the kWh units were charged as per consumption recorded by the backup meter. The respondent challenged the aforementioned detection bill vide his application dated 25.09.2013 before POI. During the pendency of the matter before



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POI, he challenged the bills of Rs. 140,655/- for October 2013 and Rs. 152,052/- for November 2013 which were charged on the basis of kWh consumption as recorded by the backup meter whereas kW and KVARH were charged on DEF-EST basis of the TOU billing meter. Meters of the respondent were jointly checked by POI on 21.10.2013 in which display of the TOU billing meter was found washed but the backup meter was found working within British Standards and Specifications (B.S.S) limits. A new MDI meter was installed on 28.11.2013 and billing of the respondent was shifted to it accordingly. POI decided the matter with the following conclusion:-

*"Summing up aforesaid discussion, it is held that (1) The bills of 09/2013 to MCO/28.11.2013 are null, void & illegal and petitioner is not liable to pay the same. FESCO Authority is directed to charge bills of 09/2013 to replacement of meter on 28.11.2013 on the basis of its previous corresponding month's consumption of 09/2012, 10/2012, 11/2012 and upto MCO/28.11.2013 accordingly and proportionately. (2) Low power factor penalty as charged by FESCO for 08/2013, 10/2013 to 12/2013 are held as null, void & illegal and the petitioner is not liable to pay the same. (3) FESCO Authority is directed to over haul the account of the petitioner/ consumer accordingly."*

4. Being aggrieved with the POI decision dated 02.03.2015 (hereinafter referred to as the impugned decision), FESCO has filed the instant appeal under section 38 (3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (hereinafter referred to as "the Act"). FESCO stated that the impugned decision was illegal, unlawful, void, without jurisdiction, misconceived, self contradictory, based on mere assertion of the respondent and therefore same was liable to be set aside. FESCO prayed that the impugned decision may be set aside and its appeal be accepted.
5. Notice of the appeal was issued to the respondent but the respondent neither furnished reply/parawise comments nor participated in the hearings. During the pendency of the appeal, the respondent filed a suit in the Civil Court of Faisalabad and challenged the FESCO notice dated 31.07.2015 including the bill dated 03.08.2015 amounting to Rs. 468,804/-. The learned Civil Judge vide its order dated 04.08.2015 (wrongly printed as 04.08.2014) restrained FESCO from disconnection of the respondent and further clarified that same order would not affect any legal order and judicial proceedings.



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6. After issuing notice, the hearing of the appeal was conducted in NEPRA Office Lahore on 06.10.2015. During the hearing Mehar Shahid Mehmood Advocate appeared for the respondent and as usual the respondent failed to make his appearance. The learned counsel for FESCO reiterated the same arguments which have already been given in memo of the appeal and contended that detection bills were charged to the respondent on the basis of kWh units recorded by the backup meter and MDI was charged on DEF-EST basis of the TOU meter which in his opinion was appropriate and in accordance with procedure of FESCO. According to learned counsel for FESCO the detection bills of Rs. 646,909/- for September 2013, Rs. 140,655/- for October 2013 and Rs. 152,052/- for November 2013 were justified and the respondent was liable to pay the same.
7. We have heard arguments of learned counsel for FESCO and examined the record placed before us. It has been observed that the respondent was charged detection bills on the basis of kWh readings of the backup meter whereas MDI kW was charged on DEF-EST code basis of the TOU billing meter.

The consumption data as charged in the billing of the respondent is tabulated below:-

Months	KWH/MDI YEAR 2011	KWH/MDI YEAR 2012	KWH/MDI YEAR 2013	KWH/MDI YEAR 2014
January		160/0	4000/30	4000/30
February	7960/30	8180/93	4900/35	4400/34
March	3540/30	3900/32	3480/36	5440/37
April	6160/32	7240/32	3880/31	4840/35
May	10220/80	1460/55	1700/31	4000/36
June	28300/84	22620/79	15700/82	4840/32
July	32620/97	32800/93	13960/82	440/30
August	33000/104	23780/90	15500/82	2960/33
September	14180/92	<u>27960/81</u>	<u>34220/82 DEF-EST</u>	2000/24
October	17669/99	<u>20/61</u>	<u>3840/82 DEF-EST</u>	2440/24
November	Zero	<u>80/26</u>	<u>3380/82 DEF-EST</u>	
December	9580/76	Zero	5152/27 MCO dt 28-11-2013	



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From the above table, billing data of disputed months is reproduced below:

MONTH	KWH	KW	AMOUNT Rs.
Sep 2013	34220	82	646909
Oct 2013	3840	82	140655
Nov 2013	3380	82	152052

8. Since the TOU billing meter was admittedly defective, the respondent is liable to be charged kWh units on the basis of consumption recorded by the healthy backup meter. However MDI (kW) as per Consumer Service Manual is to be charged on the basis of average of the last eleven months or the corresponding months of the previous year whichever is higher. MDI (kW) chargeable to the respondent are calculated as under:

(i) **MDI chargeable for September 2013:**

i. MDI already charged in the detection bill = 82 kW

ii. MDI chargeable as per average of last 11 months =

$$(82 + 82 + 82 + 31 + 31 + 36 + 35 + 30 + 0 + 26 + 61) / 11 = 496 / 11 = 45 \text{ kW}$$

iii. MDI chargeable on the basis of corresponding month of

previous year i.e September 2012 = 81 kW

**Therefore being higher the MDI chargeable to the respondent = 81 kW.**

(ii) **MDI chargeable for October 2013:**

i. MDI already charged in the detection bill = 82 kW

ii. MDI chargeable as per average of last 11 months =

$$(81 + 82 + 82 + 82 + 31 + 31 + 36 + 35 + 30 + 0 + 26) = 516 / 11 = 47 \text{ kW}$$

iii. MDI chargeable on the basis of corresponding month of

previous year i.e. October 2012 = 61 kW





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Therefore being higher MDI chargeable to the respondent = 61 kW.

(iii) **MDI chargeable for November 2013:**

i. MDI already charged in the detection bill = 82 kW

ii. MDI chargeable as per average of last 11 months =

$$(61 + 81 + 82 + 82 + 82 + 31 + 31 + 36 + 35 + 30 + 0) = 551 / 11 = 50 \text{ kW}$$

iii. MDI chargeable on the basis of corresponding

month of previous year i.e. October 2012 = 26 kW

Therefore being higher MDI chargeable to the respondent = 50 kW.

9. Summarizing above, the respondent is to be charged as per table given below:-

MONTH	ALREADY CHARGED BY FESCO	TO BE CHARGED
Sep/2013	KWH = 34220 KW = 82	KWH = 34220 KW = 81
Oct/2013	KWH = 3840 KW = 82	KWH = 3840 KW = 61
Nov/2013	KWH = 3380 KW = 82	KWH = 3380 KW = 50

10. Data of the KVARH is not available therefore the same should be calculated on the basis of DEF-EST code basis of TOU billing meter as has been done for MDI kW. The power factor may be determined for the months of September 2013, October 2013 and November 2013 according to the KWh and KVARH charged and the low power factor penalty (if applicable) may be imposed accordingly.
11. We partially agree with the determination of POI that the bills for September 2013, October 2013 and November 2013 charged by FESCO are null, void and of no legal effect and the respondent is not liable to the same. However we do not agree with the charging of bills for these months as determined by POI and recommend for charging electricity bills as calculated

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in para 9 & 10 above.

12. In view of the forgoing discussion, it is concluded that:-

- i. The detection bills charged for the months of September 2013, October 2013 and November 2013 are null, void and of no legal effect and the respondent is not liable to pay the same.
- ii. Respondent is to be charged electricity bills for the months of September 2013, October 2013 and November 2013 as per table given in para 9 above.
- iii. Low power factor penalty (if applicable) may be charged for the months of September 2013, October 2013 and November 2013 on the basis of kW and KVARH charged during these months as proposed in para 10 above.

The impugned decision of POI is modified in above terms.

Muhammad Qamar-uz-Zaman  
Member

Nadir Ali Khoso  
Convener

Muhammad Shafique  
Member

Date: 14.12.2015