



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-030/POI-2015/ 833-836

September 08, 2015

1. Rana Abdul Ghaffar,
S/o Muhammad Hanif,
R/o Chak No. 37-JB,
(Connection in the name of Shabbir Ahmed),
S/o Mushtaq Ahmed,
R/o Chak No. 67/JB, Jhang Road,
Faisalabad
2. The Chief Executive Officer,
FESCO Ltd,
Canal Road, Faisalabad
3. Dr. Muhammad Irtiza Awan,
Advocate High Court,
Al-Majeed Centre, 1-Mozang Road,
38-Link Farid Kot Road, Lahore
4. Zulfiqar Ali Chadhar, A.M. (CS),
Ghulam Muhammad Abad Division,
FESCO Ltd,
Faisalabad

Subject: Appeal Titled FESCO Vs. Rana Abdul Ghaffar Against the Decision Dated 24.03.2015 of the Electric Inspector/POI to Government of the Punjab Faisalabad Region, Faisalabad

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

Encl: As Above

(M. Qamar Uz Zaman)

No. NEPRA/AB/Appeal-030/POI-2015/ 837

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
MRS-II
M/F

Registrar	9648
Dy No.....	
Date: 11-09-15	



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-030/POI-2015

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Rana Abdul Ghaffar S/O Muhammad Hanif R/O Chak No.37/JB, Faisalabad.

.....Respondent

For the appellant:

Dr. Muhammad Irtiza Awan 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 industrial consumer of FESCO bearing Ref No.27-13225-6581151 with a sanctioned load of 12 kW under B-1b tariff. The respondent was served an adjustment bill of Rs.29,400/- along with current bill of Rs. 9,757/- in December 2013 by FESCO. Said bill was debited to the

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respondent by FESCO on account of change of tariff from B-1 to B-2 as the load recorded of the respondent was 29 kW and 30 kW for the months of September 2013 and October 2013 respectively which was above 25 kW thus qualifying the respondent's connection for application of B-2 tariff. According to FESCO, notices dated 05.09.2013 and 30.12.2013, were issued to the respondent but these notices are not acknowledged by the respondent. Being aggrieved with the adjustment bill of Rs.29,400/- the respondent filed a petition dated 31.01.2014 before Provincial Office of Inspection/Electric Inspector Faisalabad Region, Faisalabad (hereinafter referred to as POI). The POI adjudicated the matter and announced its decision on 24.03.2015, the operative portion of which is reproduced below:-

"Summing up the aforesaid discussion, it is held that the bill adjustment amounting to Rs.29400/- charged in the bill of 12/2013 is null, void and illegal and not payable by the petitioner. FESCO Authority is directed to over haul the account of the petitioner/consumer accordingly."

2. Being aggrieved with the above decision date 24.03.2015 of POI, FESCO has filed the instant appeal through Dr. Muhammad Irtiza Awan Advocate, under section 38 (3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (hereinafter referred to as "the Act"). The appellant stated that as per Consumer Service Manual (hereinafter referred to as CSM) clause 7.5 (a) (b) seven days clear notice was served to the respondent to get reduced his unlawfully extended load and adjustment bill for two billing cycles was charged under clause 7.5 (b) of CSM although the respondent used extended load for three billing cycles. FESCO contended that the adjustment charged was justified and the respondent was liable to pay the same. It is, inter-alia, stated by FESCO that the impugned decision was against the law and facts of the case and was passed on the basis of illegal assumptions and presumptions. According to FESCO POI did not apply his independent and judicial mind and due to the impugned decision the Government ex-checker would suffer irreparable loss and injury. Finally the appellant prayed that the



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impugned decision dated 24.03.2015 passed by POI may be set aside being illegal, unlawful, based on surmises and conjectures and being of no legal effect.

3. The respondent was issued a notice for filing reply/parawise comments which were not submitted.
4. Notice was issued to both the parties and the hearing was fixed in Lahore on 18.08.2015. Dr. Muhammad Irtiza Awan advocate appeared for the appellant and there was no representation on behalf of the respondent. Learned counsel for FESCO reiterated the same arguments which are part of the memo of the appeal and stated that the electricity bills for the months of August 2013, September 2013 and October 2013 were the concrete evidence that respondent exceeded his load beyond 25 kW and therefore he was liable to be charged under tariff B-2 instead of B-1. After issuing notices 05.09.2013 and 30.12.2013, regarding illegal extension of load, the adjustment bill of Rs.29,400/- was raised for September 2013 and October 2013 in accordance with the provisions of CSM. According to learned counsel for the appellant no objection was raised regarding the recording of MDI above 25 kW in the bills for the months of August 2013, September 2013 and October 2013 and also no reply was given by the respondent for the notices issued in this regard. Learned counsel for the FESCO pleaded that adjustment bill of Rs.29,400/- was in accordance with the facts and law and the respondent was liable to pay the same. He prayed for setting aside the impugned decision and acceptance of the appeal.
5. After hearing the argument and perusal of the record, it may be observed as under:-
 - i. The MDI above 25 kW was recorded in the bills for the months of September 2013 and October 2013 and such bills were paid by the respondent under tariff B-1. The respondent did not raise any objection regarding recording of MDI above 25 kW in his bills.
 - ii. Notices dated 05.09.2013 and 30.12.2013 were issued by FESCO to the respondent for extension of load beyond 25 kW and charging of B-2 tariff but there was no response by the respondent.

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- iii. As the issue regarding load exceeding 25 kW was not agitated by the respondent there was no need for the verification of the same through data retrieval report which was not also pressed during proceedings before POI. It is established without any reasonable doubt that load of the respondent was above 25 kW during the months September 2013 and October 2013 and the applicable tariff to the respondent was B-2 instead of B-1 as approved by NEPRA.
- iv. The adjustment bill of Rs.29,400/- for the months of September 2013 and October 2013 was debited to the respondent in December 2013 after fulfilling the formalities as required under clause 7.5 (a) & (b) of CSM. The respondent is liable to pay the same as per facts and law. The determination of POI in this regard in the impugned decision is not correct and therefore disagreed.
6. In the view of the foregoing observations, it is concluded that the adjustment bill of Rs.29,400/- for the months September 2013 and October 2013 has been rightly and correctly charged by FESCO and the respondent is liable to pay the same. Therefore the appeal is accepted and the impugned decision of POI is set aside.



Muhammad Qamar-uz-Zaman
Member



Nadir Ali Khoso
Convener



Muhammad Shafique
Member

Date: 08.09.2015