



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

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No. NEPRA/AB/Appeal-054/POI-2015/ 881-884

September 08, 2015

1. Muhammad Aslam,  
S/o Muhammad Yousaf,  
Prop: Power Looms,  
Rasool Nagar, R/o Chak No. 124/JB,  
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. SDO/AMO (Op),  
Ghulam Muhammad Abad Sub  
Division, FESCO Ltd,  
Faisalabad

Subject: Appeal Titled FESCO Vs. Muhammad Aslam Against the Decision Dated 23.04.2015 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-054/POI-2015/ 885

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  
D/Rg-II  
M/F

Registrar
Dy No. 9657
Dated 11-09-15



# National Electric Power Regulatory Authority

## Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-054/POI-2015

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Muhammad Aslam S/o Muhammad Yousaf Prop: Power loomes, Rasool Nagar, Chak No.124/JB,  
Faisalabad.

.....Respondent

For the appellant:

Mehar Shahid Mehmood Advocate  
Muhammad Saeed SDO

For the respondent:

Nemo

## DECISION

1. This decision shall dispose of appeal filed by Faisalabad Electric Supply Company Limited (hereinafter referred to as FESCO) against the decision dated 23.04.2015 of the Provincial Office of Inspection/Electric Inspector Faisalabad Region, Faisalabad (hereinafter referred to as POI) under Section 38(3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (hereinafter referred to as "the Act").



## National Electric Power Regulatory Authority

2. Brief facts giving rise to the instant appeal are that 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 and the respondent is its industrial consumer bearing Ref No.24-13221-5103160 with a sanctioned load of 58 kW under B-2b tariff.
3. As per facts of the case the meter of the respondent was checked by M&T FESCO on 20.05.2014 and found 33% slow due to one phase being dead and found 61.84% slow in subsequent checking. Notice dated 13.06.2014 regarding the above discrepancy was issued and detection bill was charged at the rate of 33% slowness for the month of April 2014, at the rate of 61% slowness for the month of May 2014 and the multiplication factor (hereinafter referred to as MF) was raised from the billing month of June 2014.
4. A detection bill of Rs.256,797/- for April 2014 and May 2014 for 20,505 units was issued in the billing month of August 2014 due to above mentioned slowness of the meter. The respondent being aggrieved with the afore mentioned detection bill filed an application dated 25.08.2014 to POI and challenged the same bill.
5. In response to the above application, FESCO contested the case before POI and claimed that meter of the respondent was checked in his presence and the respondent agreed for payment of the detection bill due to slowness of the meter. FESCO stated that detection Bill of Rs. 256,797/- for the months April 2014 to May 2014 for 20,505 units with enhanced MF was justified and the respondent was legally bound to pay the same.
6. The POI announced its decision regarding the above case on 23.04.2015 and the operative portion of the decision is reproduced below:

*"Summing up the aforesaid discussion, it is held that the detection bill amounting to Rs.256,797/- separately issued in the billing month of 08/2014 for 20505 units for retrospective period of 04/2014 & 05/2014 is held as null, void and illegal and the petitioner is not liable to pay the same. FESCO Authority is directed to charge the petitioner @ previous corresponding month consumption of 04/2013 (21558 Kwh/69 MDI) & 05/2013 (14274 Kwh/64 Kw MDI).*



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*FESCO Authority is also directed to over haul the account of the petitioner/consumer accordingly."*

7. Being aggrieved with above decision dated 23.04.2015 of POI, FESCO has filed the instant appeal through Mr. Mehar Shahid Mehmood Advocate under Section 38(3) the Act .It is stated by FESCO that the detection bill for months of April 2014 and May 2014 at the rate of 33% slowness and 61% slowness respectively with enhanced MF was legal and justified and the respondent was liable to pay the same. According to FESCO, the decision was passed after lapse of 90 days which was not maintainable under section 26(6) of Electricity Act 1910. It is averred by FESCO that matter should have been referred to Provincial Government for decision but it was not done therefore impugned decision of POI became functus officio and therefore the impugned decision was void ab-initio and corum non judicious. FESCO contended that the impugned decision was passed by POI without applying judicious mind and it was against the facts of the case. FESCO pleaded that the impugned decision was passed on the basis of surmises and conjectures and therefore liable to be set aside. Finally FESCO prayed that the impugned decision may be set aside and application moved by the appellant be accepted.
8. A notice was issued to the respondent for filing reply/parawise comments which were not submitted.
9. After issuing notice to both the parties the appeal was heard in Lahore on 18.08.2015. No one entered appearance for the respondent and Mr. Mehar Shahid Mehmood Advocate and Mr. Muhammad Saeed SDO FESCO appeared for the appellant. The learned counsel for the appellant repeated the same arguments as given in memo of the appeal and stated that the detection bill of Rs.256,979/- for 20,505 units for April 2014 and May 2014 issued in August 2014 was justified and the respondent was liable to pay the same. He contended that the consumption of the respondent increased substantially after replacement of the meter in July 2014 which proved that his meter was defective in the months of April 2014 and May 2014. He prayed for setting aside the impugned decision dated 23.04.2015 of POI and acceptance of the appeal.



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10. We have heard arguments of the learned counsel for FESCO and examined the record placed before us. Following are our observations:

- i. There is no force in the arguments of learned counsel for FESCO that the impugned decision became functus officio as it was not announced within mandatory period of 90 days as envisaged under section 26(6) of Electricity Act 1910. It is clarified that the officer exercised his powers for determination of the matter in his capacity as POI under section 38 of the Act which does not specify any time limit for announcement of decision by POI. Moreover after insertion of sub section 3 in section 38 of the Act an appeal against the decision of POI is competent before the Authority and there is no role of the Provincial Government with regard to the determination of POI for the disputes pertaining to metering billing and collection of tariff. The objection of learned counsel for FESCO in this regard is therefore dismissed.
- ii. No Notice was given to the respondent for checking of his meter by M&T FESCO and the respondent was also not associated in the process of checking of the meter. The meter could not be independently/jointly checked by POI as it had already been removed. Therefore the checking of meter carried out unilaterally by FESCO is not credible and the detection bill raised by FESCO due to slowness of the meter with enhanced MF for the months of April 2014 and May 2014 is not justified and not acceptable and therefore it is rightly declared by POI as null, void and of no legal effect. Chapter 4 of the Consumer Service Manual (hereinafter referred to as CSM) provides a detailed procedure for billing of a consumer in case the meter is declared defective. It provides the basis of charging for the months in which the meter became defective and could not record the consumption correctly. As per CSM the basis of charging will be consumption recorded in the same months of previous year or average of the last eleven months whichever is higher. The consumption table of the respondent is given below:-



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Month	kWh/MDI Year 2013	kWh/MDI Year 2014	kWh/MDI Year 2015
January	18920/56	17533/51	222776/69
February	25089/70	16712/52	23408/73
March	23681/72	17783/52	25592/74
April	21558/69	12243/50	
May	14274/64	9299/52	
June	16551/52	11828/53 MF 2.56	
July	19325/57	18751/60 Replaced	
August	20651/59	25471/64	
September	22523/60	22668/64	
October	19256/59	20104/64	
November	23789/55	22541/64	
December	26542/53	26852/66	

### **Billing Month April 2014:**

- Consumption on the basis of April 2013= 21,558 units
- Average Consumption based on the last eleven months i.e. May 2013 to March 2014 =  $260,178/11 = 23,652$  units
- As per CSM, the respondent is liable to be billed in April 2014 for 23,652 units which are higher.

### **Billing Month May 2014:**

- Consumption on the basis of May 2013=14,274 units
- Average Consumption based on the last eleven months (June 2013 to April 2014) consumption  
= (Consumption as per table for the period June 2013 to March 2014 + Consumption as calculated above for April 2014) / 11 =  $(200665 + 23,652) / 11 = 20,393$  units



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- As per CSM, the respondent is to be billed in May 2014 for 20,393 units which are higher.
11. As per CSM, the respondent is liable to be billed for April 2014 and May 2014 = 23,652 + 20,393 = 44,045 units  
The determination of POI for charging detection bill of 21,558 units for April 2014 and 14,274 units for May 2014 (Total = 35,832 units) on the basis of corresponding months consumption of previous year i.e. April 2013 and May 2013 is not justified as it is not in line with CSM.
12. FESCO has raised detection bill of 42,047 units with enhanced MF due to the slowness of the meter for the months of April 2014 and May 2014. The charging of 42,047 units is lesser than the justified consumption of 44,045 units as calculated in para 11 above. Therefore, the detection bill raised by FESCO amounting to Rs.256,797/- for 20,505 net units for the months April 2014 to May 2014 is justified and the respondent is liable to pay the same.
13. In view of the foregoing discussion it is concluded that the detection bill amounting to Rs.256,797/- separately issued in the billing month of August 2014 for 20,505 units net for the months of April 2014 and May 2014 is correct, justified and legal and the respondent is liable to pay the same. Consequently, the appeal is accepted and the impugned decision dated 23.04.2015 of POI is set aside.

Muhammad Qamar-uz-Zaman  
Member

Muhammad Shafique  
Member

Nadir Ali Khoso  
Convener

Date: 08.09.2015

