



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](http://www.nepra.org.pk) E-mail: [office@nepra.org.pk](mailto:office@nepra.org.pk)

No. NEPRA/AB/Appeal-068/POI-2015/ 994-997 October 13, 2015

1. Syed Jawad Ali Abbas Shah  
S/o Syed Ghulam Abbas Shah,  
Through Syed Muhammad Kazmi,  
S/o Imam Ali Kazmi,  
R/o Kot Ahmed Yar,  
District Chiniot
2. The Chief Executive Officer,  
FESCO Ltd,  
Canal Road, Faisalabad
3. Ch. Fiaz Ahmad Singhairah,  
Advocate High Court,  
Anab Centre, 2<sup>nd</sup> Floor,  
1-Mozang Road, Lahore
4. Sub Divisional Officer (Op)  
FESCO Ltd,  
Chiniot Sub Division-III,  
Chiniot

Subject: Appeal Titled FESCO Vs. Syed Jawad Ali Abbas Shah Against the Decision Dated 27.05.2015 of the Electric Inspector/POI to Government of the Punjab Faisalabad Region, Faisalabad

Please find enclosed herewith the decision of the Appellate Board dated 13.10.2015, regarding the subject matter, for information and necessary action accordingly.

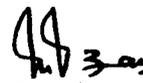
Encl: As Above

(M. Qamar Uz Zaman)

No. NEPRA/AB/Appeal-068/POI-2015/ 998

October 13, 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)

TA  
15/10/15

Registrar	10875
By No.....	.....
Dated.....	15-10-15



## National Electric Power Regulatory Authority

### Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-068/POI-2015

Faisalabad Electric Supply Company Limited

.....Appellant.

Versus

Syed Jawad Ali Abbas S/o Syed Ghulam Abbas Shah (Through Syed Muhammad Hussain  
Kazmi S/o Imam Ali Kazmi) R/o Kot Ahmed Yar, District Chiniot

.....Respondent

For the appellant:

Ch. Fiaz Ahmed Singhairah Advocate

For the respondent:

Nemo

### DECISION

1. Brief facts giving rise to the instant appeal are that the appellant (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 agriculture consumer bearing Ref No. 29-13163-3067300 with a sanctioned load of 7.46 kW under D-1 tariff. The meter of the respondent was checked by Metering and Testing (M&T) FESCO on 28.04.2013 and was found dead stop. A notice dated 11.07.2013 was issued to the respondent and detection bill amounting to Rs. 105,512/-

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for 9,688 units for the period December 2012 to May 2013 was charged @ 30 % load factor and sanctioned load of 7.46 kW in the month of August 2013. The meter of the respondent was replaced in June 2013. The respondent being aggrieved with the above detection bill filed an application before Provincial Office of Inspection Faisalabad Region, Faisalabad (hereinafter referred to as POI) on 18.09.2013 and challenged the detection bill which was decided by POI on 27.05.2015 with the following conclusion:-

*"Summing up the aforesaid discussion, it is held that (I) The petitioner's meter recorded correct consumption upto 12/2012 (II) Detection bill amounting to Rs. 105,512/- for 9688 units for retrospective period of 6 months w.e.f. 12/2012 to 05/2013 and charged @ 30 % load factor and sanctioned load of 7.46 kw is held as null, void and illegal and the petitioner is not liable to pay the same and FESCO Authority is directed to charge the petitioner @ 1049 Kwh per month for the period of 01/2013 to MCO in 06/2013 (III) The FESCO concerned Authority is directed to over haul the account of the petitioner/consumer accordingly."*

2. Being aggrieved with the aforementioned 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). It is, inter-alia contended by FESCO that the detection bill of Rs. 105,512/- was charged to the respondent in August 2013 as his meter was found dead stop by M&T FESCO on 18.04.2013. According to FESCO the meter was replaced on 04.06.2013. FESCO averred that the impugned decision is not maintainable.
3. Notice of the appeal was served upon the respondent for filing reply/parawise comments which were not submitted.
4. Hearing of the appeal was fixed for 12.09.2015 at Lahore and notice thereof was served upon both the parties. On the date of hearing, no one entered appearance on behalf of respondent. However Ch. Fiaz Ahmed Singhairah Advocate appeared for the appellant.



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5. Since the appeal is prima facie barred by time, therefore, learned Counsel for the appellant was asked to assist the Appellate Board on the question of limitation. The learned counsel for the appellant argued that POI closed the case for decision but did not fix the date for its announcement as per practice and no intimation regarding the announcement of decision was given by POI. According to the learned counsel for the appellant, FESCO acquired knowledge regarding impugned decision on 18.06.2015 through the respondent who approached it for its implementation. The learned counsel informed that certified copy of the impugned decision was obtained on 07.07.2015 and the appeal was filed before NEPRA on time. However, the learned counsel for the appellant prayed that, the delay if any in filing the appeal may be condoned in the interest of justice. From perusal of the record it is noticed that impugned decision was announced on 27.05.2015 and intimation was given by POI to the parties vide its letter dated 27.05.2015. Application dated 07.07.2015 was submitted by FESCO and the certified copy was delivered by POI on the same day. The appeal was filed by FESCO on 16.07.2015 which has obviously been filed after the time limit as prescribed in the law. For the purpose of reference, the

The relevant provisions of law regarding limitation are referred as under:-

- **Section 38(3) of the Act.**

*Any person aggrieved by any decision or order of the Provincial Office of Inspection may, within thirty days of the receipt of the order, prefer an appeal to the Authority in the prescribed manner and the Authority shall decide such appeal within sixty days*

- **Regulation 3 of NEPA (Procedure for filing appeals) regulations, 2012:**

**3. Filing of appeal.-** (1) *Any person aggrieved by any decision or order of the single Member of the Authority or Tribunal constituted under section 11 of the Act or from a decision given by the Provincial office of Inspection may, within 30 days of the order or decision file an appeal before the Authority.*

6. From bare perusal of above referred provisions, it can be safely suggested that the appeal should be filed within 30 days of the announcement of the decision. It has been observed

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that the impugned decision was announced by POI on 27.05.2015 and the appeal was filed on 16.07.2015 i.e. after 50 days of its announcement by POI. Evidently FESCO failed to file the appeal within the time limit of 30 days as prescribed under section 38 of the Act. As a matter of fact FESCO is required to explain and justify each day of the delay in filing the appeal after the decision was pronounced on 27.05.2015 and copy was received on 07.07.2015 but FESCO failed to do so. Therefore it is concluded that the appeal is time barred and the same is dismissed accordingly.

Muhammad Qamar-uz-Zaman  
Member

Nadir Ali Khoso  
Convener

Muhammad Shafique  
Member

Date: 13.10.2015