



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

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No. NEPRA/AB/Appeal-069/POI-2015/1124-1129

December 03, 2015

1. Muhammad Shahid Akram
Prop: Power Looms,
R/o Chak No. 64/JB,
Dhandra, Faisalabad
2. The Chief Executive Officer
FESCO Ltd,
Canal Road, Faisalabad
3. Shahzad Ahmed Bajwa
Advocate High Court,
Office No. 429, 4th Executive Floor,
Sadiq Plaza, The Mall,
Lahore
4. Ch. M. Imran Bhatti
Advocate High Court,
44-District Courts,
Faisalabad
5. SDO/AM (Op)
FESCO Ltd,
Jhang Road Sub Division,
Faisalabad
6. 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. Muhammad Shahid Akram Against the Decision Dated 29.06.2015 of the Electric Inspector/POI to Government of the Punjab Faisalabad Region, Faisalabad

Please find enclosed herewith the decision of the Appellate Board dated 02.12.2015, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(M. Qamar Uz Zaman)

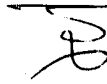
December 03, 2015

No. NEPRA/AB/Appeal-069/POI-2015/1130

Forwarded for information please.


Member Appellate Board

1. Registrar
2. Director (CAD)


08.12.15

-D/Rg-I/W/F

CC:

1. Vice Chairman/Member (CA)

Registrar	12691
By No.
Dated.....	08-12-15



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-069/POI-2015

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Muhammad Shahid Akram, Prop: Power Looms Chak No.66/JB Dhandra, Faisalabad.

.....Respondent

For the appellant:

Shahzad Ahmad Bajwa Advocate
Sajid Pervaiz SDO

For the respondent:

Ch.M. Imran Bhatti Advocate

DECISION

1. Through this decision, an appeal filed by Faisalabad Electric Supply Company Limited (hereinafter referred to as FESCO) against the decision dated 29.06.2015 of Provincial Office of Inspection (POI) is being disposed of.
2. As per facts of the case, the respondent is an industrial consumer of FESCO bearing Ref No. 22-13215-0664710 with a sanctioned load of 5.23 kW under B1 tariff.

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3. The meter of the respondent was checked by Metering and Testing (M&T) FESCO on 22.03.2011 and allegedly the meter body was found intentionally tampered for stealing purpose. The meter was removed, handed over to police and the supply was disconnected. The matter was also reported to police by FESCO on 22.03.2011 but no FIR was registered by Police. Notice dated 22.03.2011 was issued by FESCO to the respondent regarding tampering of TOU meter body and detection bill dated 31.03.2011, amounting to Rs.41,622/- for 37,357 units for the period of September 2010 to March 2011, based on the consumption of 13,472 units per month as recorded in January 2011 was charged to the respondent.
4. The respondent being aggrieved with the aforementioned detection bill filed a civil suit in civil court on 15.04.2011 which was withdrawn on 16.12.2014 and a complaint was filed before POI on 17.12.2014. The respondent in his complaint, inter-alia, prayed that FESCO be directed not to disconnect their electric supply, declare the impugned checking dated 22.03.2011 as illegal, unlawful and also declare the detection bill amounting to Rs.41,622/- for the period September 2010 to March 2011 as null and void. The respondent further prayed that the amount of Rs.71,739/- placed in the column of deferred amount be set aside and FESCO be directed to over haul his account by adjusting illegally recovered amounts including Rs.180,000 plus Rs.10,000/- (cost of meter). FESCO contested the matter before POI and contended that the respondent was involved in theft of electricity and therefore detection bill was charged as per rules and regulations. FESCO further submitted that the respondent voluntarily made the payments for the period September 2010 to March 2011.
5. POI announced its decision on 29.06.2015 and made following conclusion:-

"Summing up the aforesaid discussion, it is held that (I) Metering equipment of the petitioner cannot be declared as tempered upto the billing month of 01/2011, and the meter recorded correct consumption upto the billing month of 01.2011. (II) Detection bill charged amounting to Rs.410,622/- for 37357 units for the period of 09/2010 to 03/2011 for seven months with retrospective period 09/2010 to 03/2011 @ 13472 Kwh per month is held as null, void and illegal and petitioner is not liable to pay the same, (III) The petitioner is labile to be charged @ 13472 Kwh per month w.e.f. 02/2011 to installation of new meter in 04/2011 accordingly and proportionately. (IV) FESCO concerned Authority is directed to over haul the account of the petitioner/consumer accordingly."
6. Being aggrieved with the POI decision dated 29.06.2015(hereinafter referred to as 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, inter-alia,

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prayed that the impugned decision may be suspended being illegal and not sustainable in the eye of law.

7. In response to above appeal, the respondent was issued a notice for filing reply/parawise comments which were submitted on 19.08.2015. The respondent in his reply/parawise comments repudiated submissions of FESCO and stated that the impugned decision was correct, legal, justified, according to the law and actual facts of the case. The respondent prayed that the appeal of FESCO be dismissed and impugned decision be implemented in letter and spirit.
8. Notice was issued to both the parties and the appeal was heard in Lahore on 06.10.2015. Mr. Shahzad Ahmad Bajwa Advocate and Mr. Sajid Pervaiz SDO represented the appellant FESCO and Ch.M. Imran Bhatti Advocate appeared for the respondent. The learned counsel for FESCO repeated the same arguments which are contained in the memo of appeal and contended that on meter checking of the respondent conducted by FESCO on 22.03.2011 the meter body was found tampered and the respondent was found involved in illegal abstraction of electricity. He submitted that in this regard an application dated 24.03.2011 was filed before the Police but no FIR was registered by the police. According to the learned counsel for FESCO the detection bill for 37,357 units calculated at the rate of 13,472 units per month (being consumption recorded in January 2011) for the assessed period of September 2010 to March 2011 was justified and the respondent was liable to pay the same. He averred that the respondent accepted the detection bill and made the payment in installments after which his supply was restored. The learned counsel informed that after replacement of the respondent's meter in April 2011 his consumption rapidly increased which established that the previous meter was tampered by the respondent. He pleaded that the detection bill issued by FESCO was in accordance with the procedure and the respondent was liable to pay the same. Ch. M. Imran Bhatti Advocate, the counsel for the respondent refuted allegation of theft and submitted that the same was not proved by FESCO. He averred that the impugned decision was taken by POI after consideration of the arguments of both the parties and relevant documents which was correct and justified. Further he contended that the determination of POI for charging the detection bill for the period of three months was in line with the provisions of Consumer Service Manual (hereinafter referred to as CSM). The learned counsel for the respondent prayed that the impugned decision be maintained and the appeal of the respondent be dismissed accordingly.
9. We have heard arguments of both the parties and examined the relevant record placed before us. Following are our observations:-
 - i. Meter of the respondent was checked by FESCO on 22.03.2011 which was found allegedly tampered

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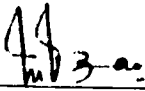
id was handed over to police. Admittedly report dated 22.03.2011 was made to police but the matter was not pursued by FESCO with police and no FIR was registered. Therefore, the allegation of stealing electricity could not be established against the respondent in any court of law.

re procedure as provided in chapter 9 of CSM was not followed by FESCO for establishment of shonest abstraction of electricity.


Of rightly analyzed the consumption history of the respondent which proves that the meter recorded correct consumption upto the month of January 2011 and there was decline in the consumption during 3 months Februarys 2011 to April 2011. As determined by POI, the respondent is liable to be charged detection bill for the months February 2011 to April 2011 at the rate of 13,472 units per month.

determined by POI in the impugned decision no detail was provided for the assessed deferred amounts of Rs.17,139/- in September 2013 and therefore the respondent is not liable to pay the same.


view of explanation in the preceding paragraphs, we have come to the conclusion that there is no reason to intervene in the impugned decision which is upheld and the appeal of FESCO is dismissed accordingly.



Muhammad Qamar-uz-Zaman
Member



Nadir Ali Khoso
Convener



Muhammad Shafique
Member

02.12.2015