



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

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No. NEPRA/AB/Appeal-081/POI-2015/ 280 - 285 March 04, 2016

1. Noshier Khan  
S/o Nazar Muhammad,  
R/o Chak No. 193/JB,  
Post Officer Nitherkay,  
Tehsil Bhawana, Distt. Chiniot

2. The Chief Executive Officer  
FESCO Ltd,  
West Canal Road, Abdullah Pur,  
Faisalabad

3. Shabbir Ahmed  
Advocate High Court,  
Room No. 25, 2<sup>nd</sup> Floor,  
Sadiq Plaza, The Mall,  
Lahore

4. Ch. M. Imran Bhatti  
Advocate High Court,  
44-District Courts,  
Faisalabad

5. M. Naeem Shahzad,  
SDO (Op), FESCO Ltd,  
Bhawana Sub Division,  
Bhawana

Electric Inspector  
Energy Department,  
Govt. of Punjab,  
Opposite Commissioner Office,  
D.C.G Road, Civil Lines,  
Faisalabad Region, Faisalabad

Registrar  
By No. 2419  
Dated 07-03-2016

Subject: Appeal Titled FESCO Vs. Noshier Khan Against the Decision Dated 09.07.2015 of the Electric Inspector/POI to Government of the Punjab Faisalabad Region, Faisalabad

Please find enclosed herewith the decision of the Appellate Board dated 03.03.2016, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

No. NEPRA/AB/Appeal-081/POI-2015/ 280

Forwarded for information please.

(Ikram Shakeel)

March 04, 2016

Assistant Director  
Appellate Board

1. Registrar  
2. Director (CAD)

CC:

1. Vice Chairman/Member (CA)



# National Electric Power Regulatory Authority

## Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-081/POI-2015

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Nosher Khan S/o Nazar Muhammad, R/o Chak No. 193/JB,  
Post Officer Nitherkay, Tehsil Bhawana, District Chiniot

.....Respondent

### For the appellant:

Muhammad Naeem Shehzad Sub-Divisional Officer (SDO)  
Mehtar Shahid Mehmood Proxy Counsel

### For the respondent:

Ch. Muhammad Imran Bhatti Advocate

## DECISION

1. This decision shall dispose of Appeal filed by Faisalabad Electric Supply Company (hereinafter referred to as FESCO) against the decision dated 09.07.2015 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 Electricity Power Act 1997 (hereinafter referred to as the Act).
2. The respondent is an agricultural consumer of FESCO bearing consumer A/C. No. 29-13164-3106800-R with a sanctioned load of 7.46 kW and governed under tariff D-1(b). As per facts of the case, electricity meter of the respondent was checked by circle office FESCO on 21.02.2013 and was found dead stop. The meter of the respondent was again

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checked by Metering and Testing (M&T) FESCO on 22.05.2013 and was declared correct vide the result dated 27.05.2013. A detection bill of Rs. 291,868/- for 17,494 units for the period of November 2012 to March 2013 was charged to the respondent in July 2013 on the basis of consumption of the same months of preceding year. Supply of the respondent was disconnected in September 2013 due to default of payment. Meter was again checked by M&T FESCO on 17.12.2014 and found dead stop with block broken.

3. Being aggrieved with the aforementioned detection bill of Rs. 291,868/- for 17,494 units for the period November 2012 to March 2013 charged in July 2013 a petition was filed before POI on 28.03.2014 which was disposed of by POI vide its decision dated 09.07.2015. Operative portion of the same is reproduced below:

*"Summing up the aforesaid discussion, it is held that (I) The Detection bill amounting to Rs. 2,91,868/- for 17494 units for November 2012 to March 2013 separately issued in the bill of July 2013 as null, void and illegal and petitioner is not liable to pay the same. (II) The energy meter of the petitioner is declared as held/dead w.e.f December 2012 to March 2013. (III) The FESCO Authority is directed to charge the petitioner @ 1622 Kwh per month w.e.f December 2012 to March 2013. (IV) FESCO Authority is also directed to over haul the account of the petitioner accordingly."*

4. Being dissatisfied with the decision dated 09.07.2015 of POI (hereinafter referred to as the impugned decision), FESCO has filed the instant appeal under section 38(3) of the Act. FESCO in its appeal, inter alia, contended that the decision was to be given by the Electric Inspector within 90 days of the filing of the petition as envisaged under section 26(6) of Electricity Act 1910 but the Electric Inspector failed to do so and also did not refer the matter to Provincial Government and thereby violated the provisions of Electricity Act 1910. The respondent finally prayed for dismissal of the appeal.
5. Notice of the appeal was issued to the respondent for filing reply/parawise comments which were filed on 28.09.2015. In his reply/parawise comments the respondent inter alia,

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contended that the impugned decision was rendered in the capacity as POI under section 38 of the Act and as such the restriction of 90 days under section 26 (6) of the Electricity Act 1910 was not applicable. The respondent submitted that the impugned decision was correct, lawful and therefore liable to be maintained.

6. After issuing notice to both the parties, hearing of the appeal was conducted at Lahore on 15.02.2016. Mehar Shahid Mehmood Advocate and Muhammad Nadeem Shehzad SDO appeared for the appellant FESCO and Ch. Muhammad Imran Bhatti Advocate represented the respondent. Muhammad Nadeem Shehzad SDO contended that meter of the respondent was found dead stop and therefore to recover the revenue loss sustained by FESCO, a detection bill of Rs. 291,868/- for 17,494 units, for the period November 2012 to March 2013, was charged to the respondent in July 2013. According to the representative of FESCO, the bill was justified and respondent was liable to pay the same. The representative of FESCO contended that due to failure of the Electric Inspector to adjudicate the matter in 90 days the impugned decision became invalid and liable to be set aside. Learned counsel for the respondent in his rebuttal, averred that pursuant to Chapter # 6 of Consumer Service Manual (CSM) the meter of the respondent was checked every month for meter reading purpose but no discrepancy what so ever was reported during the disputed period of November 2012 to March 2013. According to the learned counsel for the respondent it was incumbent upon FESCO to install a check meter against a defective meter and refer the meter to POI for adjudication but it was not done. Learned counsel for the respondent further submitted that the meter checking reports of the respondent were contradictory, not reliable and therefore the respondent cannot be burdened with the detection bills for the violations committed by FESCO. Learned counsel for the respondent pleaded that for contradictory check reports the detection bill was to be based on the average of previous eleven months and as such the impugned decision was fair, justified and liable to be maintained. Learned counsel for the respondent reiterated its arguments and submitted that the decision was rendered by the officer in the capacity as POI and as such provision of Electricity Act 1910 for announcement of decision in 90 days was not applicable.

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7. We heard the arguments of both the parties and examined the record placed before us and it has been observed as under:

- i. Meter of the respondent was checked on different occasions by FESCO but there was no participation of the respondent in the checkings. We are in agreement with the contention of the respondent that the impugned decision was rendered by the officer in the capacity as POI under the Act and therefore restriction of 90 days for announcement of decision by an Electric Inspector under Electricity Act 1910 was not applicable. The objection of FESCO in this regard is not valid and therefore dismissed.
- ii. It is rightly determined in the impugned decision that the meter recorded correct consumption till November 2012 and remained defective/dead stop during the period December 2012 to March 2013 and therefore the respondent was liable to be charged a detection bill for the same period. Impugned decision to this extent is correct and liable to be maintained.
- iii. For determination of consumption during the disputed period, reference is made to clause 4.4(e) of CSM according to which for a defective meter the basis of charging bill will be 100% of the consumption recorded in the same month of the previous year or average of the last eleven months whichever is higher. In the instant case FESCO charged the detection bill on the basis of same month of the previous year being higher which is in line with the provisions of CSM and liable to be maintained. Impugned decision for charging the detection bill on the basis of average of last eleven months during the disputed period is not justified and not liable to be validated.

8. In view of above discussions it is concluded that:


- i. Detection bill of Rs. 291,868/- for 17,494 units for the period of November 2012 to March 2013 charged in the month of July 2013 is null and void and the respondent is not liable to pay the same as already determined in the impugned decision.

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- ii. The respondent is liable to pay a detection bill for the period of December 2012 to March 2013 on the basis of the consumption recorded in the same month of pervious year. Impugned decision in this regard is partially correct and therefore modified accordingly.
9. Impugned decision of POI is modified to the above extent.

  
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Muhammad Qamar-uz-Zaman  
Member

  
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Nadir Ali Khoso  
Convener

  
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Muhammad Shafique  
Member

Date: 03.03.2016