



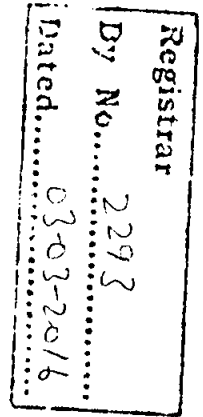
Before the Appellate Board
National Electric Power Regulatory Authority
(NEPRA)
Islamic Republic of Pakistan

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No. NEPRA/AB/Appeal-096/POI-2015/ 260-265

March 02, 2016

1. Khalid Zia
S/o Mazhar Hussain,
M/s Wahab Lubricants,
Chak No. 68/R.B,
Tehsil Jarranwala, Distt. Faisalabad
2. The Chief Executive Officer
FESCO Ltd,
West Canal Road, Abdullah Pur,
Faisalabad
3. Muhammad Nawaz Waseer
Advocate Supreme Court of Pakistan,
30-Macleagon Road, Lahore
4. Qaisar Mahmood Ch.
Advocate High Court,
Lawmen Associates,
4-A, Mozang Road,
Lahore
5. Akmal Hussain
Sub Divisional Officer,
FESCO Ltd,
Bandala SubDivision,
Chak Jhumra, Faisalabad
6. Electric Inspector
Energy Department,
Govt. of Punjab,
Opposite Commissioner Office,
D.C.G Road, Civil Lines,
Faisalabad Region, Faisalabad



Subject: Appeal Titled FESCO Vs. Khalid Zia Against the Decision Dated 07.05.2015 of the Electric Inspector/POI to Government of the Punjab Faisalabad Region, Faisalabad

Please find enclosed herewith the decision of the Appellate Board dated 01.03.2016, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(Ikram Shakeel)

No. NEPRA/AB/Appeal-096/POI-2015/ 266

March 02, 2016

Forwarded for information please.

Assistant Director
Appellate Board

1. Registrar
2. Director (CAD)

03/03/16
D/fg - I/M/F

CC:

1. Vice Chairman/Member (CA)



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-096/POI-2015

Faisalabad Electric Power Company Limited

.....Appellant

Versus

Khalid Zia S/o Mazhar Hussain, M/s Wahab Lubricants,
Chak No.68/R.B, Tehsil Jaranwala, District Faisalabad

.....Respondent

For the appellant:

Mr. M. Nawaz Waseer Advocate
Mr. Akmal Hussain SDO
Mr. Waqas Aslam SDO

For the respondent:

Nemo

DECISION

1. This decision shall dispose of an appeal filed by Faisalabad Electric Power Company Limited (hereinafter referred to as FESCO) against the order dated 07.05.2015 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).
2. As per facts of the case, the respondent an industrial consumer of FESCO bearing Ref No.05-1354-0668401 obtained temporary connection with a sanctioned load of 3 kW under E-1(ii) (56) tariff on 21.12.2012. An application dated 09.04.2013 was submitted by the respondent to FESCO for permanent connection with extended load of 69 kW under tariff B-2(b). The demand notice of Rs. 114,770/- was paid by the respondent on 12.04.2013. However tariff B-2(b) was made applicable to the respondent w.e.f 27.02.2014 in the billing month of April 2014. The metering equipment of the respondent was checked by FESCO on



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08.07.2013 and reportedly found 33% slow due to blue phase being dead. Notice regarding above discrepancy of the meter was issued by FESCO to the respondent on 15.07.2013. A detection bill of Rs. 128,427/- for 6,514 units for the period April 2013 to July 2013 (04 months) was charged to the respondent in the billing month of August 2013.

3. Being aggrieved with the aforementioned detection bill, the respondent filed an application dated 20.08.2013 before POI. The checking of the meter of the respondent was conducted by POI on 29.10.2013 in which both parties were present and it was found 33 % slow due to one phase being dead. A check the meter was installed on 20.11.2013 and comparison of the defective billing the meter displayed that the billing meter was 76% slow. The matter was disposed of by POI by its decision dated 07.05.2015 with the following conclusion:

"Summing up the aforesaid discussion, it is held that (I) the detection bill amounting Rs. 128, 427/- separately issued in the billing month of 08.2013 for 6,514 units for retrospective period of 04.2013 to 07.2013 is held as null void and illegal and the petitioner is not liable to pay the same (II) The metering equipment of the petitioner became 33% slow on 08.07.2013. (III) Monthly electricity bill charged and recovered by FESCO on temporary tariff E-1(ii)(56) w.e.f 12.05.2013 to date of installation of permanent connection on Tariff B-2(b) in billing of month of 04.2014 are held as null, void and illegal and the petitioner is not liable to pay the same. (IV) FESCO authority is directed to refund the petitioner sums of difference of tariff from excessive E-1(ii)(56) to B-2(b) w.e.f 12.05.2013 to change of tariff on permanent basis in the bill of 04.2014 proportionately and accordingly and FESCO Authority is also directed to overhaul the account of the petitioner/consumer accordingly."

4. Being aggrieved with the decision of POI dated 07.05.2015 (hereinafter referred to as the impugned decision), FESCO has filed the instant appeal before NERPRA under section 38 (3) of the Act. FESCO stated that the meter of the respondent was defective and not recording the actual consumption of electricity and 33% slowness of the meter was confirmed on 29.10.2013. According to FESCO, the detection bill of Rs. 128,427/- for 6,514 units for the period April 2013 to July 2013 (04 months) added in the billing month of August 2013 due to 33% slowness of the meter, was legal, justified and the respondent was liable to pay the same. FESCO further



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contended that a new meter was installed on 27.02.2014 and tariff B-2(b) was made applicable accordingly. FESCO prayed that the impugned decision was illegal and perversity of reasoning and therefore liable to be set aside.

5. In response to the instant Appeal, a notice was issued to the respondent for filing reply/parawise comments, which were not submitted.
6. Notice was issued to both the parties for hearing scheduled at Lahore on 15.02.2016. Mr. Akmal Hussain SDO, Mr. Waqas Aslam SDO and Mr. M Nawaz Waseer Advocate appeared for the appellant FESCO and no one appeared for the respondent. The learned counsel for the appellant repeated the same arguments as mentioned in the memo of appeal. It was contended that the detection bill of Rs. 128,427/- for 6,514 units for the period April 2013 to July 2013(04 months) added in the billing month of August 2013 due to 33% slowness of the meter was justified and the respondent was liable to pay the same. Regarding application of tariff B-2(b), the learned counsel submitted that it was applied on 27.02.2014 when a new meter was provided to the respondent. According to learned counsel for FESCO, no complaint regarding application of tariff (E-1(ii)(56) instead of B-2(b)) was made by the respondent in his application dated 20.08.2013 and therefore relief granted to the respondent in this regard was beyond his pleadings and as such was illegal, void and liable to be set aside.
7. We have heard the arguments of learned counsel of FESCO and examined the record placed before us. It is observed as under:
 - i. Despite repeated notices, the respondent failed to appear for hearing on 25.01.2016 and 15.02.2016.
 - ii. Admittedly, 33% slowness of the meter was established. It is rightly stated in the impugned decision that from the consumption data, the meter became 33 % slow on 08.07.2013, therefore detection bill of Rs. 128,427/- for 6,514 units for the period April 2013 to July 2013 (04 months) added in the billing month of August 2013 due to 33% slowness of the meter was not justified and the respondent is not liable to pay the same. However as determined by POI, the respondent is liable to pay the detection bill



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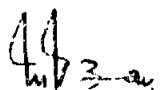
from August 2013 till installation of check meter in December 2013. Impugned decision up to this extent is correct and liable to be upheld.

- iii. We are in agreement with the contention of learned counsel for FESCO that no complaint was made by the respondent regarding charging of tariff (E-1(ii)(56) instead of B-2(b)) and as such the impugned decision in this regard was illegal, void and liable to be withdrawn.

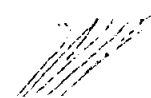
8. In view of discussion in preceding paragraphs, following is our conclusion:

- i. The detection bill of Rs. 128,427/- for 6,514 units for the period April 2013 to July 2013 (04 months) added in the billing month of August 2013 due to 33% slowness of the meter is not justified and therefore declared null and void and the respondent is not liable to pay the same. Impugned decision to this extent is maintained.
- ii. The impugned decision regarding charging of B-2(b) tariff instead of E-1(ii)(56) w.e.f 12.05.2013 till change of tariff on permanent basis in the bill of April 2014 is illegal and therefore declare null and void.

9. The appeal is disposed of in above terms.



Muhammad Qamar-uz-Zaman
Member



Muhammad Shafique
Member



Nadir Ali Khoso
Convener

Date: 01.03.2016