



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

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No. NEPRA/AB/Appeal-015/2016/ & 016/2016/1374-1377

November 04, 2016

1. Zahid Raza,
S/o Muhammad Ramzan,
R/o Chak No. 66/JB,
Dhandara Kalan,
Tehsil & District Faisalabad
2. Chief Executive Officer
FESCO Ltd,
West Canal Road, Abdullahpur,
Faisalabad
3. Ch. Muhammad Imran Bhatti,
Advocate Supreme Court,
44-Districts Courts, Faisalabad
4. Ch. Muhammad Shahid Iqbal,
Advocate High Court,
Office No. 3, Third Floor,
Khan Arcade, Mouj Darya Road,
Lahore
5. Assistant Manager (Operation),
FESCO Ltd,
Jhang Road Sub Division,
Faisalabad
6. Electric Inspector
Energy Department,
Govt. of Punjab,
Opposite Commissioner Office,
D.C.G Road, Civil Lines,
Faisalabad Region, Faisalabad

Subject: **Appeal Titled Zahid Raza Vs. FESCO & FESCO Vs. Zahid Raza Against the Decision Dated 21.12.2015 of the Electric Inspector/POI to Government of the Punjab, Faisalabad Region, Faisalabad**

Please find enclosed herewith the decision of the Appellate Board dated 03.11.2016, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(Ikram Shakeel)

No. NEPRA/AB/Appeal-015/2016/ & 016/2016/1380

November 04, 2016

Forwarded for information please.


Assistant Director
Appellate Board

1. Registrar
2. Director (CAD)

CC:

1. Member (CA)



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-015/POI-2016

Zahid Raza S/o Muhammad Ramzan R/o Chak No.66/JB,
Dhandara Kalan, Tehsil & District Faisalabad

.....Appellant

Versus

Faisalabad Electric Supply Company Limited

.....Respondent

Appeal No. NEPRA/Appeal-016/POI-2016

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Zahid Raza S/o Muhammad Ramzan R/o Chak No.66/JB,
Dhandara Kalan, Tehsil & District Faisalabad

.....Respondent

For FESCO:

Ch. Muhammad Shahid Iqbal advocate
Muhammad Saeed SDO

For Consumer:

Ch. Muhammad Imran Bhatti advocate

DECISION

1. Brief facts giving rise to the instant appeals are that Faisalabad Electric Supply Company Limited (hereinafter referred to as 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 Mr. Zahid Raza is its commercial consumer (hereinafter referred to as "the Consumer"). Three separate connections were provided by FESCO to the premises of the Consumer, the detail of which is tabulated below:





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S. No	Reference No.	Connection Type	Phase	Sanctioned Load	Tariff
1	21-13215-0374800	Industrial	Three	4 kW	B-1
2	21-13215-0386800	Industrial	Three	5 kW	B-1
3	07-13215-0386900	Domestic	One	3 kW	A-1R

Metering and Testing (M&T) FESCO checked the premises of the Consumer on 16.07.2013 and allegedly the meters of the connections appearing at serial No.1 & 3 were found tampered and the Consumer was dishonestly abstracting electricity through these connections. FIR No. 339/13 dated 17.07.2013 and FIR No.340/13 dated 17.07.2013 respectively were registered with the Police station. Neither any discrepancy was reported nor was any legal action initiated by FESCO against the industrial connection appearing at serial No.2 above. However supply was disconnected and electricity meters of all the above mentioned three connections were removed and handed over to the Police.

- The Consumer filed first application before Provincial Office of Inspection (POI) on 29.07.2013 against the above checking/action of FESCO and prayed for restoration of electric supply and restraining FESCO from issuing any detection bill. Subsequently, FESCO charged the detection bills to the Consumer as per detail given below:

Detection Bill	Reference No.	Period	Duration (months)	Units	Amount (Rs.)
First	21-13215-0374800	July 2012 to	12	31,367	336,102/-
	21-13215-0386800	June 2013			
Second	07-13215-0386900	-	-	3,475	34,965/-

Being aggrieved, the Consumer filed second application before POI on 07.08.2013 and challenged the aforesaid detection bills. In-spite of his intention, checking of all the three meters could not be carried out by POI on 13.11.2014 due to non-availability of the meters at the Police station.

- POI announced its decision on 21.12.2015 (hereinafter referred to as "the impugned decision") and operative portion of the same is reproduced below:-

" Summing up the above observation/discussion and keeping in view all the aspects of the case, this forum declares the charging of detection bill amounting to Rs.336,102/- for 31,367 units for

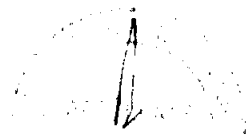
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the period of 07/2012 to 06/2013 as null, void & without any legal effect and the petitioner is not liable to pay the same. The Respondents are directed to withdraw the same and charge the petitioner revised detection bill of 17900 units for six billing cycles from 01/2013 to 06/2013 and overhaul the petitioner's account by adjusting all Credits, Debits, Deferred Amount & Payments already made by the consumer /petitioner. Disposed of in above terms."

4. Being dissatisfied with the impugned decision, both the parties filed appeals under section 38 (3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (hereinafter referred to as "the NEPRA Act 1997"). As the subject matter of both the appeals is same therefore both have been clubbed and being disposed of through this single/consolidated decision.
5. In his appeal, the Consumer denied the allegation of theft of electricity and pleaded that all the three meters were malafidely removed by FESCO. According to the Consumer, although both the detection bills charged by FESCO were illegal and unjustified, he made 50% payment of the disputed amount on 07.08.2013 and later on remaining 50% was also paid for restoration of electricity supply under duress. The Consumer while accepting the impugned decision for cancellation of the detection bill of Rs.336,102/- for 31,367 units for the period July 2012 to June 2013 agitated the determination of POI for charging 17,900 units for the period from January 2013 to June 2013, which according to the Consumer is unlawful and violative of Consumer Service Manual (CSM). On the other hand, FESCO in its appeal inter alia, contended that the Consumer was consuming electricity dishonestly by tampering the meters and therefore two FIRs were registered against him. FESCO further submitted that first detection bill of Rs.336,102/- for 31,367 units for the period July 2012 to June 2013 and second detection bill of Rs.34,965/- for 3,475 units charged to the Consumer were justified and the Consumer is liable to pay the same.
6. Notices of appeals were issued to both the parties and hearing of the appeals was conducted in NEPRA regional office Lahore on 29.08.2016. Ch. Muhammad Shahid Iqbal advocate along with Muhammad Saeed SDO represented FESCO and Ch. Muhammad Imran Bhatti advocate appeared for the Consumer. Learned counsel for FESCO contended that during checking of M&T FESCO on 16.07.2013, the meter of domestic connection bearing Ref No. 07-13215-0386900 and industrial connection bearing Ref No.21-13215-0374800 were found tampered, electricity being consumed





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illegally for which FIRs were lodged and the detection bills charged to the Consumer were legal, valid and justified. Regarding criminal proceedings against the Consumer, learned counsel for FESCO informed that the same are still pending. FESCO opposed the impugned decision and pleaded for its withdrawal. Ch. Muhammad Imran Bhatti advocate, the learned counsel for the Consumer in his rebuttal, contended that the Consumer was not involved in any theft of electricity and allegation of FESCO against the Consumer was baseless and malafide. The learned counsel for the Consumer, without prejudice to his earlier stance, argued that charging the detection bill beyond a period of three months is violative of CSM. According to the Consumer, payment of detection bills was made by the Consumer under duress. The Consumer endorsed the impugned decision regarding withdrawal of first detection bill of Rs. 336,102/- but simultaneously objected the impugned decision partly for charging the detection bill of 17,900 units for the period January 2013 to June 2013, which he mentioned was unjustified and liable to be withdrawn. The Consumer further pointed out that the impugned decision was silent about the second detection bill of Rs. 34,965/- for 3,475 units, which was not justified and liable to be cancelled.

7. Arguments of both the parties and record examined. Following has been observed:
- During M&T FESCO checking on 16.07.2013, reportedly the meters of industrial connection bearing Ref No.21-13215-0374800 and domestic connection bearing Ref No. 07-13215-0386900 were found tampered for which FIRs were lodged. Disposal of criminal proceedings is still pending. Nothing objectionable was found in the remaining industrial connection with Ref No.21-13215-0386800.
 - The detection bills as per detail given below were charged by FESCO and challenged before POI by the Consumer on 07.08.2013.

Detection Bill	Reference No.	Period	Duration (months)	Units	Amount (Rs.)
First	21-13215-0374800 + 21-13215-0386800	July 2012 to June 2013	12	31,367	336,102/-
Second	07-13215-0386900	-	-	3,475	34,965/-

From the above table, it is evident that while charging the detection bill, industrial connection with Ref No.21-13215-0386800 was also included, whereas there was neither any discrepancy



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noted nor any FIR was registered regarding the same industrial connection. We are inclined to agree with the stance of the Consumer that the second detection bill of Rs. 34,965/- for 3,475 units in respect of industrial connection bearing Ref. No. 07-13215-0386900 was challenged before POI but the impugned decision is silent and there is no determination given by POI regarding the same.

- iii. It is observed that the impugned decision is deficient and there is no clarity as to the findings thereof.
8. In view of reasons given in foregoing paragraphs, the impugned decision is set aside and the case is remanded back to POI for deciding the matter afresh in accordance with law after providing opportunity of hearing to both the parties.
9. Both the appeals stand disposed of in above terms.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Date: 03.11.2016

