



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 2600030  
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-022/POI-2016/ 1155-1160

September 02, 2016

1. Zahid Anwar,  
S/o Anwar Ilahi,  
Prop: J.K. Agriculture Form, Harsa Bhulla,  
(Through Mian Liaquat Ali Qamar),  
Genral Manager Personal,  
District Chiniot
2. Chief Executive Officer  
FESCO Ltd,  
West Canal Road, Abdullahpur,  
Faisalabad
3. Ch. Fiaz Ahmad Singhairah,  
Advocate High Court,  
Anab Centre, 2<sup>nd</sup> Floor,  
1-Mozang Road, Lahore
4. Mian Muhammad Rafique  
Advocate High Court,  
1-Tamiz-ul-Din Law Chambers,  
District Courts, Faisalabad
5. Sub Divisional Officer,  
FESCO Ltd,  
Sub Division No. III,  
Chiniot
6. The Electric Inspector  
Energy Department,  
Govt. of Punjab,  
Opposite Commissioner Office,  
D.C.G Road, Civil Lines,  
Faisalabad Region, Faisalabad

Subject: **Appeal Titled Zahid Anwar Vs. FESCO Against the Decision Dated 28.12.2015 of the Electric Inspector/POI to Government of the Punjab Faisalabad Region, Faisalabad**

Please find enclosed herewith the Decision of the Appellate Board dated 02.09.2016, regarding the subject matter, for information and necessary action accordingly.

Encl: **As Above**

No. NEPRA/AB/Appeal-022/POI-2016/ 1161

Forwarded for information please.

(Ikram Shakeel)

September 02, 2016

  
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-022/POI-2016

Zahid Anwar S/o Anwar Illahi, Prop: J.K Agriculture Form,  
Harsa Bhulla, (Through Mian Liaqut Ali Qamar),  
General Manager Personal), District Chiniot

.....Appellant

Versus

Faisalabad Electric Supply Company Limited

.....Respondent

#### For the appellant:

Mian Muhammad Rafiq advocate

#### For the respondent:

Ch. Faiz Ahmed Singhairah advocate

### Appeal 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).

## DECISION

1. Brief facts leading to the disposal of this appeal are that the appellant is agricultural consumer of respondent company as per Ref No. 29-13163-3037900 with a sanctioned load of 34.92 kW under D-1b (53) tariff.
2. As per request of the appellant, his electricity meter was checked by Provincial Office of Inspection (POI) in presence of both the parties on 10.09.2013 and it was found 41% fast. The appellant filed an application dated 23.09.2013 before POI and challenged the excessive bills charged by the respondent company for the month of May 2013 on the basis of 41% fastness of the meter. The respondent company installed a check meter on the premises of the appellant on 14.10.2013 and compared consumption of electricity of the impugned billing meter (first disputed meter) and check meter from 15.10.2013 to 05.11.2013, and as per opinion of the respondent company, the first disputed meter was working properly. Later on the billing was shifted on the check meter (second disputed meter) by the respondent



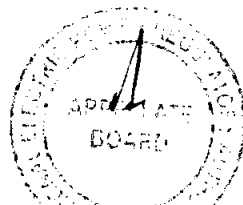


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company vide Meter Change Order (MCO) dated 13.11.2013. Thereafter, the appellant filed another application dated 18.11.2013 before POI and assailed the bill amounting to Rs. 79,532/- for October 2013 due to 41% fastness of the first disputed meter. Representative of POI again inspected the metering equipment of the appellant in presence of both the parties on 16.12.2013 and reportedly both impugned billing meter (first disputed meter) and check meter (second disputed meter) were found working within permissible limit but date of both the meters was found disturbed. Despite his intentions, data of the meters could not be retrieved by POI due to non-availability of the requisite instrument. Second disputed meter became defective and was also allotted DEF-EST code w.e.f February 2014 and replaced vide MCO dated 03.06.2014. Billing due to the defective meter (second disputed meter) was carried ~~and~~<sup>out</sup> from February 2014 to May 2014 on DEF-EST code basis. Appellant filed third application dated 17.04.2014 and averred that the meters were faulty with time and date disturbed and also running 41% fast as confirmed during POI checking on 16.12.2013 and challenged the DEF-EST bill of Rs. 20,793/- for March 2014. Subsequently, the appellant filed two more applications before POI on 20.05.2014 and 17.06.2014 and challenged the DEF-EST bills of Rs. 23,524/- and Rs. 20,285/- for May 2014 and June 2014 respectively. The second disputed meter which was removed on 03.06.2014 was checked by M&T FESCO in its laboratory on 18.09.2014 and readings for peak hours and off peak hours components were downloaded. As per respondent company, the comparison of downloaded data of the second disputed meter and reading of last bill charged to the appellant revealed that 6,854 units were less charged to the appellant. The detection bill amounting to Rs. 92,709/- for 6,854 units was charged by FESCO to the appellant in December 2014 vide adjustment note dated 20.10.2014 on the basis of data retrieved. The appellant also challenged the said detection bill before POI vide the application dated 15.01.2015.

3. The matter was disposed of by POI vide its decision dated 28.12.2015 with the following conclusion:-

*"Summing up the aforesaid discussion and keeping in view all the aspects of the case, this forum declares that:(I) the disputed meter was working 41% fast from 05/2013 to*





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*10/2013, therefore consumer deserves a credit/refund for the cost of 6,967 units. (II) The detection bill of Rs.92,709/- for the cost of 6,854 units charged in 12/2014 on the basis of data retrieval report is justified and the consumer is liable to pay the same. The Respondents are directed to overhaul the account of the petitioner by adjusting all credits, debits, deferred amount & payments already made by the consumer. Disposed off in above terms."*

4. Being dissatisfied with the decision of POI dated 28.12.2015 (hereinafter referred to as the impugned decision), the appellant has filed the instant appeal with the contentions that the detection bill of Rs. 92,709/- for 6,854 units charged by FESCO in December 2014 pursuant to adjustment note dated 20.10.2014 was assailed before POI vide the application dated 15.01.2015 and 50% payment of the disputed amount was paid under duress. The appellant asserted that the unilateral checking of the second disputed meter was carried out by FESCO without associating the appellant and POI, which is violation of the provisions of Consumer Service Manual (CSM) and Electricity Act 1910. The appellant prayed for cancellation of the detection bill of Rs. 92,709/- for 6,854 units charged in December 2014 being unjustified and illegal.
- i. Notice of the appeal was issued to respondent company (FESCO) for filing reply/parawise comments, which were filed on 06.04.2016. In its reply, FESCO inter alia contended that the detection bill of Rs. 92,709/- for 6,854 units charged in December 2014 on the basis of data retrieval report was justified and the appellant is liable to pay the same as determined in the impugned decision. As per FESCO, impugned decision for reimbursement of 6,967 units for the period May 2013 to December 2013 on the basis of 41% fastness was not justified and therefore liable to be withdrawn to that extent.
6. After issuing notice to both the parties, hearing of the appeal was held at Lahore on 08.08.2016 in which Mian Muhammad Rafiq advocate appeared for the appellant and Ch. Faiz Ahmed Singhairah advocate represented the respondent FESCO. Learned counsel for the appellant repeated the same arguments as mentioned in memo of the appeal and averred that the detection bill of Rs. 92,709/- for 6,854 units charged in December 2014 was not justified and the appellant is not liable to pay the same. As per learned counsel for the appellant, neither the appellant was associated by FESCO during checking of the second



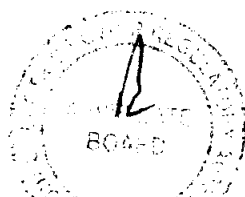


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disputed meter in its laboratory, nor it was witnessed by POI, therefore the data retrieval report was not credible. Learned counsel for the appellant prayed for cancellation of the aforesaid detection bill being excessive and unjustified. According to the learned counsel for FESCO, the second disputed meter became defective during the period March 2014 to May 2014 and the appellant was charged as per M&T data retrieval report, which was not challenged by the appellant before POI, therefore the appellant is not entitled to raise the dispute regarding the same in the appeal. According to FESCO, POI has rightly analyzed that the appellant is liable to pay the aforesaid detection bill on the basis of data retrieval report dated 18.09.2014, therefore the impugned decision for charging the detection bill of Rs. 92,709/- for 6,854 units charged in December 2014 is justified and the same is payable by the appellant. Learned counsel for FESCO partially challenged the impugned decision for reimbursement of 6,967 units for the period May 2013 to December 2013 on the basis of 41% fastness and prayed for its revision to that extent.

7. Arguments heard and record perused. It is a matter of record that a detection bill amounting to Rs. 92,709/- for 6,854 units charged by FESCO in December 2014 was assailed by the appellant before POI vide the application dated 15.01.2015. From a careful perusal of the record, it is established that the data retrieval process was conducted in FESCO M&T lab in absence of the appellant and POI, which is not credible and cannot be relied upon. Therefore the detection bill of Rs. 92,709/- for 6,854 units charged in December 2014 is not sustainable and the appellant is not liable to pay the same. Pursuant to clause 4.4(e) of CSM, the charging of consumer on the basis of defective code, where the meter has become defective will not be more than two billing cycles. The basis of charging will be 100% consumption recorded in the same month of previous year or average of the last 11 months, whichever is higher. Consumption data as provided by FESCO is tabulated below:

Period	Normal Mode Average Units/Month	DEF-EST Mode Average Units/Month
Same period before dispute April 2013 to May 2013	5,064	-
Disputed period April 2014 to May 2014	-	2188





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From the above table, it is evident that the appellant should had been charged 5,064 units/month for April 2014 and May 2014 on the basis of consumption of April 2013 and May 2013. .It is rightly adjudged by the POI that the first disputed meter of the appellant was 41% fast during the period May 2013 to October 2013 and the appellant is liable to be provided credit of 6,967 units for the period May 2013 to October 2013 charged in excess.

8. For the foregoing discussion, we are of the view that the detection bill of Rs. 92,709/- for 6,854 units charged by FESCO in December 2014 on the basis of data retrieval report is without any legal justification and the appellant is not liable to pay the same; rather the appellant should be charged average 5,064 units/month for April 2014 and May 2014 as recorded in April 2013 and May 2013. Impugned decision for reimbursement of 6,967 units for the period May 2013 to October 2013 on the basis of 41% fastness is justified and therefore maintained to this extent. FESCO shall overhaul appellant's billing account by adjusting debits, credits and payments made as explained above. Resultantly the appeal is disposed of and the impugned decision is modified accordingly.

Muhammad Qamar-uz-Zaman  
Member

Muhammad Shafique  
Member

Nadir Ali Khoso  
Convener

Date: 02.09.2016

