



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 E-mail: office@nepra.org.pk

No. NEPRA/AB/Appeal-030/POI-2016/ 1162-1167

September 02, 2016

1. M/s Asim Textile Mills Ltd,
Through General Manager Personal P&C,
Mian Liaquat Ali Qamar,
Sheikhupura Road, Faisalabad
2. Chief Executive Officer
FESCO Ltd,
West Canal Road, Abdullahpur,
Faisalabad
3. Ch. Fiaz Ahmad Ranjha,
Advocate High Court,
5/5, SAF Centre,
8-Fane Road, Lahore
4. Mian Muhammad Rafique
Advocate High Court,
1-Tamiz-ul-Din Law Chambers,
District Courts, Faisalabad
5. Sub Divisional Officer,
FESCO Ltd,
Bandala SubDivision,
32-Km, Seikhupura Road, 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. M/s Asim Textile Mills Ltd. Against the Decision Dated 31.12.2015 of the Electric Inspector/POI to Government of the Punjab Faisalabad Region, Faisalabad

Please find enclosed herewith the Decision of the Appellate Board dated 31.08.2016, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(Ikram Shakeel)

No. NEPRA/AB/Appeal-030/POI-2016/ 1168

September 02, 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-030/POI-2016

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

M/s Asim Textile Mills Ltd, Through General Manager Personal P&C,
Mian Liaquat Ali Qamar, Sheikhpura Road, Faisalabad

.....Respondent

For the appellant:

Mr. Fiaz Ahmed Ranjha Advocate
Mr. Waqar Aslam SDO

For the respondent:

Mian Muhammad Rafique Advocate

DECISION

1. This decision shall dispose of the appeal filed by Faisalabad Electric Company Limited (hereinafter referred to as FESCO) against the decision dated 31.12.2015 of Provincial Office of Inspection/Electric Inspector, Faisalabad Region, Faisalabad (hereinafter referred to as POI).
2. Brief facts of the case are that the respondent is an industrial consumer of FESCO bearing Ref No. 24-13154-7403500 with a sanctioned load of 2,475 kW under B-3 tariff. Metering panel of the respondent was checked by Metering and Testing (M&T) FESCO on 04.04.2011 and 13.04.2011 and both TOU billing meter and backup meter were found 35 % slow due to missing blue phase PT. The damaged PT was replaced by M&T FESCO on 17.05.2011 and both meters starting functioning within BSS limits. An independent 11 kV feeder is supplying electricity to industrial connection of the respondent. Bills for April 2011 and May 2011 were charged to the respondent on the basis of the meter reading recorded at the grid station with the





National Electric Power Regulatory Authority

power factor = 0.81.

3. The respondent being aggrieved with the above mode of billing filed an application before POI on 06.06.2011 and challenged the low power factor (LPF) penalty of April 2011 and May 2011. The respondent filed another application on 29.03.2012 and challenged LPF penalty of Rs. 86,750.08 for March 2012. The meter was checked by M&T FESCO on 15.08.2013 and 11.11.2013, which noticed that the TOU billing meter was malfunctioning whereas the backup meter was working within permissible limits. FESCO charged bills for the period August 2013 to November 2013 on the basis of reading of backup meter. Data of the disputed meter was retrieved in M&T lab on 10.12.2013 and the report was provided to POI by S.E (TS) FESCO, Faisalabad vide letter date 24.09.2014. The respondent filed third application on 13.04.2015 and challenged the LPF penalty for May 2011, March 2012, April 2012 and peak hours billing for September 2013 and October 2013, the detail of which is tabulated as under:

Type of Bill	Month	Amount (Rs.)
LPF Penalty	May 2011	139,381.42
LPF Penalty	March 2012	86,750.08
LPF Penalty	April 2012	29,476.80
Total		255,608.3

Type of Bill	Month	Units Charged	Amount (Rs.)
Peak hr.	September 2013	30,680	177,944/-
Peak hr.	October 2013	30,680	177,944/-
Total			355,888/-

4. POI disposed of the matter vide its decision dated 31.12.2015 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 respondents have rightly charged the LPF penalty for the billing cycles of 05/2011 (misprinted as 03/2011), 03/2012 and 04/2012 and consumer is liable to pay the same.*



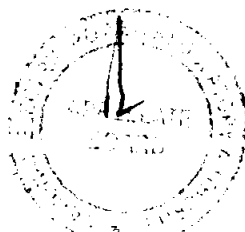


National Electric Power Regulatory Authority

- ii. *The units charged in peak hours in the billing cycles 09/2013 and 10/2013 are not justified and consumer is not liable to pay the same. The respondents are directed to afford the consumer credit/refund for the difference of tariff from peak to off peak for the units charged in peak hours during 09/2013 and 10/2013.*

The respondents are directed to overhaul petitioner's account by adjusting all Credits, Debits, Deferred Amount & Payments already made by the consumer."

5. Being dissatisfied with the POI decision dated 31.12.2015 (hereinafter referred to as the 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 NEPRA Act 1997). In its appeal, FESCO inter alia contended that the impugned decision was based upon mere conjectures and surmises and liable to be struck down. In the end it was prayed that the impugned decision be set aside and the respondent be directed to pay the required LPF penalty.
6. In response to the above appeal, the respondent was issued a notice for filing reply/parawise comments, which were filed on 18.03.2016. In his reply, the respondent defended the impugned decision and prayed for dismissal of the appeal.
7. Notice was issued to both the parties and the appeal was heard in Lahore on 08.08.2016 in which both the parties made their appearance. In the outset of the hearing, Mian Muhammad Rafique Advocate learned counsel for the respondent pointed out that FESCO prayed only for payment of the LPF penalty by the respondent, but the fact remains that such relief was already granted to FESCO in the impugned decision. According to learned counsel for the respondent, the appeal as such was not maintainable, since the relief sought was already available to FESCO. Mr. Fiaz Ahmed Ranjha Advocate, learned counsel for FESCO admitted that the relief was already available regarding the LPF penalty but the respondent has grievance against the impugned decision for not providing credit due to conversion of peak hour units into off peak hour units September 2013 and October 2013, which needs to be redressed.
8. We have heard arguments of both the parties and perused the record placed before us.






National Electric Power Regulatory Authority

Following are our observation:


- i. LPF penalty charged for May 2011, March 2012, April 2012 total amounting to Rs. 255,608.03 was declared correct by POI vide impugned decision and the same was not agitated by the respondent before the appellate board, therefore the respondent is liable to pay the same. We are in agreement with the contention of counsel for the respondent that relief regarding payment of LPF has already been given to FESCO. Therefore the appeal is liable to be declared infructuous to that extent.
 - ii. As regards, the credit/refund to the respondent due to conversion of peak hour units to off peak hour units for September 2013 and October 2013, it is observed that POI has rightly determined that the charging of peak hour units is not justified and the respondent is liable to be given credit/refund due to conversion of peak hour units into off peak hour units amounting to Rs. 355,888/- for September 2013 and October 2013. Impugned decision is liable to be upheld to this extent.
9. In view of discussion in preceding paragraph, we do not find any reason to intervene in the impugned decision, which is upheld and consequently the appeal is dismissed.



Muhammad Qamar-uz-Zaman
Member



Muhammad Shafique
Member



Nadir Ali Khoso
Convener

Date: 31.08.2016

