



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

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No. NEPRA/AB/Appeal-046/POI-2016/1443 -- 1448

November 15, 2016

1. Qaisar Ali Khan,
S/o Rehmat Ali Khan,
Prop: Power Looms Factory,
Chak No. 66/JB, Dhandra Jhang Road,
Faisalabad
2. Chief Executive Officer
FESCO Ltd,
West Canal Road, Abdullahpur,
Faisalabad
3. Ch. Muhammad Imran Bhatti,
Advocate High Court,
44-District Courts, Faisalabad
4. Mehar Shahid Mehmood,
Advocate High Court,
Office No. 25, 3rd Floor,
Ali Plaza, 3-Mozang Road, Lahore
5. Sub Divisional Officer (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 FESCO Vs. Qaisar Ali Khan Against the Decision Dated 02.02.2016 of the Electric Inspector/POI to Government of the Punjab Faisalabad Region, Faisalabad

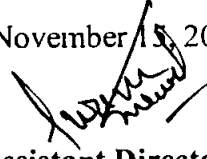
Please find enclosed herewith the Decision of the Appellate Board dated 14.11.2016, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

No. NEPRA/AB/Appeal-046/POI-2016/1449
Forwarded for information please.

(Ikram Shakeel)

November 15, 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-046/POI-2016

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Qaiser Ali Khan S/o Rehmat Ali Khan, Prop: Power Looms Factory,
Chak No.66/JB, Dhandra, Jhang Road, Faisalabad

.....Respondent

For the appellant:

Mr. Mehar Shahid Mehmood Advocate
Mr. Muhammad Saeed SDO

For the respondent:

Ch. Muhammad Imran Bhatti Advocate

DECISION

1. Through this decision, an appeal filed by Faisalabad Electric Supply Company Limited (hereinafter referred to as FESCO) against the decision dated 02.02.2016 of the Provincial Office of Inspection/Electric Inspector, Faisalabad Region, Faisalabad (hereinafter referred to as POI) is being disposed of.
2. 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 the respondent is an industrial consumer of FESCO bearing Ref No.27-13215-6522855 with a sanctioned load of 35.07kW under B-2b tariff.
3. As per fact of the case, TOU billing meter of the respondent was checked by Metering & Testing (M&T) FESCO on 25.03.2014 and reportedly the meter was found 33% slow with





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one phase dead. The respondent was charged the bills for March 2014 and April 2014 with enhanced Multiplication Factor (MF) = 1.49. Defective meter was replaced by FESCO in May 2014 and subsequent billing was done as per meter reading. Later on a detection bill amounting to Rs. 315,814/- for 16,340 units/39 kW for the period December 2013 to February 2014 (3 months) was charged by FESCO to the respondent in September 2014 on the basis of 33% slowness of the meter. As per respondent, a payment of Rs. 210,542/- was made under protest to avoid disconnection of supply.

4. Being aggrieved, the respondent filed an application before POI on 14.01.2015 and challenged the bills of March 2014 and April 2014 charged with enhanced MF=1.49 and the detection bill of Rs. 315,814/- for 16,340 units/39 kW for the period December 2013 to February 2014 (3 months) charged by FESCO in September 2014. Site of the respondent was visited by POI on 20.10.2015 but the defective TOU billing meter could not be checked as it was already removed by FESCO in May 2014. The matter was disposed of by POI vide its decision dated 02.02.2016, the operative portion of which is reproduced below:

"Summing up all the above observations/discussion and keeping in view all the aspects of the case this forum declares the detection bill of Rs.315,814/- for 16,340 units charged during the month of 09/014 and the bills for 03/2014 & 04/2014 charged on enhanced MF as null, void and without legal effect and consumer is not liable to pay the same. The Respondents are directed to withdraw the same and charge the bills for 03/2014 and 04/2014 on actual MF and overhaul petitioner's account by adjusting all Credits, Debits, Deferred Amount & Payments already made by the consumer. Disposed of in above terms."

5. Being dissatisfied with the decision of POI dated 02.02.2016(hereinafter referred to as the impugned decision), FESCO has filed the instant appeal before NERPRA 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 raised the preliminary objection and contended that since the petition filed by the respondent on 13.01.2015 was decided by POI on 02.02.2016 after the prescribed period of 90 days, hence

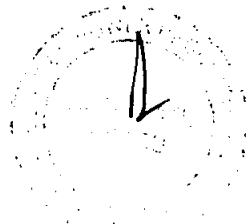




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the impugned decision became void ab-initio and coram non-judice as envisaged under section 26 (6) of Electricity Act 1910. FESCO stated that the TOU billing meter of the respondent was checked by M&T on 25.03.2014 and it was found 33% slow due to yellow phase dead. Therefore the bills for March 2014 and April 2014 with enhanced MF =1.49 and the detection bill of Rs. 315,814/- for 16,340 units/39 kW for the period December 2013 to February 2014 (3 months) charged in September 2014 were justified and the respondent is liable to pay the same. FESCO further pleaded that the impugned decision was not based on facts and law and therefore the same is liable to be set aside.

6. The respondent filed reply/parawise comments to the appeal on 06.05.2016 and inter alia, contended that no notice was served before alleged checking dated 25.03.2014, which is violative of Consumer Service Manual (CSM) and as such the checking is ab-initio void, illegal, unlawful and have no value in the eyes of law. The respondent defended the impugned decision prayed that the appeal may be dismissed.
7. After issuing notice to both the parties, hearing of the appeal was held in Lahore on 07.10.2016 in which Mehar Shahid Mehmood advocate and Muhammad Saeed SDO appeared for the appellant FESCO and Ch. Muhammad Imran Bhatti advocate represented the respondent. Learned counsel for FESCO contended that 33% slowness of billing meter of the respondent was established during M&T checking dated 25.03.2014, therefore the bills of March 2014 and April 2014 were charged with enhanced MF=1.49 and later on a detection bill of Rs. 315,814/- for 16,340 units/39 kW for the period December 2013 to February 2014 (3 months) was charged to the respondent in September 2014 on 33% slowness basis. On the other hand, Ch. Muhammad Imran Bhatti, learned counsel for the respondent contended that neither the respondent was associated by FESCO during checking of the disputed meter at site nor it was produced to POI for checking, therefore checking of meter in violation of provisions of CSM is illegal and such detection bills are not justified. Learned counsel for the respondent prayed for upholding the impugned decision.





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8. Arguments heard, record examined and following is observed:

- i. The respondent challenged the bills for March 2014 and April 2014 with enhanced MF=1.49 and the detection bill amounting to Rs. 315,814/- for 16,340 units/39 kW for the period December 2013 to February 2014 (3 months) charged in September 2014 due to 33% slowness of the meter before POI vide his application dated 14.01.2015.
- ii. M&T checking dated 25.03.2014 was done by FESCO without prior notice and in the absence of respondent or his representatives and the defective meter was also not presented before POI for its inspection. We are inclined to agree with the contention of the respondent that such unilateral checking is violative of CSM and cannot be relied upon for charging the detection bills. However to ascertain the accuracy of meter during the disputed period December 2013 to April 2014 (5 months), following analysis has been made on the basis of consumption data.

Period	Normal Mode Average Units/Month	DEF-EST Mode Average Units/Month
Period before dispute January 2013 to November 2013 (11 months)	10,933 units/27 kW	-
Disputed period December 2013 to April 2014 (5 months)	11,369 units/27 kW	16,940/40 kW
Period After Dispute May 2014 to March 2015 (11 months)	12,831 units/29 kW	-

From the above table, it is evident that there is no remarkable difference between the consumption of disputed and undisputed periods (prior and after). We agree with the conclusion of POI that the meter was not faulty and therefore the bills with enhanced MF=1.49 for March 2014 and April 2014 and the detection bill of Rs.315,814/- for 16,340 units/39 kW for the period December 2013 to February 2014(3 months) charged to the respondent in September 2014 are not justified and the respondent is not liable to pay the same as determined in the impugned decision.





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9. In view of the forgoing discussion, we do not find any reason to intervene in the impugned decision, which is upheld and the appeal is dismissed.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Date: 14.11.2016

