



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

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No. NEPRA/AB/Appeal-060/POI-2014/ 1162-1167

August 09, 2017

1. Muhammad Anwar,
Prop: Power Looms,
C/o Tahir Raheem,
Chak No. 220-P,
Jhang Road, Faisalabad
2. Chief Executive Officer
FESCO Ltd,
West Canal Road, Abdullahpur,
Faisalabad
3. Ch. Fiaz Ahmed Singhairah,
Advocate Supreme Court,
Anab Centre, 2nd Floor,
1-Mozang Road, Lahore
4. Ch. Muhammad Imran Bhatti,
Advocate High Court,
44-District Courts,
Faisalabad
5. Sub Divisional Officer (Operation),
FESCO Ltd,
Bakar Mandi 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. Muhammad Anwar Against the Decision Dated 31.10.2013 of the Electric Inspector/POI to Government of the Punjab Faisalabad Region, Faisalabad

Please find enclosed herewith the Decision of the Appellate Board dated 08.08.2017, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

No. NEPRA/AB/Appeal-060/POI-2014/ 1168

Forwarded for information please.

(Ikram Shakeel)

August 09, 2017


Assistant Director
Appellate Board

✓ 1. Registrar

CC:

1. Member (CA)



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-060/POI-2014

Faisalabad Electric Supply Company LimitedAppellant

Versus

Muhammad Anwar, Prop: Power Looms,
Chak No.220-P, Jhang Road, FaisalabadRespondent

For the Appellant:

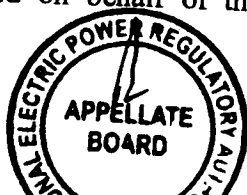
Ch. Faiz Ahmed Singhairah Advocate
Mr. Bashir Ahmed SDO

For the Respondent:

Ch. Imran Bhatti Advocate

DECISION

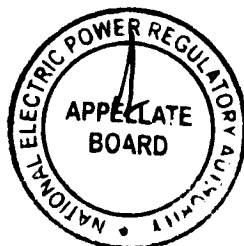
1. Brief facts of this appeal are that an appeal filed by Faisalabad Electric Supply Company Limited (hereinafter referred to as FESCO) against the decision dated 31.10.2013 of the Provincial Office of Inspection/Electric Inspector Faisalabad Region, Faisalabad was dismissed by this forum on 13.10.2014 being time barred. This decision was challenged before the Honorable Lahore High Court Lahore through Writ Petition No. 812 of 2015 and the honorable High Court vide its judgment dated 25.04.2016 set aside the decision dated 13.10.2014 of NEPRA Appellate Board with the directions to decide the matter on merits.
2. Pursuant to the directions of Honorable High Court, the appeal was reheard on 14.07.2017 in NEPRA Regional office Lahore, wherein both the parties entered their appearance. It was argued on behalf of the appellant FESCO that the metering





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equipment of the respondent was checked by M&T FESCO on 10.04.2012 and the TOU billing meter was found dead stop but the backup meter was working within permissible limits. The billing of the respondent was shifted by FESCO on backup meter (second billing meter) from April 2012 and onwards. Learned counsel for FESCO further contended that metering equipment of the respondent was again checked by FESCO on 19.10.2012 and display of the TOU billing meter was found washed out, whereas the second billing meter was found defective with 33% slowness due to one phase being dead, the fact which was also confirmed by POI in the checking on 04.02.2013. As per FESCO, Multiplication Factor (MF) was raised from 40 to 59.7 w.e.f November 2012 and onwards (@ 33 % slowness) and the billing was done accordingly till the replacement of the second billing meter in April 2013. Learned counsel for FESCO prayed that the impugned decision is illegal, unjustified, therefore liable to be set aside. On the contrary, learned counsel for the respondent raised the preliminary objection on limitation and contended that the appeal filed before NEPRA is barred by time therefore liable to be dismissed. Learned counsel rebutted the arguments of FESCO and contended that the electricity bills for the period April 2012 and onwards were charged on the basis of TOU billing meter with DEF-EST code but simultaneously the MF was also enhanced from 40 to 59.7 (to account for 33% slowness) w.e.f November 2012 and onwards till the installation of new billing meter in April 2013, which is obviously incorrect. He argued that the entire billing for the period April 2012 to March 2013 is illegal, unjustified, therefore liable to be set aside as already decided by POI. Regarding the billing on DEF-EST code basis, FESCO explained that billing for the period April 2012 and onwards was

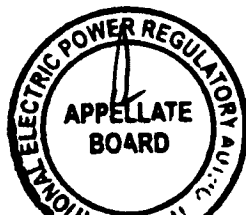




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actually executed on the second billing meter (backup meter) but the DEF-EST code was erroneously printed on the electricity bills.

3. After hearing the arguments and perusal of record, it is observed as under:-
- i. Since the point of limitation has already been decided by the Lahore High Court Lahore vide its judgment dated 25.04.2016 with the direction to adjudicate the matter on merit, therefore raising the same objection by the respondent is not admissible.
 - ii. On merits, TOU billing meter was found defective by FESCO on 10.04.2012, therefore the billing was shifted on backup meter (second billing meter) from April 2012 and continued till October 2012. On 19.10.2012. 33% slowness was observed in the second billing meter by FESCO, which has been confirmed by POI on 04.02.2013. MF of the respondent was enhanced from 40 to 59.7 by FESCO (to account for 33 % slowness) w.e.f November 2012 and onwards till the replacement of the second billing meter in April 2013. The respondent challenged the excessive billing for the period April 2012 to March 2013 before POI.
 - iii. There is a controversy between the parties regarding the mode of billing from April 2012 to March 2013. It is contended on behalf of the respondent that the billing during the disputed period was executed on TOU billing meter with DEF-EST code, whereas FESCO has denied it and pleaded that the billing was shifted on the backup meter (second billing meter) in April 2012 and continued till the replacement of the second billing meter. In order to ascertain the actual





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mode of billing for the period April 2012 to March 2013, comparison between the consumption of the disputed and corresponding undisputed periods is tabulated below:

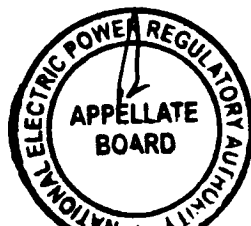
Table-A

Undisputed period		Disputed period	
Month	Units/MDI	Month	Units/MDI
Apr-2011	25,360/82	Apr-2012	42,120/66
May-2011	29,280/73	May-2012	41,520/66
Jun-2011	39,280/74	Jun-2012	37,080/66
Jul-2011	33200/76	Jul-2012	44,960/66
Aug-2011	38760/79	Aug-2012	51,920/66
Sep-2011	36600/79	Sep-2012	42,160/66
Oct-2011	36080/80	Oct-2012	52,320/66
Nov-2011	34360/70	Nov-2012	49,253/68
Dec-2011	35480/67	Dec-2012	76,356/68
Jan-2012	33280/67	Jan-2013	53,074/68
Feb-2012	33160/67	Feb-2013	49,193/66
Mar-2012	28400/66	Mar-2013	39,820/66
Average of last 11 months	31,227/72		

From the above table it is evident that during the disputed period April 2012 to March 2013, neither the billing was done on the basis of average consumption of last eleven months nor on the consumption of corresponding month of previous year, which establishes that the billing was not calculated on DEF-EST code basis. We are inclined to agree with the contention of FESCO that the billing was executed as per reading of the second billing meter (backup meter).

iv. Entire billing for the disputed period April 2012 to March 2013 is split into two parts:

- **First disputed period i.e. April 2012 to October 2012** pertains to the billing as per actual reading of the second billing meter
- **Second disputed period i.e. November 2012 to March 2013** pertains to the





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billing with enhanced MF=59.7 due to 33% slowness of the second billing meter.

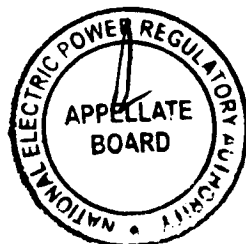
- v. **First disputed period:** In order to rationalize billing for the period April 2012 to October 2012 on the second billing meter (backup meter), following comparison of consumption between disputed and corresponding undisputed period is made:

Table-B

Corresponding period before dispute				First Disputed Period			
Month	Off Peak	Peak	Total Units/MDI	Month	Off Peak	Peak	Total Units/MDI
Apr-2011	20200	5160	25,360/82	Apr-2012	34760	7360	42,120/66
May-2011	23840	6920	29,280/73	May-2012	34600	6920	41,520/66
Jun-2011	32120	6160	39,280/74	Jun-2012	30920	6160	37,080/66
Jul-2011	27600	7480	33200/76	Jul-2012	37480	7480	44,960/66
Aug-2011	32280	8640	38760/79	Aug-2012	43280	8640	51,920/66
Sep-2011	29360	7040	36600/79	Sep-2012	35120	7040	42,160/66
Oct-2011	29440	8720	36080/80	Oct-2012	43600	8720	52,320/66
Total	194,840	50,120	244,960/461	Total	259,760	52,320	312,080/462
Average/ month	27,834	7,160	34,994/66	Average/ month	37,108	7,474	44,583/66

From the above table it is revealed that the average consumption recorded during the first disputed period April 2012 to October 2012 is much higher than the average consumption of corresponding period prior to dispute i.e. April 2011 to October 2011. Moreover splitting of the consumption of second billing meter (backup meter) into off peak and peak consumption was done on arbitrary basis, which is not justified. Therefore it is concluded that the electricity bills for the period April 2012 to October 2012 charged by FESCO on the second billing meter (backup meter) are unjustified and liable to be declared null and void as already determined in the impugned decision.

- vi. The respondent is liable to be charged the electricity bills @ 34,994 units/ 66 kW MDI per month for the first disputed period April 2012 to October 2012





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as recorded during the corresponding undisputed period before dispute (April 2011 to October 2011). Impugned decision is liable to be modified to this extent

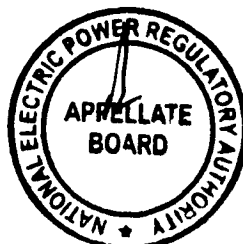
vii. **Second disputed period:** In order to determine the justifiable consumption during the second disputed period i.e. November 2012 to March 2013, following analysis is hereby made.

Table-C

Corresponding period before dispute				Second Disputed Period			
Month	Off Peak	Peak	Total Units/MDI	Month	Off Peak	Peak	Total Units/MDI
Nov-11	29160	5200	34360/70	Nov-12	41014	8239	49253/68
Dec-11	28760	6720	35480/67	Dec-12	63640	12716	76356/68
Jan-12	27720	5560	33280/67	Jan-13	41014	12060	53074/68
Feb-12	27840	5320	33160/67	Feb-13	33193	43163	76356/66
Mar-12	22400	6000	28400/67	Mar-13	22400	26853	49253/66
Total	135880	28800	164680/338	Total	201261	103031	304292/333
Average/ Month	27176	5760	32,936/67	Average/ month	40252	20606	60858/66

From the above table, it emerges that the average consumption during the second disputed period i.e. November 2012 to March 2013 is considerably higher than the average consumption of the corresponding undisputed period before dispute i.e. November 2011 to March 2012. This indicates that the electricity bills with enhanced MF=59.7 due to 33% slowness of the second billing meter are not justified and liable to be cancelled as already determined in the impugned decision.

It would be fair and appropriate to charge the electricity bills @ 32,936 units/67 kW MDI per month for the second disputed period November 2012 to March 2013 as recorded during the corresponding period before dispute November 2011 to March 2012. Impugned decision is liable to be modified to





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this extent.

4. In view of above, it is concluded that:

i. The electricity bills for the period April 2012 to March 2013 are null and void as already declared by POI.

ii. The respondent should be charged as under:

Disputed Period	Duration	Units (kWh)	MDI (kW)
First	April 2012 to October 2012	34,994	66
Second	November 2012 to March 2013	32,936	66

iii. The consumer account of the respondent is overhauled after making adjustment of the payments already made by him against the disputed billing.

5. The Impugned decision is modified with above terms.

Muhammad Qamar-uz-Zaman
Member

Nadir Ali Khoso
Convener

Muhammad Shafique
Member

Date: 08.08.2017

