



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

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No. NEPRA/AB/Appeal-072/POI-2014/ 1169-1174

August 09, 2017

- | | |
|---|---|
| 1. Zulfiqar-ul-Hassnain,
S/o Syed Sufi Muhammad Hanif,
Prop: Zulfiqar Weaving,
Makkah Industrial Estate,
Chak No. 07/JB, Faisalabad | 2. Chief Executive Officer
FESCO Ltd,
West Canal Road, Abdullahpur,
Faisalabad |
| 3. Ch. Fiaz Ahmed Singhairah,
Advocate Supreme Court,
Anab Centre, 2 nd Floor,
1-Mozang Road, Lahore | 4. Ch. Muhammad Imran Bhatti,
Advocate High Court,
44-District Courts,
Faisalabad |
| 5. Sub Divisional Officer (Operation),
FESCO Ltd,
Islampura 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. Zulfiqar-ul-Hassnain Against the Decision Dated 30.12.2013 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-072/POI-2014/ 1175
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-072/POI-2014

Faisalabad Electric Supply Company LimitedAppellant

Versus

Zulfiqar-ul-Hassnain S/o Syed Sufi Muhammad Hanif,
Prop: Zulfiqar weaving Makkah Industrial Estate,
Chak No.07/JB, FaisalabadRespondent

For the Appellant:

Ch. Faiz Ahmed Singhairah Advocate
Mr. Muhammad Naeem Javed XEN

For the Respondent:

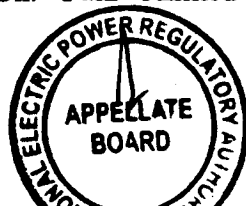
Ch. Muhammad Imran Bhatti Advocate

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 30.12.2013 of the Provincial Office of Inspection/Electric Inspector Faisalabad Region, Faisalabad (POI) was dismissed by the Appellate Board on 10.11.2014 on the grounds of limitation. This decision was challenged by FESCO before the Honorable Lahore High Court Lahore through Writ Petition No.1637 of 2015 and the Appellate Board decision dated 10.11.2014 was set aside by the honorable High Court vide decision dated 25.04.2016 with the directions to NEPRA to decide the matter on merits.

2. In pursuance of the directions of Honorable High Court, the appeal was re-heard on 14.07.2017 wherein Ch. Faiz Ahmed Singhairah advocate along with

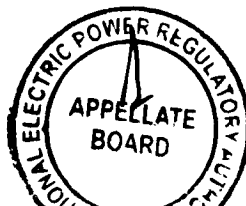
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Mr. Muhammad Naeem Javed Add. XEN represented the appellant FESCO and Ch. Muhammad Imran Bhatti advocate appeared for the respondent. In the outset of hearing, learned counsel for the respondent again raised the preliminary objection regarding the limitation and contended that the appeal against the impugned decision dated 30.12.2013 filed before NEPRA is time barred. In response, learned counsel for FESCO informed that the matter of limitation has already been settled by the honorable Lahore High Court, therefore the appeal may be decided on its merits. It has been argued on behalf of the appellant FESCO that both the TOU billing and backup meters were found 33% slow by M&T FESCO testing dated 19.03.2013, therefore multiplication factor (MF) was raised from 60 to 89.5 w.e.f April 2013 and onwards. According to FESCO, the first detection bill of Rs.403,375/- for 44,894 units for the period February 2013 & March 2013 was debited to the respondent @ 33% slowness, which was agreed and paid by the respondent in June 2013. As per FESCO, the metering equipment of the respondent was again checked on 26.07.2013 and both the TOU billing and backup meters were found 66% slow due to two phases being dead, hence second detection bill for 123,434 units for the period April 2013 to July 2013 (4 months) was charged to the respondent in August 2013 by raising MF from 89.5 to 176.4. Learned counsel for FESCO averred that 66% slowness of the disputed TOU billing and backup meters was confirmed by POI during joint checking on 12.09.2013, therefore the respondent is obligated to pay the aforesaid both the detection bills. On the contrary, learned counsel for the respondent contended that

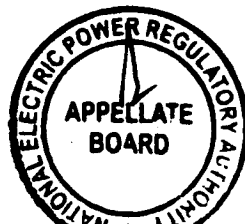




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neither defective meter was replaced nor the billing was done as per provisions of Consumer Service Manual (CSM), therefore the aforesaid both the detection bills charged to the respondent are liable to be declared null and void as already declared by POI in the impugned decision.

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, therefore raising the same objection is not admissible. The objection of the respondent in this regard is dismissed.
 - ii. On merits, the first detection bill of Rs.403,375/- for 44,894 units for the period February 2013 & March 2013 was charged to the respondent due to 33% slowness observed by FESCO on 19.03.2013. Later on the second detection bill of 123,434 units for the period April 2013 to July 2013 (4 months) was charged to the respondent by raising MF=176.4 due to 66% slowness observed by FESCO on 26.07.2013. Both the detection bills were challenged by the respondent before POI vide his application on 23.08.2013.
 - iii. Pursuant to clause 4.4(e) of CSM, in case of a defective/slow meter, the consumer is liable to be charged for maximum two billing cycles.
 - iv. In order to ascertain the justification of the first detection bill of Rs.403,375/- for 44,894 units for the period February 2013 and March 2013 charged to the respondent @ 33% slowness of the TOU billing meter, consumption data as





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provided by FESCO is tabulated below:

Table-A

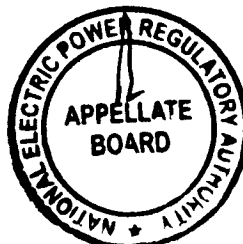
Corresponding period before dispute		First Disputed Period	
Month	Units	Month	Units
Feb-2012	68,280	Feb-2013	48,960
Mar-2012	65,160	Mar-2013	42,660
Total	133,460	Total	91,620

From the above table, it is revealed that the total consumption recorded during the corresponding period prior to first disputed period i.e. February 2012 to March 2012 is much higher than the total consumption of first disputed period i.e. February 2013 to March 2013, which establishes that the TOU billing meter remained 33% slow during the first disputed period. Computation of first detection bill is done below:

- Total Units already charged = 91,620 units
- Total Units to be charged @ 33% slowness = $91,620 \times 1.49 = 136,514$ units
- Total Net Units to be charged = $136,514$ units – $91,620$ units = **44,894 units**

Above calculations justifies the charging of first detection bill amounting to Rs.403,375/- for 44,894 units for the period February 2013 and March 2013 to the respondent by FESCO @ 33% slowness of the TOU billing meter. Impugned decision for cancellation of the first detection bill is not justified, therefore liable to be withdrawn to this extent.

- v. Second detection bill amounting to Rs.1,164,653/- for 123,434 units for April 2013 to July 2013 (four months) charged to the respondent by FESCO is





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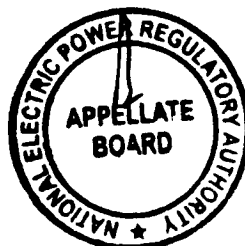
violative of provisions of CSM and liable to be cancelled as already determined in the impugned decision.

- vi. Since 66% slowness of the TOU billing meter was established by FESCO in July 2013, so it would be fair and appropriate to charge the second detection bill for May 2013 and June 2013 (two months only) @ 66% slowness of the TOU billing meter, if established. For this purpose, consumption data as provided by FESCO is analyzed as under:

Table-B Consumption

Corresponding period before dispute		Second Disputed Period (MF=89.5 due to 66 % slowness)	
Month	Units	Month	Units
May-2012	56,400	May-2013	28,029
Jun-2012	40,800	Jun-2013	30,985
Total	97,200	Total	59,014

It is evident from the above table that total consumption recorded during the corresponding period before dispute i.e. May 2012 to June 2012 is much higher than the total consumption of second disputed period i.e. May 2013 and June 2013, which proves that the TOU billing meter became 66% slow w.e.f May 2013 and onwards. As the respondent was already charged for May 2013 and June 2013 by FESCO with enhanced MF=89.5 due to 33% slowness, hence the second detection bill is liable to be charged to the respondent @ 66 % slowness as determined below:





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- Total Units already charged @ 33% slowness = 59,014 units
- Total Units to be further charged @ 66% slowness= 59,014 x 1.49=87,931 units
- Total Net Units to be charged= 87,931 units – 59,014 units = **28,917 units**

4. Forging in view, it is concluded as under:

- First detection bill of Rs.403,375/- for 44,894 units for the period February 2013 to March 2013 charged to the respondent by FESCO @ 33% slowness is justified and payable by the respondent.
- Second detection bill of 123,434 units for the period April 2013 to July 2013 charged for four months is illegal, unjustified, therefore declared null and void as already determined in the impugned decision. The respondent should be charged 28,917 net units for the second disputed period i.e. May 2013 and June 2013 (two months only).
- The consumer account of the respondent should be overhauled in accordance with para (i) & (ii) above after the adjustment of payment already made during the disputed periods.

5. Impugned decision is modified to above extent.

Muhammad Qamar-uz-Zaman
Member

Nadir Ali Khoso
Convener

Muhammad Shafique
Member

Dated: 08.08.2017

