



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

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No. NEPRA/AB/Appeal-088 & 105/POI-2016/ 618-623

April 27, 2017

1. Saifullah Khan,  
S/o Muhammad Jamil,  
Chairman, Masjid Daawat-e-Ouliya,  
Chak No. 204/RB, Zian Town,  
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. Ch. Muhammad Shahid Iqbal  
Advocate High Court,  
Office No. 3, Thrid Floor,  
Khan Arcade, Mouj Darya Road,  
Lahore
5. Sub Divisional Officer (Operation),  
FESCO Ltd,  
Gatawala 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. Saifullah Khan Against the Decision Dated 18.03.2016 of the Electric Inspector/POI to Government of the Punjab Faisalabad Region, Faisalabad**

Please find enclosed herewith the Decision of the Appellate Board dated 26.04.2017, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(Ikram Shakeel)

No. NEPRA/AB/Appeal-088 & 105/POI-2016/ 624  
Forwarded for information please.

April 27, 2017

  
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-088/POI-2016

Faisalabad Electric Supply Company Limited .....Appellant

Versus

Saifullah Khan S/o Muhammad Jamil, Chairman Masjid Daawat-e-Oulia,  
Chak No.204/RB, Zia Town, Faisalabad .....Respondent

### Appeal No. NEPRA/Appeal-105/POI-2016

Saifullah Khan S/o Muhammad Jamil, Chairman Masjid Daawat-e-Oulia,  
Chak No.204/RB, Zia Town, Faisalabad .....Appellant

Versus

Faisalabad Electric Supply Company Limited .....Respondent

#### For FESCO:

Ch. Muhammad Shahid Iqbal Advocate  
Mr. Sajjad Mahmood SDO

#### For Consumer:

Ch. Muhammad Imran Bhatti Advocate

## DECISION

1. Through this decision, Appeal No. NEPRA/Appeal-088/POI-2016 and Appeal No. NEPRA/Appeal-105/POI-2016 filed against the decision dated 18.03.2016 of Provincial Office of Inspection/Electric Inspector, Faisalabad Region, Faisalabad (hereinafter referred to as POI) are being disposed of.





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2. Faisalabad Electric Supply Company Limited (hereinafter referred to as 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 Mr. Saifullah Khan is its domestic consumer (hereinafter referred to as "the Consumer"). As per facts of the case, meter of the Consumer was checked by M&T FESCO on 14.01.2015 and found 45% slow. A detection bill of Rs.435,220/- for 25,548 units for the period June 2014 to December 2014 (7 months) was charged to the Consumer in March 2015 @ 45% slowness. However neither any check meter was installed nor the disputed meter was got checked through POI.
3. Being aggrieved, the Consumer filed an application before POI on 29.04.2015 and challenged the aforesaid detection bill. POI announced its decision on 18.03.2016 (hereinafter referred to as the impugned decision), the operative portion of which is reproduced below:-

*"Summing up the aforesaid discussion and keeping in view all the aspects of the case, this forum declares the charging of detection bill of Rs.435,220/- for 25,548 units for the period from 06/2014 to 12/2014 in the month of March 2015 as null, void & without legal effect and the petitioner is not liable to pay the same. FESCO is directed to withdraw the same and charge the petitioner revised detection bill of 15,608 units for the same period and overhaul the petitioner's account by adjusting all Credits, Debits, Deferred Amount & Payments already made by the consumer.*

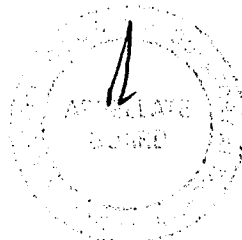




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*Disposed of in above terms.”*

4. Being dissatisfied with the impugned decision, both the parties filed appeals 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”). As the subject matter of both the appeals is same therefore both have been clubbed and being disposed of through a single/consolidated decision.
5. In its appeal, FESCO raised the preliminary objection regarding the maintainability of the impugned decision and contended that Electric Inspector has no jurisdiction to adjudicate upon the matter after mandatory period of 90 days as stipulated under Section 26(6) of Electricity Act 1910, hence the impugned decision became ex-facie coram non-judice, ab-initio void and without jurisdiction. FESCO further submitted that the meter was found 45% slow, as such the detection bill of Rs.435,220/- for 25,548 units for the period June 2014 to December 2014 charged to the Consumer in March 2015 @ 45% slowness was justified and the Consumer is liable to pay the same. On the contrary, the Consumer contended that as per NEPRA rules, the Consumer due to a defective meter is liable to be billed for two billing cycles, whereas POI in its impugned decision decided for charging the detection bill for 15,608 units for June 2014 to December 2014 i.e. 07 months, which is incorrect and unjustified. The Consumer prayed for cancellation of the entire detection bill of Rs.435,220/- for 25,548 units for the period June 2014 to December 2014 charged @ 45% slowness.





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6. Notice of the appeals was sent to both parties for reply/parawise comments, which were filed by both the parties accordingly. Each party in his reply rebutted the grounds of opposite party and reiterated its stance as given in memo of the appeal. In his reply/parawise comments, the Consumer raised the preliminary objection regarding limitation of Appeal No.88/2016 and pleaded for dismissal of the appeal being time barred.
  
7. Notice was issued and hearing of the Appeal No.105/2016 was conducted in NEPRA regional office Lahore on 10.03.2017 in which there was no representation for FESCO and Ch. Muhammad Imran Bhatti advocate appeared for the Consumer. Learned counsel for the Consumer repeated the same grounds as contained in his own appeal No. 105/2016 and reply/parawise comments filed against the Appeal No.88/2016 of FESCO. Learned counsel for the Consumer further pointed out that pursuant to clause 4.4(e) of Consumer Service Manual (CSM), the maximum bill due to a defective meter is confined to two billing cycles and in the instant case, the Consumer could be charged for November 2014 and December 2014. Hearing of the appeal No.88/2016 was held in Lahore on 20.04.2017 in which learned counsel for FESCO appeared for the appellant FESCO but there was no representation for the Consumer. Learned counsel for FESCO contended that a number of houses attached with mosque were getting supply illegally from the connection of the Consumer. According to the learned counsel for FESCO, 45% slowness of the meter was confirmed during M&T checking dated 14.01.2015 as is obvious from

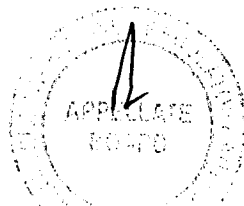




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the consumption record of the Consumer. As per FESCO, the meter remained 45 % slow during the period June 2014 to December 2014, therefore the detection bill of Rs.435,220/- for 25,548 units for the period June 2014 to December 2014 charged @ 45% slowness is justified and payable by the Consumer.

8. Arguments of both the parties and record examined. Following has been observed:
- i. FESCO raised the preliminary objection regarding the jurisdiction of POI for deciding the matter after prescribed time limit of 90 days as envisaged under Section 26(6) of Electricity Act 1910. It is clarified that the said section is applicable to Electric Inspectors whereas the impugned decision was rendered by POI under Section 38 of NEPRA Act 1997 whereof no time limit is specified. Hence the objection of FESCO is over ruled.
  - ii. As regards objection of the Consumer for limitation, it is observed that the impugned decision dated 18.03.2016 was received by FESCO on 30.03.2016. The appeal against the impugned decision was filed before NEPRA by post on 02.05.2016, which is within time limit as envisaged under section 38(3) of NEPRA Act 1997. Objection of the Consumer in this regard has no basis, therefore dismissed.
  - iii. 45% slowness of the meter was observed during M&T FESCO checking on 14.01.2015, which could not be confirmed by POI due to removal of the defective meter by FESCO in January 2015. A detection bill of Rs.435,220/- for





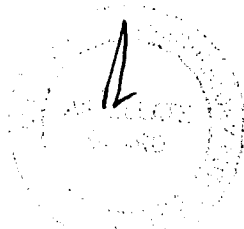
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25,548 units for the period June 2014 to December 2014 charged to the Consumer due to aforesaid slowness, was assailed by the Consumer before POI.

- iv. We are inclined to agree with the contention of the Consumer that due to defectiveness of the meter, a Consumer could be charged maximum for two billing cycles as laid down in clause 4.4 of CSM. Therefore charging the detection bill of Rs.435,220/- for 25,548 units for the period June 2014 to December 2014 (07 months) due to the slowness of the meter is inconsistent with CSM, therefore liable to be cancelled as already determined in the impugned decision.
- v. The determination of POI for charging the 15,608 detection units for the entire disputed period of 07 months on the basis of future consumption is not in line with provisions of CSM. The Consumer is liable to be charged for two months only i.e. November 2014 and December 2014 @ 45% slowness of the meter. Impugned decision to this extent is liable to be modified.

9. Forging in view, it is concluded that:

- i. Detection bill of Rs.435,220/- for 25,548 units for the period June 2014 to December 2014 charged to the Consumer @ 45% slowness is unjustified, therefore cancelled as per impugned decision.
- ii. The Consumer should be charged the detection bill @ 45% slowness of the





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meter for November 2014 and December 2014 i.e. two month only. Impugned decision is modified to this extent.

10. Both the appeals stand disposed of in above terms.

Muhammad Qamar-uz-Zaman  
Member

  
Muhammad Shafique  
Member

Nadir Ali Khoso  
Convener

Dated: 26.04.2017