



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-114/POI-2014/ 1176-1181

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, 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,
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 21.07.2014 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-114/POI-2014/ 1182
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-114/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:

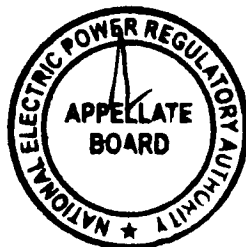
Ch. Faiz Ahmed Singhairah Advocate
Mr. Muhammad Naeem Javed XEN

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 21.07.2014 of the Provincial Office of Inspection/Electric Inspector Faisalabad Region, Faisalabad (POI) was dismissed by the Appellate Board on 23.02.2015 being time barred. This decision was assailed by FESCO before the Honorable Lahore High Court Lahore through Writ Petition No.14895 of 2015 and the honorable High Court vide its decision dated 25.04.2016 set aside the Appellate Board decision dated 23.02.2015 with the directions to NEPRA to decide the matter on merits.



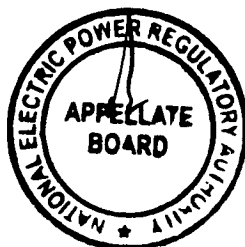


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2. In pursuance of the directions of Honorable High Court, the hearing of the appeal was conducted in NEPRA regional office Lahore on 14.07.2017 wherein Ch. Faiz Ahmed Singhairah advocate along with Mr. Muhammad Naeem Javed Add. XEN were in attendance for the appellant FESCO and Ch. Muhammad Imran Bhatti advocate represented the respondent. Learned counsel for the appellant FESCO reiterated the same arguments as contained in memo of the appeal and contended that 66% slowness was observed in both the TOU billing and backup meters by metering and testing (M&T) FESCO on 26.07.2013, which was also confirmed by POI on 12.09.2013. According to FESCO, detection bill of Rs.1,164,653/- for 123,434 units for the period April 2013 to July 2013(4 months) was charged to the respondent @ 66% slowness of the meter. FESCO stated that the electricity bills from August 2013 to October 2013 were charged with enhanced multiplication factor (MF)=176.4 and further electricity bills for November 2013 and December 2013 on DEF-EST code. As per FESCO, the aforesaid detection and electricity bills charged are justified and payable by the respondent. On the other hand, learned counsel for the respondent disputed the aforesaid detection bill for April 2013 to July 2013 and electricity bills from October 2013 to December 2013 and pleaded for cancellation of the aforesaid irregular bills as already determined by POI.

3. After hearing the arguments and perusal of record, it is observed as under:-

- i. 66% slowness of both the TOU billing and backup meters was observed by M&T





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FESCO on 26.07.2013 and the same was also confirmed by POI on 12.09.2013.

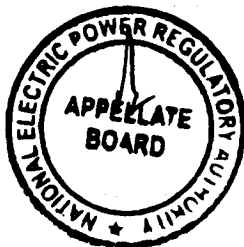
The detection bill amounting to Rs.1,164,653/- for 123,434 units for the period April 2013 to July 2013 (4 months) and further electricity bills for the period October 2013 to December 2013 were challenged by the respondent before POI.

- ii. Detection bill of Rs.1,164,653/- for 123,434 units for the period April 2013 to July 2013 (4 months) charged to the respondent with enhanced MF=176.4 due to 66% slowness of the meter was challenged earlier before POI and decided vide its decision dated 31.12.2013, which was assailed by FESCO before the NEPRA Appellate Board vide the Appeal No.072/POI-2014. The Appellate Board has decided the said appeal vide its decision dated 10.11.2014. The relevant portion of which is reproduced below:

“Second detection bill of 123,434 units for the period April 2013 to July 2013 charged @ 66% slowness 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.”

Since the matter has already been decided, hence same cannot be challenged and reconsidered pursuant to the principle of Res-Judicata.

- iii. Regarding the electricity bills for the period October 2013 to December 2013, we are inclined to agree with the determination of PQI that the impugned billing meter remained 66% slow till October 2013 and was charged accordingly.





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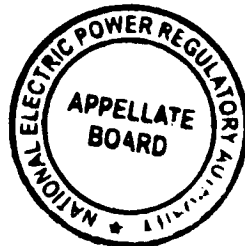
However the billing for November 2013 and onwards till its replacement on 18.12.2013 was done on DEF-EST basis. Therefore the electricity bill for 74,118 units/147 kW MDI charged to the respondent in October 2013 @ 66% slowness of TOU billing meter is justified and payable by the respondent. As for as the electricity bills of 105,705 units/147 kW MDI and 157,411 units/147 kW MDI charged by FESCO in November 2013 and December 2013 respectively on DEF-EST code basis, consumption history of the respondent shows that such high consumption was never recorded in the past. POI rightly determined in the impugned decision that the aforesaid electricity bills charged are excessive and liable to be cancelled.

iv. In order to rationalize billing for disputed months November 2013 and December 2013, the consumption data is tabulated below:

Disputed		Undisputed	
Month	Units/MDI	Month	Units/MDI
Nov-2013	105,705/147	Nov-2012	65,520/156
Dec-2013	157,411/147	Dec-2012	57,480/133
Total	263,116/294	Total	123,000/289

From the above table, it transpires that the total units/MDI recorded during the disputed months i.e. November 2013 and December 2013 is much higher than the total units/MDI recorded during the corresponding undisputed months i.e. November 2012 and December 2012. Therefore it would be judicious to charge total 123,000 units/289 kW MDI for the disputed months i.e. November 2013 and December 2013.

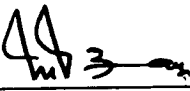
4. In view of above, it is concluded as under:





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- i. Detection bill amounting to Rs.1,164,653/- for 123,434 units for the period April 2013 to July 2013 charged @ 66% slowness is illegal, unjustified, therefore declared null and void and the respondent should be charged 28,917 net units for the period i.e. May 2013 and June 2013 as already decided in the Appeal No.72/POI-2014.
 - ii. Electricity bill for October 2013 for the cost of 74,118 units/147 kW MDI charged is justified and payable by the respondent. Electricity bills of 105,705 units/147 kW MDI and 157,411 units/147 kW MDI charged by FESCO in November 2013 and December 2013 respectively are declared null and void and not payable by the respondent. Impugned decision is maintained to this extent.
 - iii. The respondent should be charged total 123,000 units/289 kW MDI for the months of November 2013 and December 2013.
 - iv. The consumer account of the respondent should be overhauled after the adjustment of payment already made against the aforesaid bills.
5. Impugned decision is modified in above terms.



Muhammad Qamar-uz-Zaman
Member



Nadir Ali Khoso
Convener



Muhammad Shafique
Member

Dated:08.08.2017

