



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-120/POI-2016/ 892-894

June 01, 2017

1. Talib Hussain,
S/o Abdul Hameed,
Street No. 3, Daganwan Road,
Samundri Road, Faisalabad
2. Chief Executive Officer
FESCO Ltd,
West Canal Road, Abdullahpur,
Faisalabad
3. Mehar Shahid Mehmood,
Advocate High Court,
Office No. 25, 3rd Floor,
Ali Plaza, 3-Mozang Road,
Lahore
4. Sub Divisional Officer (Operation),
FESCO Ltd,
Samundri Road Sub Division,
Faisalabad
5. Electric Inspector
Energy Department,
Govt. of Punjab,
Opposite Commissioner Office,
D.C.G Road, Civil Lines,
Faisalabad Region, Faisalabad

Subject: **Appeal Titled FESCO Vs. Talib Hussain Against the Decision Dated 02.06.2016 of the Electric Inspector/POI to Government of the Punjab Faisalabad Region, Faisalabad**

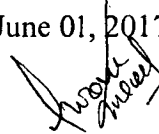
Please find enclosed herewith the Decision of the Appellate Board dated 31.05.2017, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(Ikram Shakeel)

No. NEPRA/AB/Appeal-120/POI-2016/ 895
Forwarded for information please.

June 01, 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-120/POI-2016

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Talib Hussain S/o Abdul Hameed Street No.3,
Dagranwan Road, Samundri Road, Faisalabad

.....Respondent

For the appellant:

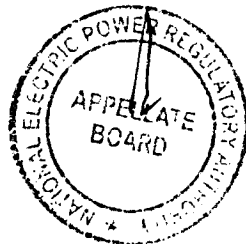
Mehar Shahid Mahmood Advocate
Mr. Waqar Ahmed
Mr. Irfan Liaqat

For the respondent:

Nemo

DECISION

1. This decision shall dispose of the appeal filed by Faisalabad Electric Company Limited (hereinafter referred to as FESCO) against the decision dated 02.06.2016 of Provincial Office of Inspection/Electric Inspector, Faisalabad Region, Faisalabad (hereinafter referred to as POI).
2. Brief facts of the case are that the respondent is an industrial consumer of FESCO





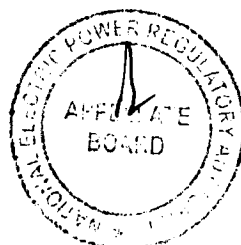
National Electric Power Regulatory Authority

bearing Ref No. 21-13242-7201110 with a sanctioned load of 5kW under B-1 tariff. The electricity meter of the respondent was checked by Metering and Testing (M&T) FESCO on 15.08.2015 and reportedly it was found defective with intermittent behavior (glass cover missing/meter found sticky). A detection bill amounting to Rs.53,079/- for 3,573 units for the period April 2015 to July 2015 (4 months) was charged by FESCO to the respondent on the basis of consumption of March 2015.

3. Being aggrieved with the detection bill of Rs.53,079/- for 3,573 units for the period April 2015 to July 2015, the respondent filed an application before POI on 11.12.2015 and challenged the aforesaid bill. Defective meter was checked by POI on 30.12.2015 in presence of both the parties and the same was found working within BSS limits. POI disposed of the matter vide its decision dated 02.06.2016 with the following conclusion:

“Summing up all the observations/discussion and keeping in view all the aspects of the case this forum declares that the detection bill amount of Rs.53079/- for 3573 units for the period 04/2015 to 07/2015 charged in the month of 12/2015 as null, void and without legal effect and the petitioner is not liable to pay the same. The respondents are directed to withdraw the same and overhaul the petitioner’s account by adjusting all Credits, Debits, Deferred Amount & Payments already made by the consumer. Disposed of in above terms.”

4. FESCO was dissatisfied with the POI decision dated 02.06.2016 (hereinafter referred to as the impugned decision), therefore filed the instant appeal under section 38 (3) of the

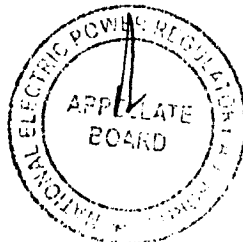




National Electric Power Regulatory Authority

Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (hereinafter referred to as the NEPRA Act 1997). In its appeal, FESCO inter alia, contended that the meter of the respondent was found defective during M&T checking dated 15.08.2015, hence the detection bill of Rs.53,079/- for 3,573 units for the period April 2015 to July 2015 was charged to the respondent on the basis of consumption of March 2015. FESCO pointed out that the application was filed by the respondent on 11.12.2015, whereas the impugned decision was passed by Electric Inspector on 02.06.2016 after lapse of statutory period of 90 days as envisaged under Section 26(6) of Electricity Act 1910, hence the impugned decision become functus officio, void ab-initio, coram non iudice, therefore liable to be set aside. Notice of the appeal was issued to the respondent for filing reply/parawise comments, which however were not filed.

5. Notice was issued and hearing of the appeal was conducted in the NEPRA regional office Lahore on 22.05.2017, in which Mehar Shahid Mahmood advocate represented the appellant FESCO but no one entered appearance for the respondent. Learned counsel for FESCO reiterated the same arguments as narrated in memo of the appeal and insisted for deciding the matter on ex-parte basis as the respondent failed to appear and rebut the appellant.
6. We have heard arguments of FESCO, perused the record placed before us. Following are our observations:



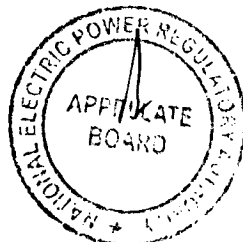


National Electric Power Regulatory Authority

- i. As regards the objection of FESCO regarding the jurisdiction of POI, it is clarified that the impugned decision was rendered by POI (not an Electric Inspector) under Section 38(3) of NEPRA Act 1997, whereof there is no restriction of time limit. Objection of FESCO is devoid of force, therefore over ruled.
- ii. The meter of the respondent was found defective with erratic behavior by M&T FESCO on 15.08.2015, therefore the detection bill of Rs.53,079/- for 3,573 units for the period April 2015 to July 2015 was charged to the respondent, which was agitated by the respondent before POI on 11.12.2015.
- iii. Charging the aforesaid detection bill for four months by FESCO to the respondent is violative of clause 4.4(e) of CSM, therefore the detection bill of Rs.53,079/- for 3,573 units for the period April 2015 to July 2015 is liable to be cancelled as already decided by POI.
- iv. Pursuant to clause 4.4 (e) of CSM, the consumer may be charged for maximum two billing cycles i.e. June 2015 and July 2015 if defectiveness of the meter is established. Comparison of the consumption data as provided by FESCO is tabulated below:

Units charged during disputed months		Units charged during undisputed months	
June 2015	1,200	June 2014	2,180
July 2015	645	July 2014	1,945
Total	1,845	Total	4,125

Perusal of the above table has revealed that the total normal consumption recorded during





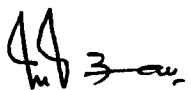
National Electric Power Regulatory Authority

the disputed months i.e. June 2015 and July 2015 is much lesser than the total normal consumption of corresponding undisputed months i.e. June 2014 and July 2014, which reveals that the meter was defective during the aforesaid disputed months. Therefore the respondent is liable to be charged 4,125 total units for the disputed months i.e. June 2015 and July 2015 as recorded during the corresponding undisputed months of previous year i.e. June 2014 and July 2014 in accordance with CSM.


7. In view of above it is concluded that:

- i. Detection bill of Rs.53,079/- for 3,573 units for the period April 2015 to July 2015 charged to the respondent is unjustified, therefore cancelled.
- ii. The respondent should be charged 4,125 units for the disputed months i.e. June 2015 and July 2015.


8. Impugned decision is modified in above terms.



Muhammad Qamar-uz-Zaman
Member



Nadir Ali Khoso
Convener



Muhammad Shafique
Member

Date: 31.05.2017

