



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](http://www.nepra.org.pk) E-mail: [office@nepra.org.pk](mailto:office@nepra.org.pk)

No. NEPRA/AB/Appeal-122/POI-2016/ *1388 — 1393*

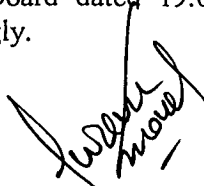
September 20, 2017

1. Umer Hayat,  
S/o Moula Bukhsh,  
R/o Walla, Tehsil Lalian,  
District Chiniot
2. Chief Executive Officer  
FESCO Ltd,  
West Canal Road, Abdullahpur,  
Faisalabad
3. Mehar Shahid Mahmood,  
Advocate Higt Court,  
Office No. 25, Third Floor,  
Ali Plaza, 3-Mozang Road,  
Lahore
4. Zia-ul-Hassan Sumra,  
Advocate,  
Office No. 4, Second Floor,  
SAF Centre, Lahore
5. Sub Divisional Officer (Operation),  
FESCO Ltd,  
Lalian Rural Sub Division,  
Lalian, District Chiniot
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. Umer Hayat Against the Decision Dated 16.05.2016 of the Electric Inspector/POI to Government of the Punjab Faisalabad Region, Faisalabad

Please find enclosed herewith the Decision of the Appellate Board dated 19.09.2017, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

  
(Ikram Shakeel)

No. NEPRA/AB/Appeal-122/POI-2016/ *1394*

September 20, 2017

Forwarded for information please.

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-122/POI-2016

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Umar Hayat S/o Moula Bukhsh, R/o Walla,  
Tehsil Lalian, District Chiniot

.....Respondent

### For the appellant:

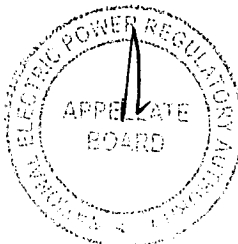
Mehar Shahid Mahmood Advocate  
Mr. Umar Hayat SDO

### For the respondent:

Nemo

## DECISION

1. Brief facts give rising to the instant appeal are that the respondent is a domestic consumer of Faisalabad Electric Supply Company Limited (hereinafter referred to as the FESCO) bearing Ref No. 01-13167-0551604-R with a sanctioned load of 3kW under A-1 tariff. Electricity meter of the respondent was replaced with a new meter by FESCO vide meter change order (MCO) dated 04.02.2015 and the removed meter was sent to Metering and Testing (M&T), whereby the same was declared tampered with scratches on name plate vide M&T report dated 13.04.2015. As per FESCO, a request for lodging FIR was made to Police Station Muhammad Wala vide letter dated 29.04.2015 due to





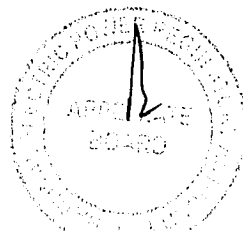
## National Electric Power Regulatory Authority

commission of theft of electricity and a notice dated 04.05.2015 was also issued to the respondent by FESCO. Subsequently a detection bill amounting to Rs.497,436/- for 23,188 units for the period August 2013 to January 2015 (18 months) was charged to the respondent by FESCO in September 2015 on the basis of connected load.

2. Being aggrieved, the respondent challenged the aforesaid detection bill before Provincial Office of Inspection, Faisalabad Region, Faisalabad (hereinafter referred to as POI) vide an application on 15.12.2015. POI disposed of the matter vide its decision dated 16.05.2016, the operative portion of which is reproduced below:

*“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.497,436/- for 23,188 units for the period 08/2013 to 01/2015(18 months) added as arrears in the billing month of 09/2015 as null, void and without legal effect and the consumer is not liable to pay the same. The respondents are directed to withdraw the same and charge the consumer revised detection bill for 6,744 units for the period 08/2014 to 01/2015 (6 months) and overhaul the petitioner’s account by adjusting all Credits, Debits, Deferred Amount & Payments already made by the consumer. Disposed of in above terms.”*

3. FESCO being dissatisfied with the POI decision dated 16.05.2016 (hereinafter referred to as the impugned decision), filed the instant appeal under Section 38 (3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997

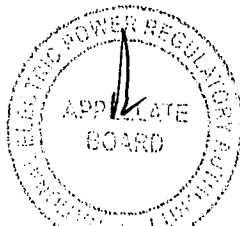




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(hereinafter referred to as the NEPRA Act 1997). In its appeal, FESCO inter alia, contended that the old meter of the respondent was replaced vide MCO dated 04.02.2015 and the removed meter was sent to M&T FESCO to ascertain its accuracy, whereby the same was found tampered with scratches on name plate vide M&T report dated 13.04.2015, hence the detection bill of Rs.497,436/- for 23,188 units for the period August 2013 to January 2015 (18 months) was charged to the respondent by FESCO in September 2015 on the basis of connected load and the disciplinary action was also initiated against the delinquent officials as per inquiry report dated 31.08.2017. FESCO pointed out that the application was filed by the respondent on 15.12.2015, whereas the impugned decision was passed by Electric Inspector on 16.05.2016 after lapse of statutory period of 90 days, hence as envisaged under Section 26 (6) of Electricity Act 1910, the impugned decision became 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.

4. After issuing notice, hearing of the appeal was conducted in the regional office NEPRA Lahore on 28.08.2017, in which Mehar Shahid Mahmood advocate along with Mr. Umar Hayat SDO represented the appellant FESCO but no one entered appearance for the respondent. Learned counsel for FESCO reiterated the same argument as narrated in memo of the appeal and contended that the respondent committed theft of electricity through the meter tampering, therefore the detection of Rs.497,436/- for 23,188 units for the period August 2013 to January 2015 (18 months) charged to the

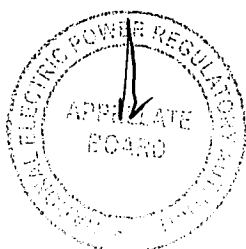




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respondent by FESCO in September 2015 on the basis of connected load is justified and payable by the respondent. Learned counsel for FESCO averred that disciplinary action was recommended against the offending officials by the inquiry committee.

5. We have heard arguments of FESCO, perused the record placed before us. Following are our observations:
- 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. Meter of the respondent was declared tampered with scratches on name plate vide M&T FESCO report dated 29.04.2015, therefore the detection bill of Rs.497,436/- for 23,188 units for the period August 2013 to January 2015 (18 months) was charged to the respondent by FESCO in September 2015 on the basis of connected load, which was agitated by him before POI on 15.12.2015.
  - iii. Charging the aforesaid detection bill for eighteen months by FESCO to the respondent due to theft of electricity is violative of clause 9.1c (3) of Consumer Service Manual (CSM). Hence the detection bill amounting to Rs.497,436/- for 23,188 units for the period August 2013 to January 2015(18 months) charged to the respondent is unjustified, therefore liable to be cancelled as already decided by POI.





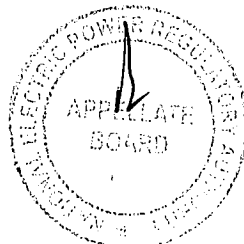
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iv. Pursuant to clause 9.1c (3) of CSM, in case of theft of electricity through the tampered meter, the respondent is liable to be charged the detection bill for maximum six billing cycles. As regards the quantum of units lost, same are to be charged on the basis of connected or sanctioned load, whichever is higher as laid down in the Annexure (viii) of CSM. In the instant case, the connected load was 9.5 hp, being higher than the sanctioned load, therefore the respondent is obligated to pay the detection bill for the period August 2014 to January 2015 (6 months) on the basis of connected load, which is computed below:

<b>Period : August 2014 to January 2015 (6 months)</b>	
<b>Connected Load</b>	= connected load of tube well + connected load of toka machine = 7.5 hp x 0.746 + 2 hp x 0.746 = 5.595 kW+ 1.492 kW
<b>Units to be charged</b>	= Connected load x load factor x No. of Hrs./month x No. of months = (5.595 x 0.3 + 1.4922 x 0.15) x 730 x 6 = <b>8,328 units</b>
<b>Units already charged</b>	=321+226+104+113+72+50 = <b>886 units</b>
<b>Net chargeable units</b>	= Units to be charged – Units already charged = 8,328 units- 886 units = <b>7,442 units</b>

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

i. Impugned decision for cancellation of the detection bill for Rs.497,436/- for





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23,188 units for the period August 2013 to January 2015 (18 months) is correct, therefore maintained to this extent.

- ii. The respondent should be charged 7,442 net units for the disputed months i.e. August 2014 to January 2015 as prescribed in CSM. Billing account of the respondent should be overhauled after making adjustment of payment already made (if any) against the aforesaid detection bill.

7. Impugned decision is modified in above terms.

Muhammad Qamar-uz-Zaman  
Member

Muhammad Shafique  
Member

Nadir Ali Khoso  
Convener

Dated: 19.09.2017

