



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-158/POI-2016/ 1792-1796

November 29, 2017

1. Muhammad Masood Ahmed,
S/o Muhammad Akram,
Prop: Power Looms Factory,
Rehmanabad, Ghulam Muhammad Abad,
Connection in the name of Mst. Abida Naseem,
Faisalabad
2. Chief Executive Officer
FESCO Ltd,
West Canal Road, Abdullahpur,
Faisalabad
3. Saced Ahmed Bhatti,
Advocate High Court,
Second Floor, Akram Manasion,
Neela Gumbad, Lahore
4. Sub Divisional Officer (Operation),
FESCO Ltd,
Ghulam Muhammad Abad 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. Muhammad Masood Ahmed Against the Decision Dated 14.07.2016 of the Electric Inspector/POI to Government of the Punjab Faisalabad Region, Faisalabad**

Please find enclosed herewith the Decision of the Appellate Board dated 24.11.2017, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

No. NEPRA/AB/Appeal-158/POI-2016/ 1797
Forwarded for information please.

(Ikram Shakcel)

November 29, 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-158/POI-2016

Faisalabad Electric Supply Company LimitedAppellant

Versus

Muhammad Masood Ahmed S/o Muhammad Akram,
Prop: Power Looms Factory, Rehmanabad, Ghulam Muhammad Abad,
connection in the name of Mst. Abida Naseem, FaisalabadRespondent

For the appellant:

Mr. Saeed Ahmed Bhatti Advocate

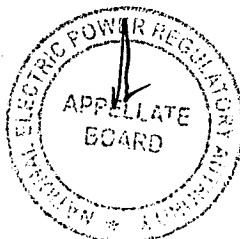
Mr. Intiaz Ahmed SDO

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 14.07.2016 of Provincial Office of Inspection, Faisalabad Region, Faisalabad (hereinafter referred to as POI).
2. Brief facts of the case are that the respondent is an industrial consumer of FESCO bearing Ref No.24-3221-5103606-U having sanctioned load of 69kW and the applicable tariff is B-2b. Metering equipment of the respondent was checked by Metering and Testing (M&T) FESCO on 10.12.2015 and reportedly both the TOU





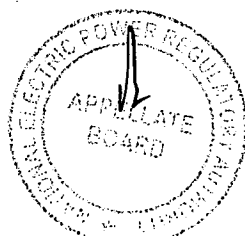
National Electric Power Regulatory Authority

billing and backup meters were found 33% slow due to one phase being dead. Subsequently, a detection bill amounting to Rs.452,544/- for 25,730 units/43 kW MIDI for the period October 2015 to December 2015 (3 months) along with an adjustment bill of Rs.34,852/- was debited by FESCO to the respondent in January 2016 on the basis of 33% slowness of the meter. FESCO raised the multiplication factor (MF) of the respondent from 40 to 59.7 w.e.f January 2016 and onwards.

3. Being aggrieved, the respondent filed an application before POI on 09.02.2016 and challenged the afore-mentioned detection bill, adjustment bill and the electricity bills charged with enhanced MF=59.7 due to 33% slowness of the meter from January 2016 and onwards. POI disposed of the matter vide its decision dated 14.07.2016, operative portion of which is reproduced below:

"Summing up all the above observations/discussion and keeping in view all the aspects of the case, this forum declares the detection bill amounting to Rs.452544/- for 25730 units for the period 10/2015 to 12/2015 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 the cost of 15446 units for two billing cycles form 11/2015 to 12/2015. However detection bill for MIDI is correct. The respondent are directed to overhaul the petitioner's account by adjusting all Credits, Debits, Deferred Amount & Payments already made by the consumer and replace the disputed meter immediately"

4. FESCO being dissatisfied with the afore-referred decision (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 (hereinafter

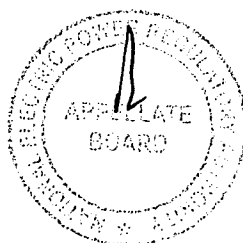




National Electric Power Regulatory Authority

referred to as the NEPRA Act 1997). In its appeal, FESCO objected the maintainability of the impugned decision and claimed that it was decided after statutory period of 90 days of the receipt of the complaint as envisaged under Section 26(6) of Electricity Act, 1910, therefore the same became ex-facie coram non iudice, void ab-initio and without jurisdiction. On merits, FESCO submitted that the metering equipment of the respondent was checked by M&T on 10.12.2015 and found 33% slow due to blue phase being dead. According to FESCO, the detection bill amounting to Rs.452,544/- for 25,730 units/43 kW MDI for the period October 2015 to December 2015 charged in January 2016 and the onward billing with enhanced MI=59.7 @ 33% slowness are legal, valid, justified and payable by the respondent. As per FESCO, the adjustment bill of Rs.34,852/- charged to the respondent in January 2016 is justified and the respondent is liable to pay the same. FESCO pointed out that POI neither recorded the evidence nor perused the relevant record /M&T report and based the impugned decision on the clause 4.4 (e) of the Consumer Service Manual (CSM). FESCO finally prayed for setting aside the impugned decision.

5. In response to the notice for filing reply/parawise comments to the appeal, the respondent failed to furnish his reply.
6. The appeal was heard in Lahore on 03.11.2017 in which Mr. Saeed Ahmed Bhatti advocate along with Mr. Imtiaz Ahmed SDO appeared for FESCO but no one represented the respondent. Learned counsel for FESCO reiterated the same stance as

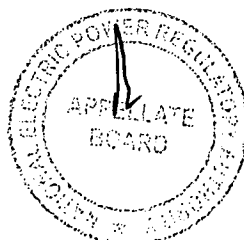




National Electric Power Regulatory Authority

taken in memo of the appeal and pleaded that the detection bill of Rs.452,544/- for 25,730 units/43 kW MDI for the period October 2015 to December 2015 (3 months) and enhancement in M.F from 40 to 59.7 w.e.f January 2016 and onwards due to 33% slowness of the meter are justified. As per FESCO, the impugned decision is not correct and liable to be withdrawn.

- i. Arguments heard and record perused. FESCO in its appeal raised the preliminary objection regarding the maintainability of the impugned decision rendered by POI after 90 days as envisaged under Section 26(6) of Electricity Act 1910. In fact, the impugned decision was given by the POI under NEPRA Act 1997, which does not prescribe the time limit for the disposal of the complaint. Restriction of 90 days under Electricity Act 1910 is relevant for an Electric Inspector and cannot be made applicable to a POI, which is a different entity. Objection of FESCO in this regard is not sustainable. As regards the merits of the case, the 33% slowness of the meter was detected by M&T FESCO on 10.12.2015, therefore Multiplication Factor (MF) was enhanced from 40 to 59.7 by FESCO w.e.f January 2016 and onwards. Besides this a detection bill of Rs.452,544/- for 25,730 units/43 kW MDI for the period October 2015 to December 2015 @ 33% slowness along with adjustment bill of Rs.34,852/- was charged to the respondent in January 2016.
- ii. Pursuant to clause 4.4 (e) of Consumer Service Manual (CSM), the respondent is liable to be charged for maximum two billing cycles due to 33% slowness of the defective meter, whereas FESCO charged the detection bill for the period





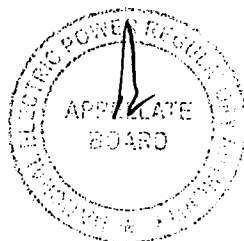
National Electric Power Regulatory Authority

October 2015 to December 2015 (three months) on the basis of above slowness, which is violative of forgoing provision of CSM. Since 33% slowness was noticed by FESCO on 10.12.2015, the respondent is liable to be charged the detection bill for November 2015 and December 2015 (2 months) on the basis of 33% slowness of the meter as per working given below:

Period : November 2015 and December 2015		
Description	Units (kWh)	MDI (kW)
(A) Already charged	= 15,680 + 15,680 = 31,360	47 + 42 = 89
(B) To be charged @ 33% slowness	= 31,360 x (100/67) = 46,806	89 x (100/67) = 132
(C) = (B)-(A) Net chargeable	= 46,806 - 31,360 = 15,446	132 - 89 = 43

iii. The impugned decision is silent regarding charging the electricity bills with enhanced MF=59.7 charged w.e.f. January 2016 and onwards and the adjustment bill of Rs.34,852/- added in January 2016. We are inclined to agree with the contention of FESCO that the aforesaid electricity bills with enhanced MF=59.7 charged due to 33% slowness of the meters are justified and the respondent is obligated to pay the same. As regards the adjustment bill of Rs.34,852/- added in the bill for January 2016, FESCO did not provide any document for the same, therefore the aforesaid adjustment bill is not justified.

7. From what has been discussed above, it is held that:-





National Electric Power Regulatory Authority

- i. The detection bill amounting to Rs.452,544/- for 25,730 units/43 kW MDI for the period October 2015 to December 2015 (3 months) is unjustified, therefore is cancelled. The respondent should be charged the detection bill of 15,446 units/43 kW MDI for the months November 2015 and December 2015. Impugned decision is upheld to this extent.
- ii. The electricity bills with enhanced MF=59.7 due to 33% slowness of the meter already charged by FESCO from January 2016 and onwards are correct and payable by the respondent.
- iii. The adjustment bill of Rs.34,852/- added in the bill for January 2016 has no justification and the same is declared null and void.
- iv. The billing account of the respondent should be overhauled after making the adjustment of payments made (if any) against the aforesaid irregular bills.
- v. Impugned decision is modified in above terms and accordingly the appeal is disposed of.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Dated: 24.11.2017

