



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

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No. NEPRA/AB/Appeal-169/POI-2016/ 280 — 285

February 27, 2017

1. Sultan Khan,  
S/o Matheela Khan,  
Through Liaquat Ali,  
Porp: Atta Chakki,  
R/o Chak No. 88/GB, Tehsil Kamalia,  
District Toba Tek Singh
2. Chief Executive Officer  
FESCO Ltd,  
West Canal Road, Abdullahpur,  
Faisalabad
3. Mehar Shahid Mahmood,  
Advocate High Court,  
Office No. 25, Third Floor,  
Ali Plaza, 3-Mozang Road,  
Lahore
4. Ch. Tariq Saeed,  
Advocate High Court,  
Khan Law Chambers,  
District Courts, Jhang
5. Sub Divisional Officer (Operation),  
FESCO Ltd,  
Rural Sub Division,  
Kamalia
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. Sultan Khan Against the Decision Dated 02.09.2016 of the Electric Inspector/POI to Government of the Punjab Faisalabad Region, Faisalabad**

Please find enclosed herewith the Decision of the Appellate Board dated 27.02.2017, regarding the subject matter, for information and necessary action accordingly.

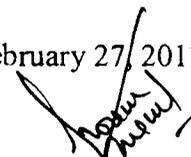
Encl: **As Above**

No. NEPRA/AB/Appeal-169/POI-2016/ 280

Forwarded for information please.

(Ikram Shakeel)

February 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-169/POI-2016

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Sultan Khan S/o Matheela Khan, Through Liaquat Ali,  
Prop: Atta Chakki, R/o Chak No.188/GB, Tehsil Kamalia,  
District Toba Tek Singh, Faisalabad

.....Respondent

### For the appellant:

Mehar Shahid Mahmood Advocate  
Mr. Haroon Yaseen SDO

### For the respondent:

Ch. Tariq Saeed Advocate

## DECISION

1. Brief facts of the case are that the respondent is an industrial consumer of Faisalabad Electric Supply Company (FESCO) bearing Ref No. 27-13372-0039017 with a sanctioned load of 8 kW under B-1 tariff. The premises of the respondent was inspected by task force of FESCO on 09.12.2014 and allegedly the respondent was found stealing electricity by tampering three phase TOU meter and the connected load was noticed as 15.66 kW which was much higher than the sanctioned load. Disputed TOU meter of the respondent was sent to Metering and Testing (M&T) laboratory,



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whereby it was declared tampered by installing a remote control circuit inside the meter vide M&T report dated 10.12.2014. After issuing notice dated 11.12.2014 to the respondent, FIR dated 15.12.2014 was lodged against the respondent for theft of electricity. Subsequently the detection bill amounting to Rs.1,377,616/- for 77,551 units for the period June 2012 to November 2014 (30 months) was charged by FESCO to the respondent in April 2015 on the basis of connected load.

2. Being aggrieved, the matter was assailed before Provincial Office of Inspection (POI) who decided the matter on 2.9.2016 with the following conclusion:

*“Summing up all the observations/discussion and keeping in view all the aspects of the case in light of NEPRA approved Consumer Service Manual 2010, as in the clause 9.1(4) (3), this forum declares that the detection bill amount of Rs.1377616 for 77551 units for the period 06/2012 to 11/2014 (30 months) as null, void and without any legal effect and the consumer is not liable to pay the same. The respondents are directed to withdraw the same and charge the petitioner revised detection bill for the cost of 11849 units for six months for the period 06/2014 to 11/2014 and also to overhaul the petitioner’s account by adjusting all Credits, Debits, Deferred Amount & Payments already made by the consumer.”*

The aforesaid decision of POI has now been assailed before NEPRA through the instant appeal inter-alia on the grounds that the premises of the respondent was inspected by FESCO and he was found involved in dishonest abstraction of electricity through the tampering of the meter, moreover the connected load observed was also much above the



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sanctioned load; that the detection bill of Rs.1,377,616/- for 77,551 units for the period June 2012 to November 2014 (30 months) charged to the respondent in April 2015 on the basis of connected load is in accordance with the Consumer Service Manual (CSM) and payable by the respondent and that the application was filed by the respondent before POI on 27.05.2015 but the matter was decided on 02.09.2016, i.e., after statutory period of 90 days as contemplated under section 26(6) of Electricity Act 1910.

3. Notice of the appeal was served upon the respondent for filing reply/parawise comments, which were filed on 25.11.2016. In his reply/parawise comments, the respondent inter alia, contended that no discrepancy whatsoever was noticed by FESCO during the disputed period June 2012 to November 2014, therefore the detection bill of Rs.1,377,616/- for 77,551 units for the period June 2012 to November 2014 charged by FESCO is not in accordance with the provisions of CSM.
4. The hearing of the appeal was fixed for 10.2.2017 for which due notices were served upon the parties. During the course of hearing, the appellant was represented by Mehar Shahid Mahmood Advocate who reiterated the same arguments as narrated in memo of the appeal and contended the matter does not fall within clause 9.1(a) of CSM as the remote control device was installed inside the disputed meter for theft of electricity. According to the learned counsel for FESCO, detection bill of Rs.1,377,616/- for 77,551 units for the period June 2012 to November 2014 was charged to the respondent as per abridge conditions of supply. Learned counsel for FESCO averred that the respondent



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was held responsible for theft of electricity as the detection bill for six month was allowed as per impugned decision, therefore only the period of theft remains disputed. As per learned counsel for FESCO, since the consumption data proves the theft of electricity during period June 2012 to November 2014, therefore the detection bill of Rs.1,377,616/- for 77,551 units for the period June 2012 to November 2014 is justified and payable by the respondent. On the other hand, Ch. Tariq Saeed Advocate learned counsel for the respondent denied the allegation of theft by the respondent and averred that the billing meter of the respondent was installed outside the premises which is beyond the control of the respondent. According to the learned counsel for the respondent, the meter was examined by FESCO staff for reading purpose every month and no discrepancy whatsoever was pointed out during the disputed period. Learned counsel for the respondent pleaded that the meter after removal remained in the custody of FESCO and Police station, therefore for any discrepancy, the respondent cannot be held responsible. According to the learned counsel, the connected load was not higher than the sanctioned load, therefore the calculation of detection bill on the basis of higher load is not justified. Learned Counsel also contended that the respondent was acquitted from the allegation of theft by the Court vide order dated 30.03.2016.

5. Arguments heard and record perused. As regards the objection of appellant that the decision of POI is not valid because it was not given within 90 days, it may be stated that said period may be relevant for the Electric Inspectors but NEPRA has got nothing to do with the decisions of Electric Inspectors rather it is the appellate authority against

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the decisions of POIs under section 38 of NEPRA Act, 1997. Since the impugned decision was given by the POI, therefore, the objection of FESCO in this regard is totally irrelevant. In this case, theft of electricity was alleged by tampering the meter, therefore provisions of 9.1(b) and 9.1(c-3) of CSM are applicable; which are reproduced as under:-

### **“9.1. Theft of Electricity/Energy**

a. ....

### **b. Illegal Abstraction of Electricity By Registered Consumers:**

The following indications shall lead to further investigations by DISCO for illegal abstraction of electricity. For such cases the DISCO shall observe the procedure as laid down under 9.1 (c).

- i. Prize bond/postal order/ meter security slip removed.
- ii. Bond/Terminal cover seal of the meter broken/bogus/tampered.
- iii. Terminal cover of the meter missing.
- iv. Holes made in the KWH meter bodies.
- v. MSB of the meter showing signs of tampering.
- vi. Meter hanging loose/titled/physically unbalanced.
- vii. Meter glass broken.
- viii. Meter dead stop/burnt.

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- ix. Meter sticking.
- x. Meter digits upset.
- xi. Meter running reverse.
- xii. Meter connected on temporarily/permanently disconnected premises.
- xiii. Meter found missing at site.
- xiv. Meter found at site but no record exists in the office.
- xv. Any other means which can cause interference in true recording of quantum of energy  
(Units by the metering equipment).

**(c). Procedure for establishing illegal abstraction shall be as under:**

- 1) .....
- 2) .....

3) The maximum period for charging in such cases should be restricted to three billing cycles for general supply consumers i.e. A-1 & A-II. For period beyond three billing cycles up to a maximum of six months is subject to approval of the Chief Executive of the DISCO. Also for such cases action will also be initiated against the officer in charge for not being vigilant enough. For other consumer classes, the period of charging can be more than three billing cycles up to a maximum of six billing cycles.”

6. From the aforesaid legal position, it is clear that the respondent could be charged for



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maximum six months only, therefore, the finding of learned POI that the respondent may be charged 11,849 units for the period June 2014 to November 2014 (6 months) is in accordance with law.

7. Forgoing in view, there is no reason to interfere with the impugned decision, the same is upheld and consequently the appeal is dismissed.

Muhammad Qamar-uz-Zaman  
Member

Muhammad Shafique  
Member

Nadir Ali Khoso  
Convener

Dated: 27.02.2017