



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

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No. NEPRA/AB/Appeals/194/2016 & 196/2016/020-024

January 08, 2018

1. Anwar Khan,
S/o Jahangir Khan,
Prop: Tube Well,
R/o Chak No. 419, Tandliandala,
District Faisalabad
2. The Chief Executive Officer
FESCO Ltd,
West Canal Road, Abdullahpur,
Faisalabad
3. Dr. Muhammad Irtiza Awan,
Advocate High Court,
1-Mozang Road, 38-Link Farid Kot Road,
Lahore
4. SubDivisional Officer (Opr),
FESCO Ltd,
City Sub Division, Samundri
5. The Electric Inspector
Energy Department,
Govt. of Punjab,
Opposite Commissioner Office,
D.C.G Road, Civil Lines,
Faisalabad Region, Faisalabad

Subject: Appeal Titled FESCO Vs. Anwar Khan and Anwar Khan Vs. FESCO Against the Decision Dated 04.11.2016 of the Provincial Office of Inspection to Government of the Punjab Faisalabad Region, Faisalabad

Please find enclosed herewith the decision of the Appellate Board dated 04.01.2018, regarding the subject matter, for information and necessary action accordingly.

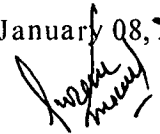
Encl: As Above

(Ikram Shakeel)

No. NEPRA/AB/Appeals/194/2016 & 196/2016/025

January 08, 2018

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-194/POI-2016

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Anwar Khan S/o Jahangir Khan, Prop: Tube well
R/o Chak No.419, Tandlianwala, District Faisalabad

.....Respondent

Appeal No. NEPRA/Appeal-196/POI-2016

Anwar Khan S/o Jahangir Khan, Prop: Tube well
R/o Chak No.419, Tandlianwala, District Faisalabad

.....Appellant

Versus

Faisalabad Electric Supply Company Limited

.....Respondent

For FESCO:

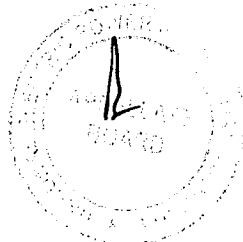
Dr. Muhammad Irtiza Awan advocate

For Consumer:

Mr. Anwar Khan
Mr. Sibtain Manzoor

DECISION

1. Through this decision, Appeal No. NEPRA/Appeal-194/POI-2016 and Appeal No. NEPRA/Appeal-196/POI-2016 filed against the decision dated 04.11.2016 of Provincial Office of Inspection, Faisalabad Region, Faisalabad (hereinafter referred to as POI) are being disposed of.

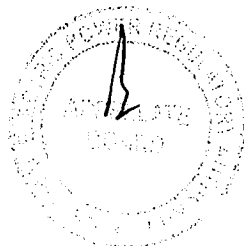




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2. Faisalabad Electric Supply Company Limited (hereinafter referred to as FESCO) is a licensee of National Electric Power Regulatory Authority (hereinafter referred to as NEPRA) for distribution of electricity in the territory specified as per terms and conditions of the license and Mr. Anwar Khan is its agricultural consumer having sanctioned load of 15 kW under D-1b tariff (hereinafter referred to as “the Consumer”). The Consumer was not satisfied with the electricity bills from September 2013 and onward and approached FESCO. Metering equipment of the Consumer was checked by metering and testing (M&T) FESCO on 26.01.2014 and allegedly terminal block of the TOU billing meter was found burnt/tampered and theft of electricity was noticed. Subsequently a detection bill of Rs.99,731/- for 9,450 units for the period September 2013 to February 2014 (6 months) was charged to the Consumer in March 2014.
3. Being aggrieved with the irregular billing, the Consumer filed an application before POI on 01.04.2015 and challenged the aforesaid detection bill along with the electricity bills for the period September 2013 to April 2014. Metering equipment of the Consumer was checked by POI in presence of both the parties on 16.03.2016 and the TOU billing meter was found burnt, scratches noticed on the strips. POI announced its decision on 04.11.2016 (hereinafter referred to as the impugned decision), the 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.99,731/- for

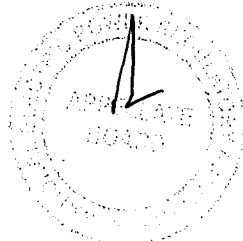




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9,450 units for the period of 09/2013 to 02/2014 as null, void and without legal effect and the petitioner is not liable to pay the same. The Respondents are directed to withdraw the same and to overhaul the complainants account by adjusting all Credits, Debits, Deferred Amount & Payments already made by the consumer. The Respondents are directed to restore the electric supply of the consumer immediately. Disposed of in above terms.”

4. Being dissatisfied with the impugned decision, both the parties filed appeals under Section 38 (3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (hereinafter referred to as “the NEPRA Act 1997”). As the subject matter of both the appeals is same therefore both have been clubbed and being disposed of through a single/consolidated decision.
5. In its appeal, FESCO contended that the TOU billing meter was found burnt/tampered, stealing of electricity committed by the Consumer and the said discrepancy was also confirmed by POI during its joint checking dated 16.03.2016. As per FESCO, the detection bill of Rs.99,731/- for 9,450 units for the period September 2013 to February 2014 (6 months) charged to the Consumer in March 2014 is justified and the Consumer is liable to pay the same. On the contrary, the Consumer contended that he assailed the 19,017 units being excessively charged during the period September 2013 to April 2014 along with the detection bill of Rs.99,731/- for 9,450 units for the period September 2013 to February 2014 before POI, whereas POI in its impugned decision only decided the fate of aforesaid detection bill and remained silent against the electricity bills for the period September 2013 to April 2014, which is

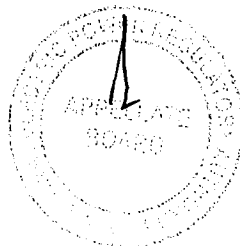




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incorrect and unjustified. The Consumer prayed for cancellation of the irregular billing for the period September 2013 to April 2014 and revision of the same as per corresponding undisputed period consumption.

6. Notice of the appeals was sent to both parties for reply/parawise comments, which however were not filed by either party.
7. Notices of both the appeals were issued for hearing in NEPRA regional office Lahore on 12.12.2017 in which there was no representation for the Consumer and Dr. M. Irtiza Awan advocate along with Mr. Shahzad Memon SDO appeared for FESCO. Hearing of the appeals was again held in Lahore on 22.12.2017 in which both the parties participated. Learned counsel for FESCO repeated the same grounds as contained in his appeal and contended that the TOU billing meter was found burnt, stealing of electricity was noticed through the tampering during M&T FESCO checking dated 26.01.2014. As per learned counsel for FESCO, the said discrepancy in the TOU billing meter of the Consumer was even confirmed by POI on 16.03.2016. Therefore the detection bill of Rs.99,731/- for 9,450 units for the period September 2013 to February 2014 (6 months) charged to the Consumer is justified and payable. On the contrary, the Consumer contended that the impugned decision to the extent of cancellation of the aforesaid detection bill is correct but POI failed to decide the excessive 19,017 units charged during the period September 2013 to April 2014. The Consumer prayed for revision of the electricity bills for the period September 2013 to



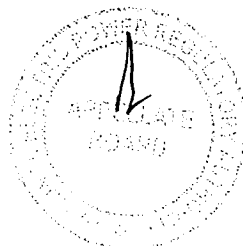


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April 2014 as per corresponding undisputed consumption and pleaded for amending the impugned decision.

8. Arguments of both the parties heard and record examined. Following has been observed:

- i. Electricity bills were charged by FESCO to the Consumer in assessed mode w.e.f September 2013 and onwards. Metering equipment of the Consumer was checked by M&T FESCO on 26.01.2014 which reported tampering of the TOU billing meter and theft of electricity at site. The same status of the meter was found by POI during joint inspection on 16.03.2016. A detection bill of Rs.99,731/- for 9,450 units for the period September 2013 to February 2014 was charged to the Consumer due to aforesaid discrepancy. The Consumer assailed the aforesaid detection bill along with electricity bills for the period September 2013 to April 2014 before POI.
- ii. Admittedly meter of the Consumer remained defective during the period September 2013 to April 2014 and the electricity bills during the said period were charged by FESCO in assessed mode. There is no justification for FESCO to further burden the Consumer by imposing the detection bill for Rs.99,731/- for 9,450 units for the period September 2013 to February 2014 (6 months) to the Consumer, when the irregular billing was already done during the same period. The impugned decision to the extent of cancellation of the detection bill of Rs.99,731/- for 9,450 units for the period September 2013 to February 2014 is correct and liable



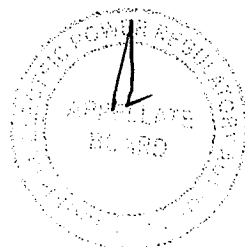


to be upheld.

iii. The electricity bills for the period September 2013 to April 2014 were agitated by the Consumer before POI and we are inclined to hold that there is no determination by POI in this regard as pointed out by the Consumer. Since the TOU billing meter of the Consumer remained defective w.e.f September 2013 and onwards, therefore the Consumer is liable to be charged as per clause 4.4(e) of CSM, which provides the charging of electricity bills on the basis of 100% consumption of the corresponding month of previous year or average of the last eleven months, whichever is higher. Billing detail of the Consumer is given as under:

Period	Average Units/Month
Corresponding period before dispute September 2012 to April 2013	1,759
Disputed period September 2013 to April 2014	4,294
Average of last eleven undisputed months October 2012 to August 2013	2,017

From the above table, it is manifested that the average consumption charged @ 4,294 units/month during the disputed period i.e. September 2013 to April 2014 is much higher than the corresponding average consumption of 1,759 units/month and the average consumption of last eleven months i.e. 2,017 units/month. Hence the entire assessed billing for the period September 2013 to April 2014 charged by FESCO to the Consumer is unjustified and liable to be cancelled. Since the defect in the TOU billing meter was established, therefore it would be judicious to charge





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the electricity bills @ 2,017 units/month to the Consumer for the period September 2013 to April 2014 as per average consumption of the last eleven months. Impugned decision to this extent is liable to be modified.

9. Forging in view, it is concluded that:

i. The electricity bills for the period September 2013 to April 2014 and the detection bill of Rs.99,731/- for 9,450 units for the period September 2013 to February 2014 charged to the Consumer are unjustified, therefore declared null and void.

ii. The Consumer should be charged @ 2,017 units/month for the period September 2013 to April 2014 and his electricity bills be revised accordingly after making adjustment of units charged/payment made (if any) during the same period.

iii. Impugned decision is modified to the above extent.

10. Both the appeals stand disposed of in above terms.

Muhammad Qamar-uz-Zaman
Member

Nadir Ali Khoso
Convener

Muhammad Shafique
Member

Date: 04.01.2018

