



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

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No. NEPRA/AB/Appeal-195/POI-2016/1972-1977 December 21, 2017

1. Ashfaq Ahmed,  
S/o Muhammad Aslam,  
Prop: Looms Factory,  
R/o Eid Gah Road, Raja Park,  
Nawabanwala, Samanabad,  
Faisalabad
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. Mirza Muhammad Ijaz Ahmed,  
Advocate High Court,  
Sufi Barkat Law Chambers,  
District Courts, Faisalabad
5. Sub Divisional Officer (Operation),  
FESCO Ltd,  
Samanabad Sub Division,  
Faisalabad
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. Ashfaq Ahmed Against the Decision Dated 09.09.2016 of the Electric Inspector/POI to Government of the Punjab Faisalabad Region, Faisalabad

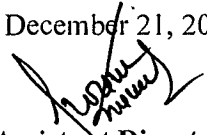
Please find enclosed herewith the Decision of the Appellate Board dated 20.12.2017, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(Ikram Shakeel)

No. NEPRA/AB/Appeal-195/POI-2016/1978  
Forwarded for information please.

December 21, 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-195/POI-2016

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Ashfaq Ahmed S/o Muhammad Aslam  
Prop: Power Looms Factory, R/o Eidgah Road, Raja Park,  
Nawabanwala, Samanabad, Faisalabad

.....Respondent

#### For the appellant:

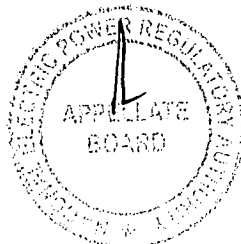
Mehar Shahid Mahmood Advocate  
Mr. Hammad Ghafar SDO

#### For the respondent:

Nemo

### DECISION

1. Brief facts give rising to the filing of instant appeal are that the respondent is an industrial consumer of Faisalabad Electric Supply Company Limited (hereinafter referred to as the FESCO) bearing Ref No.24-13211-5100501-U with a sanctioned load of 45.08 kW under B2-b tariff. TOU billing meter of the respondent was checked by Metering and Testing (M&T) FESCO on 06.03.2014 and reportedly it was found defective with 66% slowness due to two phases being dead. After issuing notice dated 11.03.2014 to the respondent, electricity bills for March 2014 and April 2014 were charged to the respondent by FESCO @ 66% slowness of the meter. Billing of the



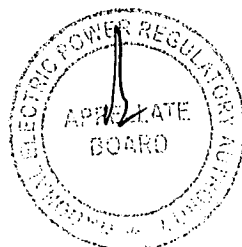


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respondent was shifted on a new meter installed by FESCO w.e.f May 2014 and onwards. Subsequently a detection bill amounting to Rs.734,666/- for 28,852 for the periods (i) October 2013 to December 2013 @ 33% slowness and (ii) for January 2014 to February 2014 @ 66% slowness of the meter was charged to the respondent by FESCO and added in the bill for November 2014.

2. The respondent filed a complaint u/s 38 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (hereinafter referred as NEPRA Act) questioning the aforesaid actions of FESCO before the Provincial Office of Inspection, Faisalabad Region, Faisalabad (hereinafter referred to as POI) on 10.12.2014. A joint inspection was carried out by POI on 15.08.2016, wherein the TOU billing meter was found 57.4% slow. The matter was disposed of by the POI vide its decision dated 09.09.2016 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 amounting to Rs.734,666/- for 28852 units added in the bill for the month of 11/2014 along with billing from 03/2014 to 04/2014 as null, void and without legal effect and the consumer is not liable to pay the same. The respondents are directed to withdraw the detection bill amounting to Rs.734,666/- for 28852 units for the period 10/2013 to 02/2014 and charge the consumer revised detection bill for the cost of 22560 units for the same period. Withdraw the bills for 03/2014 to 04/2014 and issue the revised bills for 03/2014 to*

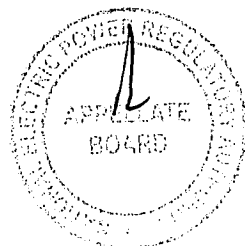




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*04/2014 @ 57.4% slowness instead of 66% slowness. The respondents are directed to overhaul the petitioner's account by adjusting all Credits, Debits, Deferred Amount & Payments already made by the consumer. Disposed of in above terms."*

3. FESCO has now filed this appeal against the aforementioned decision under Section 38 (3) of the NEPRA Act 1997. In its appeal, FESCO raised the preliminary objection regarding the maintainability of the impugned decision, which was rendered on 09.09.2016 after the prescribed limit of 90 days of receipt of the application as laid down in Section 26 (6) of Electricity Act 1910. According to FESCO, the matter was to be referred to the provincial government after the above prescribed time limit. FESCO further contended that the TOU billing meter was found 66% slow due to two phases being dead during M&T FESCO checking dated 06.03.2014 and the electricity bills for March 2014 and April 2014 were charged to the respondent @ 66% slowness of the meter. As per FESCO, a detection bill of Rs.734,666/- for 28,852 for the periods (i) October 2013 to December 2013 @ 33% slowness and (ii) for January 2014 to February 2014 @ 66% slowness of the meter was charged to the respondent. FESCO submitted that all the aforesaid bills are justified and the respondent is responsible for payment of the same.
4. Notice of the appeal was issued to the respondent for filing reply/parawise comments, which however were not filed.
5. After issuing notice, hearing of the appeal was conducted in the NEPRA regional office



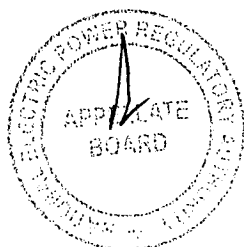


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Lahore on 12.12.2017, in which Mehar Shahid Mahmood advocate along with Mr. Hammad Ghaffar SDO represented the appellant FESCO but no one entered appearance for the respondent. Learned counsel for FESCO reiterated the same arguments as given in memo of the appeal and contended that TOU billing meter of the respondent was found 66% slow due to two phases dead during M&T checking dated 06.03.2014, whereas observation of POI for 57.4% slowness of the meter is technically incorrect. As per FESCO, the detection bill of Rs.734,666/- for 28,852 for the period [October 2013 to December 2013 @ 33% slowness and for January 2014 and February 2014 @ 66% slowness of the meter] charged to the respondent by FESCO is justified and he is responsible for payment of the same. FESCO further pointed out that the bills for March 2014 and April 2014 charged @ 66% slowness were not disputed by the respondent before POI and determination of POI in this regard is beyond the pleading of the respondent.

6. We have heard arguments of FESCO, perused the record placed before us. Following are our observations:

- i. FESCO raised the preliminary objection regarding the jurisdiction of POI for deciding the matter after prescribed time limit of 90 days as envisaged under Section 26(6) of Electricity Act 1910. It is clarified that the impugned decision was announced by POI under Section 38 of NEPRA Act 1997, which does not prescribe any time limit for deciding the matter. Besides the objection was not

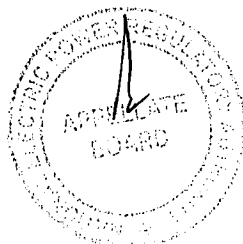




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pressed by FESCO during the arguments before us. Hence the objection of FESCO is over ruled.

- ii. The respondent challenged the detection bill of Rs.734,666/- for 28,852 for the periods (i) October 2013 to December 2013 @ 33% slowness and (ii) for January 2014 to February 2014 @ 66% slowness of the meter before POI on 10.12.2014.
- iii. TOU billing meter of the respondent was found 66% slow due to two dead phases during M&T FESCO checking dated 06.03.2014. However 57.4% slowness was confirmed by POI during joint checking dated 15.08.2016. FESCO insisted 66% slowness of the meter and contended that the determination of POI for 57.4% slowness of the meter was not correct. It is observed that M&T FESCO checking dated 06.03.2014 was unilateral, whereas joint checking by POI on 15.08.2016 is reliable as POI is a competent forum to determine the accuracy of the meter. Hence 57.4% slowness of the meter declared by POI is justified and objection of FESCO in this regard is devoid of force, therefore rejected.
- iv. Since 57.4% slowness of the TOU billing meter of the respondent is established, therefore the detection bill of Rs.734,666/- for 28,852 for the periods (i) October 2013 to December 2013 @ 33% slowness and (ii) for January 2014 to February 2014 @ 66% slowness of the meter and the electricity bills for March 2014 and April 2014 @ 66% slowness charged to the respondent by FESCO are unjustified and liable to be cancelled as decided by POI.





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- v. The determination of POI for charging the respondent @ 33% slowness for the period October 2013 to December 2013 and @ 57.4% slowness for the period January 2014 to April 2014 is justified and liable to be maintained.
7. In consideration of what has been stated above, the impugned decision is maintained and consequently the appeal is dismissed.

Muhammad Qamar-uz-Zaman  
Member

Muhammad Shafique  
Member

Nadir Ali Khoso  
Convener

Dated: 20.12.2017

