



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

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No. NEPRA/AB/Appeal-066/POI-2016/ 253-257

February 22, 2017

1. M/s Sargodha Spinning Mills Ltd,
Through Sheik Mansoor Rashid,
Manager Admin/HR,
8-KM, Sargodha Road,
Faisalabad
2. Chief Executive Officer
FESCO Ltd,
West Canal Road, Abdullahpur,
Faisalabad
3. Ch. Muhammad Shahid Iqbal,
Advocate High Court,
Office No. 3, Third Floor,
Khan Arcade, Mouj Darya Road,
Lahore
4. Muhammad Afzal,
Executive Engineer (Operation),
FESCO Ltd,
Civil Lines 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. M/s Sargodha Spinning Mills Limited Against the Decision Dated 24.02.2016 of the Electric Inspector/POI to Government of the Punjab Faisalabad Region, Faisalabad**

Please find enclosed herewith the Decision of the Appellate Board dated 21.02.2017, regarding the subject matter, for information and necessary action accordingly.

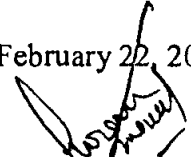
Encl: **As Above**

No. NEPRA/AB/Appeal-066/POI-2016/ 258

Forwarded for information please.

(Ikram Shakeel)

February 22, 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-066/POI-2016

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

M/s Sargodha Spinning Mills Ltd, Through Sheikh Mansoor Rashid,
Manager Admin & Hr, 8-KM, Sargodha Road, Faisalabad

.....Respondent

For the appellant:

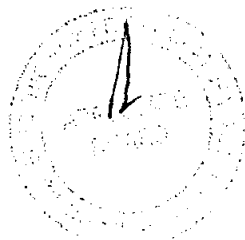
Ch. Muhammad Shahid Iqbal Advocate
Rana M. Afzal XEN
Mr. Ammar Afzal SDO

For the respondent:

Nemo

DECISION

1. As per fact of the case, the respondent is an industrial consumer of Faisalabad Electric Supply Company Limited (hereinafter referred to as FESCO) bearing Ref No.24-13125-5504900 with a sanctioned load of 4,950kW under B-3 tariff. Old TOU billing meter of the respondent was found defective by FESCO, which was replaced in October 2013. Subsequently an adjustment bill of Rs.1,595,246/- for 121,860 units for the period December 2014 to May 2015 was charged by FESCO to the respondent in May 2015 due to the difference of new TOU billing and backup meters readings.
2. Being aggrieved, the respondent filed an application before Provincial Office of Inspection/Electric Inspector, Faisalabad Region, Faisalabad (hereinafter referred to as POI)



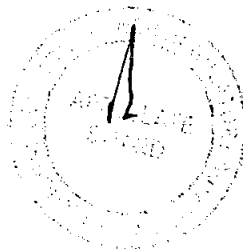


National Electric Power Regulatory Authority

on 26.05.2015 and challenged (i) the excessive units charged by FESCO against the old TOU billing meter reading in October 2013, (ii) Rs.10,59646/- charged in the different bills during the period February 2013 to March 2015 (first adjustment bill) and (iii) the adjustment bill of Rs.1,595,246/- for 121,860 units for the period December 2014 to May 2015 charged due to difference of new TOU billing and backup meters readings (second adjustment bill). Subsequently the respondent filed second application before POI on 04.11.2015 and informed that the second adjustment bill of Rs.1,595,246/- (deferred by POI) was debited by FESCO in the bill for September 2015 and paid under coercion. The matter was disposed of by POI vide its decision dated 24.02.2016 on ex-parte basis as FESCO appeared only once despite several notices. The operative portion of which is reproduced below:

“Summing up all the above observations/discussions and keeping in view all the aspects of the case, this forum decided the case ex-parte by accepting the plea of petitioner. The challenged amounts of Rs.1595246/- demanded as bill adjustment in the bill of 05/2015 and Rs.1,059,646/- charged as bill adjustments in the bills from 02/2013 to 03/2015 are declared as null, void and illegal and the petitioner is not liable to pay the same. The respondents/FESCO are directed to withdraw the same and overhaul the petitioners account by adjusting all Credits, Debits, Deferred Amounts & Payments already made by the petitioner”

3. Being dissatisfied with the POI decision dated 24.02.2016 (hereinafter referred to as the impugned decision), FESCO has filed the instant appeal under section 38 (3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997





National Electric Power Regulatory Authority

(NEPRA Act 1997). In its appeal, FESCO raised the preliminary objection and contended that the Electric Inspector failed to decide the matter within 90 days as laid down in Section 26(6) of Electricity Act 1910, hence the impugned decision is ex-facie non judice, ab-initio void, without jurisdiction and liable to be set aside. On facts, FESCO inter alia, contended that the second adjustment bill of Rs.1,595,246/- for 121,860 units for the period December 2014 to May 2015 was charged to the respondent due to the difference of consumption between TOU billing and backup meters but POI miserably failed to appreciate the same and declared it as null and void.

4. Notice of the appeal was issued to the respondent for filing reply/parawise comments, which were filed by the respondent on 31.05.2016. In his reply/parawise comments, the respondent inter alia, contended that the second adjustment bill of Rs.1,595,246/- for 121,860 units for the period December 2014 to May 2015 charged due to the difference of consumption between TOU billing and backup meters is unjustified, illegal and ultra vires. The respondent averred that FESCO failed to appear before POI despite several notices, therefore the decision rendered by POI on ex-parte basis is in accordance with the facts and law and liable to be maintained.
5. Notice was issued and hearing of the appeal was conducted in the provincial office NEPRA Lahore on 10.02.2017 in which Ch. Muhammad Shahid Iqbal advocate along with FESCO officials entered the appearance for the appellant FESCO and no body represented the respondent. Learned counsel for FESCO reiterated the same arguments as narrated in memo of the appeal and contended that the impugned decision pronounced by POI on ex-parte basis without consideration of their stance is against the law and liable to be set

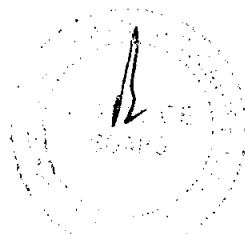




National Electric Power Regulatory Authority

aside.

6. We have heard arguments of FESCO and perused the record placed before us. It is observed that:
- i. Old TOU billing meter of the respondent was replaced by FESCO by a new TOU billing meter in October 2013.
 - ii. Adjustment bill of Rs.1,595,246/- for 121,860 units for the period December 2014 to May 2015 was charged by FESCO in May 2015 due to the difference of new TOU billing and backup meters readings.
 - iii. The respondent filed an application on 26.05.2015 before POI and assailed (i) the excessive units charged by FESCO against the old TOU billing meter reading in October 2013, (ii) First adjustment bill of Rs.10,59646/- charged in the bills during the period February 2013 to March 2015 and (iii) Second adjustment bill of Rs.1,595,246/- for 121,860 units for the period December 2014 to May 2015 charged due to difference of new TOU billing and backup meters readings.
 - iv. POI decided the matter on ex-parte basis without consideration of the available record by accepting the plea of the respondent vide its impugned decision dated 24.02.2016.
 - v. As per impugned decision, the first adjustment bill of Rs.10,59646/- charged in the different bills during the period February 2013 to March 2015 and the second adjustment bill of Rs.1,595,246/- for 121,860 units for the period December 2014 to May 2015 charged due to difference of new TOU billing and backup meters readings were declared





National Electric Power Regulatory Authority

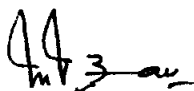
null and void but the impugned decision remained silent about the excessive units charged by FESCO against the old TOU billing meter reading at the time of its removal in October 2013.

vi. The impugned decision is not comprehensive, non-speaking and was rendered on ex-parte basis due to non-representation of FESCO without consideration of the available record. Therefore the same is liable to be set aside.


vii. FESCO challenged the impugned decision and prayed that the same should be set aside.

It is relevant to mention that FESCO has pleaded for restoration of the second adjustment bill of Rs.1,595,246/- for 121,860 units for the period December 2014 to May 2015 due to difference of TOU billing and backup meters readings but did not mention the first adjustment bill of Rs.10,59646/- charged in the bills during the period February 2013 to March 2015 in its appeal which was also cancelled as per impugned decision.

7. In consideration of above, the impugned decision is set aside and the matter is remanded back to POI for hearing and deciding afresh on merit in accordance with law.



Muhammad Qamar-uz-Zaman
Member



Nadir Ali Khoso
Convener



Muhammad Shafique
Member

Dated: 21.02.2017

