



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

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No. NEPRA/AB/Appeals/180/2016/ 047-046

January 11, 2018

1. Shabbir Ahmed Sufi,
S/o Muhammad Ramzan,
Mian Steel, Chak No. 243/RB,
Bhatha Stop, Roshan Wala,
Samundri Road, 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. Ch. Muhammad Imran Bhatti,
Advocate High Court,
44-District Courts, Faisalabad
5. Sub Divisional Officer (Opr),
FESCO Ltd,
Allama Iqbal Colony Sub Division,
Faisalabad
6. 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. Shabbir Ahmed Sufi Against the Decision Dated 14.10.2016 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 10.01.2018, regarding the subject matter, for information and necessary action accordingly.

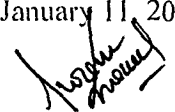
Encl: As Above

(Ikram Shakeel)

No. NEPRA/AB/Appeals/180/2016/ 047

January 11, 2018

Forwarded for information please.


Assistant Director
Appellate Board

✓ I. Registrar

CC:

I. Member (CA)



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-180/POI-2016

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Shabir Ahmed Sufi S/o Muhammad Ramzan,
Mian Steel, Chak No.243/RB, Bhatta Stop,
Roshan Wala, Samundari Road, Faisalabad

.....Respondent

For the appellant:

Dr. M. Irtaza Awan advocate

Mr. M. Muneeb Sharif

Ms. Tahira Nascem

For the respondent:

Ch. Muhammad Imran Bhatti advocate

Mr. Shabir Ahmed

DECISION

1. This decision shall dispose of the appeal filed by Faisalabad Electric Company Limited (hereinafter referred to as FESCO) against the decision dated 14.10.2016 of Provincial Office of Inspection, Faisalabad Region, Faisalabad (hereinafter referred to as POI).
2. The respondent is an industrial consumer of FESCO bearing Ref No. 24-13244-5402931-R having sanctioned load of 454 kW and the applicable tariff is B-2b. TOU billing and backup meters were installed at the premises of the respondent

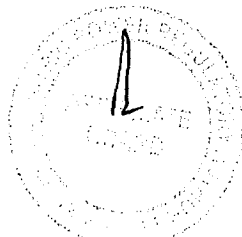




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by FESCO on 04.09.2012 and subsequently both the meters were checked by Metering and Testing (M&T), FESCO on 23.10.2012, wherein the TOU billing meter was found 33% slow due to one phase dead but the backup meter was functioning correctly. Metering equipment of the respondent was again checked by M&T FESCO on 20.03.2013, in which the TOU billing and backup meters were declared 66% slow due to two phases dead and 33% slow due to one phase dead respectively. Therefore a detection bill amounting to Rs.2,324,786/- for 198,121 units/364 kW MDI for the period January 2013 to March 2013 (3 months) was charged by FESCO to the respondent in April 2013 @ 66% slowness, which subsequently was reduced to 109,032 units @ 33% slowness on the plea that the billing was already done with 33% slowness of the TOU billing meter.

3. Being aggrieved with the action of FESCO, the respondent initially filed a civil suit dated 24.04.2013 before the civil court and deposited Rs.774,930/- being 1/3rd of the impugned detection bill on 25.04.2013 on the direction of honorable civil court. Meanwhile electric supply of the respondent was disconnected by FESCO on 30.12.2014. The respondent afterwards withdrew the civil suit on 21.12.2015 and approached POI on 29.12.2015 for redressal of his grievance. In his application, the respondent prayed for (i) cancellation of the aforementioned detection bill and (ii) for refund of the amount totaling to Rs.1,259,907/- [Rs.774,930/- deposited against the detection bill + fuel price adjustment (FPA) of Rs.484,977/-]. POI disposed of the matter vide its decision dated 14.10.2016, operative portion of which is reproduced



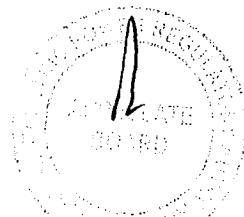


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below:

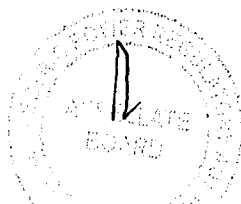
“Summing up all the above observations/discussion and keeping in view all the aspects of the case this forum declares the detection bill amounting to Rs.2324786/- for 198121 units and 364 kW MDI for the period of 01/2013 to 03/2013 as null, void and without legal effect and the petitioner is not liable to pay the same. The Respondents are directed to withdraw the same and charge the consumer revised detection bill for the cost of 155563 units and 364 kW MDI for two billing cycles 02/2013 to 03/2013. 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”

4. FESCO was dissatisfied with the afore-referred decision (hereinafter referred to as the impugned decision), therefore filed the instant appeal 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). In its appeal, FESCO declared the detection bill of Rs.2,324,786/- for 198,121 units/364 kW MDI for the period January 2013 to March 2013 (3 months) charged in April 2013 @ 66% slowness as justified, legal, sustainable in the eye of law and payable by the respondent. FESCO pointed out that POI neither recorded the evidence nor perused the relevant record /M&T report and based the impugned decision on mere surmises and conjectures without any justification and cogent reasons. FESCO prayed for setting aside the impugned decision being illegal and void.





5. In response to the notice for filing reply/parawise comments to the appeal, the respondent filed his reply. The respondent raised the preliminary objection regarding the limitation and contended that the appeal filed against the impugned decision is barred by time under NEPRA Act 1997 and liable to be dismissed on this ground alone. On facts, the respondent rebutted the stance of FESCO and contended that metering equipment of the respondent was functioning within BSS limits and no discrepancy whatsoever was observed during the monthly readings prior M&T FESCO checking dated 20.03.2013. As per respondent, neither any notice was served nor he was associated during the FESCO checking dated 20.03.2013, therefore the detection bill of Rs.2,324,786/- for 198,121units/364 kW MDI for the period January 2013 to March 2013 (3 months) charged by FESCO in April 2013 @ 66% slowness is unlawful and unjustified. According to the respondent, the payment of Rs.774,930/- being 1/3rd of the disputed detection bill was made as per direction of civil court. The respondent finally prayed that the impugned decision is legal and justified, therefore liable to be upheld.
6. The appeal was heard in Lahore on 12.12.2017 in which both the parties participated. Learned counsel for FESCO reiterated arguments as earlier narrated in memo of the appeal and contended that the TOU billing meter of the respondent was defective since its installation dated 04.09.2012 and the billing of the respondent was done on the backup meter w.e.f November 2012 and onwards. Learned counsel for FESCO explained that backup meter of the respondent became defective with 33% slowness in





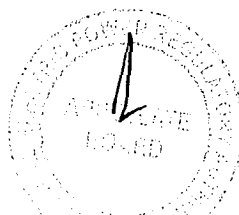
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December 2012, therefore the billing for January 2013 was done on the average of last three months and the onward billing for February 2013 and March 2013 was done on account of 33% slowness of the backup meter. As per FESCO, the impugned decision is not correct and liable to be withdrawn. On the other hand, learned counsel appearing for the respondent reiterated the same arguments as given in the respondent's parawise comments/reply to the appeal and contended that there is no justification for charging the detection bill of Rs.2,324,786/- for 198,121 units/364 kW MDI for the period January 2013 to March 2013 (3 months) charged by FESCO to the respondent in April 2013 @ 66% slowness that neither any notice was served upon the respondent nor he was associated during M&T FESCO checking dated 20.03.2013, that the metering equipment of the respondent could not be checked by POI due to its removal from the site that the TOU billing meter was defective since the date of installation i.e. 04.09.2012 that the electricity bill for October 2012 was charged by FESCO for 37 days that the backup meter was functioning correctly till January 2013 and became defective with 33% slowness w.c.f. February 2013 and onwards. Learned counsel supported the impugned decision and pleaded for dismissal of the appeal.

7. We have heard arguments of both the parties and perused the record placed before us.

Following are our observations:

- i. As regards the objection of the respondent regarding limitation, it is observed that copy of the impugned decision dated 14.10.2016 was delivered to FESCO on

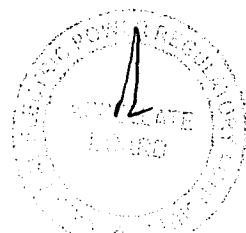




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17.10.2016 against which the appeal filed on 14.11.2016 is within time limit of 30 days as laid down in the NEPRA Act 1997. Objection of the respondent in this respect is not valid, therefore dismissed.

- ii. Admittedly TOU billing meter was detected 33% and 66% slow by M&T FESCO during its checking dated 23.10.2012 and 20.03.2013 respectively. FESCO was required to either replace the defective TOU billing meter instead of shifting the billing on backup meter w.e.f November 2012 and onwards but they failed to do so. Subsequently a detection bill of Rs.2,324,786/- for 198,121 units/364 kW MDI for the period January 2013 to March 2013 (3 months) was charged by FESCO to the respondent in April 2013 @ 66% slowness, which was disputed before POI vide the application dated 29.12.2015.
- iii. Pursuant to clause 4.4 (e) of Consumer Service Manual (CSM), the respondent is liable to be charged maximum for two billing cycles on account of 66% slowness of the defective TOU meter, whereas FESCO charged the detection bill for the period January 2013 to March 2013 (three months) on the basis of above slowness, which is violative of forgoing provision of CSM. Even otherwise the MDI recorded for the billing month of January 2013 is compatible with the MDI of preceding months and with the sanctioned load of the respondent, which establishes that the backup meter was functioning correctly till January 2013 and became defective w.e.f February 2013 and onwards. Therefore we are inclined to agree with the determination of POI that the respondent is liable to be charged the





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detection bill for 155,563 units/364 kW MDI for two billing cycles i.e. February 2013 and March 2013 and as such the detection bill amounting to Rs.2,324,786/- for 198,121units/364 kW MDI for the period January 2013 to March 2013 (3 months) charged by FESCO to the respondent in April 2013 @ 66% slowness has no justification and liable to be declared null and void .

8. Perusal of the impugned decision indicates that it is based on facts and records and in accordance with law. There is no reason to interfere with the impugned decision.
9. Forgoing in view, the appeal is dismissed.

Muhammad Qamar-uz-Zaman
Member

Nadir Ali Khoso
Convener

Muhammad Shafique
Member

Dated: 10.01.2018.2017

