



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

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No. NEPRA/AB/Appeal/061/2018/ 563-567

March 20, 2019

1. Khalid Javaid
Prop: Ali Brothers,
Power Looms Factory,
Pansra Road, Gojra
2. Chief Executive Officer
FESCO Ltd,
West Canal Road, Abdullahpur,
Faisalabad
3. Mehar Shahid Mahmood,
Advocate High Court,
Office No. 25, 3rd Floor,
Ali Plaza, 3-Mozang Road,
Lahore
4. Sub Divisional Officer (Opr),
FESCO Ltd,
Pansra Sub Division,
Faisalabad
5. Electric Inspector, Faisalabad Region,
Energy Department, Govt. of Punjab,
Opposite Commissioner Office,
D.C.G Road, Civil Lines, Faisalabad

Subject: **Appeal Titled FESCO Vs. Khalid Javaid Against the Decision Dated 08.01.2018 the Provincial Office of Inspection to Government of the Punjab Faisalabad Region, Faisalabad**

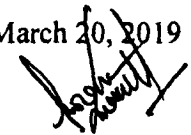
Please find enclosed herewith the decision of the Appellate Board dated 18.03.2019, regarding the subject matter, for information and necessary action accordingly.

Encl: **As Above**

No. NEPRA/AB/Appeal/061/2018/ 568
Forwarded for information please.

(Ikram Shakeel)

March 20, 2019


Assistant Director
Appellate Board

1. Registrar



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. 061/2018

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Khalid Javaid, Ali Brothers, Power Looms Factory, Pansra Road, Gojra

.....Respondent

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,
TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997
AGAINST THE DECISION DATED 08.01.2018 PASSED BY PROVINCIAL
OFFICE OF INSPECTION FAISALABAD REGION FAISALABAD**

For the appellant:

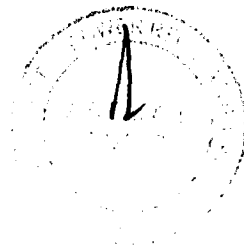
Mehar Shahid Mehmood advocate
Mr. Ghulam Qadir court clerk

For the respondent:

Nemo

DECISION

1. Brief facts of the case are that the respondent is an industrial consumer of Faisalabad Electric Supply Company Limited (hereinafter referred to as FESCO) bearing Ref No. 24-13335-5500900 with a sanctioned load of 247 kW under B-2(b) tariff. Metering equipment of the respondent was checked by Metering and Testing (M&T) FESCO on 27.01.2016 and both the TOU billing and backup meters were found





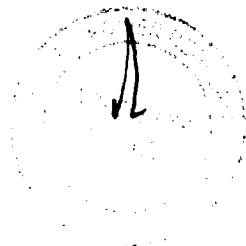
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66% slow due to two (red and yellow) dead phases. Notice dated 08.02.2016 was issued to the respondent regarding the above discrepancy and a check meter was installed in series with the defective TOU billing meter of the respondent by FESCO on 29.03.2016. Subsequently, the data was retrieved from the defective meter of the respondent by FESCO vide memo dated 02.11.2016. Thereafter the detection bill of Rs.629,848/- for 48,140 units/149 kW MDI for the period December 2015 to January 2016 (2 months) @ 66% slowness of the billing meter along with adjustment bill of Rs.59,600/- were charged by FESCO to the respondent in April 2017.

2. The respondent filed an application before Provincial Office of Inspection, Faisalabad Region, Faisalabad (hereinafter referred to as POI) on 25.05.2017 and challenged the above bills, which was decided by POI vide its decision dated 08.01.2018 with the following conclusion:

"The detection bill of Rs.629,848/- for 48,140 units/149 kW MDI for the period December 2015 to January 2016 (2 months) along with adjustment bill of Rs.59,600/- charged by FESCO to the respondent in April 2017 is illegal, unjustified and not payable. The respondent may be charged net 21,440 units/92 kW for the same period."

3. Through the instant appeal, FESCO has assailed the POI decision dated 08.01.2018 (hereinafter referred to as the impugned decision) before NEPRA. In its appeal, FESCO raised the preliminary objection that the application was filed by the respondent on 25.05.2017, which was decided by POI on 08.01.2018 after the expiry of statutory

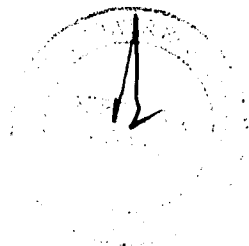




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period of 90 days, hence the impugned decision is liable to be set aside being void, ab-initio, without lawful authority under Section 26(6) of Electricity Act 1910. FESCO further contended that both the TOU billing and backup meters of the respondent were found 66% slow due to two dead phases on 29.01.2016, hence the detection bill amounting to Rs.629,848/- for 48,140 units/149 kW MDI for the period December 2015 to January 2016 was charged to the respondent in order to recover the revenue loss sustained on account of 66% slowness of the billing meter. As per FESCO, the aforesaid detection bill is legal, justified and payable by the respondent and the impugned decision in this regard is illegal, without lawful authority, without jurisdiction and liable to be set aside. The respondent was issued notice for filing reply/para-wise comments, which however were not filed.

4. Hearing of the appeal was conducted in the regional office NEPRA Lahore on 11.02.2019, which was attended by the counsel of the appellant FESCO but no one entered an appearance for the respondent. Learned counsel for FESCO, reiterated the same argument as narrated in the memo of the appeal and contended that metering equipment of the respondent was found 66% slow during M&T checking on 29.01.2016. According to learned counsel for FESCO, the detection bill of Rs.629,848/- for 48,140 units/149 kW MDI for the period December 2015 to January 2016 charged to the respondent on account of 66% slowness is justified and payable by the respondent.
5. We have heard arguments of FESCO and perused the record placed before us.





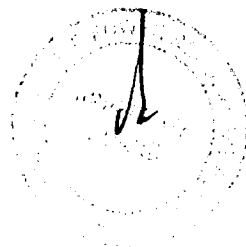
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Following are our findings:

- i. FESCO has raised the objection regarding the validity of impugned decision announced by POI after 90 days of the filing of the complaint by the respondent as envisaged in Section 26(6) of Electricity Act, 1910. Restriction of 90 days is applicable to an Electric Inspector performing duty under Electricity Act, 1910 and not relevant for the offices of a POI established under Section 38 of NEPRA Act, 1997. Reliance in this regard is placed on the honorable Lahore High Court, Lahore judgments cited as PLJ 2017 Lahore 627 and PLJ 2017 Lahore 309. The objection of FESCO in this regard is overruled.
- ii. 66% slowness of the billing meter was noticed by M&T FESCO on 27.01.2016 and the respondent was charged a detection bill of Rs.629,848/- for 48,140 units/149 kW MDI for the period December 2015 to January 2016 along with the adjustment bill of Rs.59,600/- in April 2017. The respondent assailed the above bills before POI. In order to verify the plea of FESCO regarding 66% slowness of the respondent's meter, the comparison between the consumption of disputed and corresponding undisputed periods is done below:

Undisputed Period			Disputed Period		
Month	Units	MDI	Month	Units	MDI
Dec-14	12,320	202	Dec-15	9,760	40
Jan-15	16,320	41	Jan-16	15,040	37
Total	28,640	243	Total	24,800	77

Examination of the above table manifests that total units/MDI recorded during the

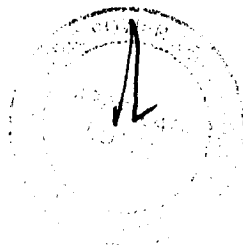




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disputed period i.e. December 2015 to January 2016 are much lesser than the total units/MDI recorded during the corresponding undisputed period before the dispute, which proves that the billing meter remained defective during the disputed period and could not record actual consumption. Hence, the detection bill of Rs.629,848/- for 48,140 units/149 kW MDI for the period December 2015 to January 2016 was correctly charged by FESCO to the respondent and he is responsible for payment of the same. Therefore the impugned decision for cancellation of the above detection bill and revision of the same is incorrect and liable to be declared null and void to this extent. Similarly, FESCO neither provided any document regarding the adjustment bill of Rs.59,600/- charged in April 2016 nor explained the justification of said bill. Therefore POI has rightly declared the adjustment bill of Rs.59,600/- for April 2017 as null and void.

6. In view of what has been discussed above, we have reached to the conclusion that:
- i. the detection bill amounting to Rs.629,848/- for 48,140 units/149 kW MDI for the period December 2015 to January 2016 charged by FESCO to the respondent is justified and payable by the respondent.
 - ii. The adjustment bill of Rs.59,600/- for April 2017 is unjustified, hence declared null and void.
 - iii. Billing account of the respondent should be overhauled accordingly after making the





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adjustment of payment made (if any) against the above bills.

7. The impugned decision is modified in above terms.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Dated: 18.03.2019

