



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

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No. NEPRA/AB/Appeal/062/2018/ 569-574

March 20, 2019

1. Haji Muhammad Sadiq  
S/o. Abdul Hameed,  
Prop: Zam Zam Ice Factory,  
R/o. Kehkshan Colony Street No. 1,  
Garh Road, Samundri, Tehsil Samundri,  
District Faisalabad
2. Chief Executive Officer  
FESCO Ltd,  
West Canal Road, Abdullahpur,  
Faisalabad
3. Dr. Muhammad Irtiza Awan  
Advocate High Court,  
Al-Majeed Centre, 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,  
Samundri City Sub Division,  
Samundri
6. Electric Inspector, Faisalabad Region,  
Energy Department, Govt. of Punjab,  
Opposite Commissioner Office,  
D.C.G Road, Civil Lines, Faisalabad

Subject: Appeal Titled FESCO Vs. Haji Muhammad Sadiq Against the Decision Dated 24.01.2018 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/062/2018/ 575  
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. 062/2018

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Haji Muhammad Sadiq S/o Abdul Hameed, Prop: Zam Zam Ice Factory  
R/o Kehkashan Colony Street No.1, Garh Road, Samundri,  
Tehsil Samundri, Distt: Faisalabad

.....Respondent

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,  
TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997  
AGAINST THE DECISION DATED 24.01.2018 PASSED BY PROVINCIAL  
OFFICE OF INSPECTION FAISALABAD REGION FAISALABAD**

For the appellant:

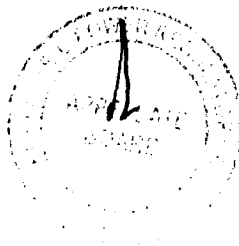
Dr. M. Irtiza Awan Advocate  
Mr. Muhammad Amjad XEN (Op)

For the respondent:

Ch. M. Imran Bhatti Advocate

### DECISION

1. As per facts of the case, the respondent is an industrial consumer (ice factory) of FESCO bearing Ref No.24-13231-5101101 with a sanctioned load of 317 kW under the B-2b tariff. Metering equipment of the respondent was checked by metering and testing (M&T) FESCO on 15.10.2014, wherein reportedly both the TOU billing and backup meters were found working within permissible limits. The connection of the respondent remained disconnected during the period October 2015 to May 2016 with meter reading index as 25,053 due to off season and it was reconnected by FESCO on 13.05.2016.





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During another M&T FESCO checking dated 22.06.2016, the display of the TOU billing meter was found washed out whereas the backup meter was found okay, hence the onward billing of the respondent was shifted to the backup meter. Later on, M&T FESCO visited the premises of the respondent on 13.10.2016 and reportedly the TOU billing meter recorded less units (slow) as compared to the backup meter.

2. The respondent filed a complaint before the Provincial Office of Inspection (hereinafter referred to as POI) on 17.08.2017 against the excessive billing of 50,754 units for the period May 2016 to July 2017 due to the fastness of the billing meter. The complaint of the respondent was disposed of by POI vide its decision dated 24.01.2018, wherein FESCO was directed to refund 202,415 units excessively charged during the period May 2016 to October 2017. It was further directed to replace the defective meter of the petitioner with an accurate meter without any cost.
3. This appeal has been filed against the above referred decision of POI with the contentions inter-alia that the TOU billing meter of the respondent was found defective with the vanished display during M&T checking dated 22.06.2016, hence billing was shifted on the backup meter; that the TOU meter was found slow as compared to the backup meter during M&T checking dated 05.10.2016 and the consumption recorded during the period May 2016 to October 2016 also proves the slowness of TOU meter' that the impugned bills charged as per M&T checking reports and consumption of the respondent are justified and payable by the respondent; and that the POI has not





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considered the M&T reports and real aspects of the case and passed the impugned decision, which is against the facts & law and not sustainable.

4. Notice of the appeal was issued to the respondent for filing reply/para-wise comments, which were filed on 25.01.2019. The respondent raised the preliminary objection that the appeal was not filed by an authorized person, hence it is liable to be dismissed. Reliance in this regard was placed on the judgment reported in 2016 YLR 1679. The respondent averred that FESCO started overbilling to the respondent w.e.f May 2016 and onwards due to the fastness of the billing meter but check meter was not installed by FESCO in-spite of his repeated requests. The respondent rebutted the version of FESCO that the meter was found slow/defective during M&T checking dated 22.06.2016 & 05.10.2016 and stated that the all the actions taken by FESCO are illegal, unlawful, without notice, unilateral and utter violation of the Consumer Service Manual (CSM). The respondent supported the impugned decision and submitted that the impugned decision is independent and according to law. The respondent prayed for upholding the impugned decision and dismissal of the appeal with cost.

5. After issuing the notice, hearing of the appeal was conducted in the NEPRA regional office Lahore on 11.02.2019, in which Dr. Muhammad Irtaza Awan advocate along with Mr. Muhammad Amjad SDO represented the appellant FESCO and Ch. M. Imran Bhatti advocate appeared for the respondent. Learned counsel for FESCO contended that the TOU billing meter of the respondent was found slow and the backup meter was working okay during FESCO checking in October 2016 but the metering equipment

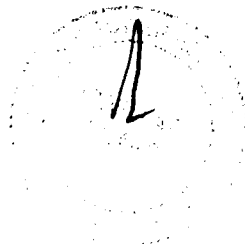




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was not checked by POI to determine its accuracy. As per learned counsel for the FESCO, POI relied on the data retrieval report and wrongly ordered FESCO to credit 202,415 units excessively charged during the period May 2016 to October 2017. On the contrary, learned counsel for the respondent reiterated the same stance as given in his reply/para-wise comments to the appeal and prayed for upholding the impugned decision.

6. Having heard the arguments and perusal of record, it is observed as under:-
- i. FESCO has placed BoD resolution dated 08.05.2006, wherein DG (HR & Admin) has been authorized to sign the memorandum of the appeal and vakalatnama. Hence preliminary objection of the respondent regarding the non-filing of the appeal by an authorized person is not justified and overruled.
  - ii. The respondent disputed the billing for the period May 2016 to July 2017 before POI on 17.08.2017 on the plea that 50,754 units were overbilled by FESCO during the said period due to the fastness of the billing meter but could not substantiate his claim of 50,754 units. Whereas FESCO declared the TOU billing meter slow as compared to the backup meter on the basis of M&T checking dated 22.06.2016 and 05.10.2016. POI did not check the metering equipment (both the TOU billing and backup meter) of the respondent to ascertain their accuracy and relied his determination upon the data retrieval report only, which is incorrect. Hence the impugned decision for the





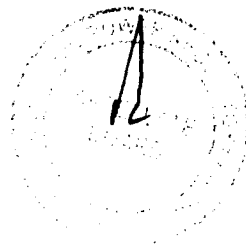
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refund of 202,415 units charged in excess during the period is May 2016 to October 2017 is incorrect and liable to be withdrawn to this extent. Similarly, plea of the respondent for claiming credit of 50,754 units is not justified. Consumption of the disputed period is constructed below:

**Table-A**

Month	Units	Month	Units
May-16	DC	Jan-17	0
Jun-16	93	Feb-17	0
Jul-16	117600	Mar-17	0
Aug-16	60600	Apr-17	0
Sep-16	30960	May-17	66240
Oct-16	480	Jun-17	120840
Nov-16	0	Jul-17	117360
Dec-16	0	Jul-17	117360

As evident from the above table, negligible/nil consumption was recorded during the period May 2016 to June 2016 and November 2016 to April 2017, which confirms that the industry (ice factory) remained closed during the said months due to off season. So the billing of the periods July 2016 to October 2016 and May 2017 to July 2017 will be analyzed only. As a matter of fact, both the TOU billing and backup meters of the respondent were found working within BSS limits during M&T FESCO checking dated 15.10.2014, hence the consumption of summer season i.e. May 2014 to October 2014 would be based for comparison of the consumption of the disputed months i.e. July 2016 to October 2016 and May 2017 to July 2017. A table in this regard is constructed below:





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**Table-B**

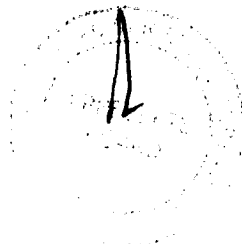
Disputed Period		Undisputed Period	
Month	Units	Month	Units
Jul-16	117,600	May-14	48,600
Aug-16	60,600	Jun-14	86,520
Sep-16	30,960	Jul-14	103,800
May-17	66,240	Aug-14	132,720
Jun-17	120,840	Sep-14	67,080
Jul-17	117,360	Oct-14	57,720
<b>Total</b>	<b>513,600</b>	<b>Total</b>	<b>496,440</b>
<b>Average/Month</b>	<b>85,600</b>	<b>Average/Month</b>	<b>82,740</b>

Above table clearly indicates that the respondent was charged in excessive mode during the disputed periods July 2016 to September 2016 & May 2017 to July 2017. It would be appropriate to revise the billing @ 82,740 units/month for the said months (6 months) as recorded during the undisputed period i.e. May 2014 to October 2014, the calculation in this regard is done below:

**Table-C**

Period: July 2016 to September 2016 & May 2017 to July 2017		
(A) Total units already charged	(B) Total units to be charged	(C)= (A)-(B) Net units to be credited
<b>513,600</b>	<b>6 x 82,740 = 496,440</b>	<b>17,160</b>

7. In consideration of what has been stated above, it is concluded that the impugned decision to refund 202,415 units charged in excess during the period is May 2016 to October 2017 is incorrect and declared null and void to this extent. However, the respondent may be afforded a credit of 17,160 units charged in excess during the





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disputed periods i.e. July 2016 to September 2016 & May 2017 to July 2017. Billing account of the respondent may be revised after making the adjustment of payments made (if any) during the said period.

8. The appeal is disposed of in the above terms.

Muhammad Qamar-uz-Zaman  
Member

Nadir Ali Khoso  
Convener

Muhammad Shafique  
Member

Dated: 18.03.2019

