



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

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No. NEPRA/AB/Appeal/069/2018/ 589-593

March 20, 2019

1. Noor Ahmed
S/o. Jahangir,
R/o. Chak No. 277/GB,
District Faisalabad
2. Chief Executive Officer
FESCO Ltd,
West Canal Road, Abdullahpur,
Faisalabad
3. Saeed Ahmed Bhatti
Advocate High Court,
Second Floor, Akram Mansion,
Neela Gumbad, Lahore
4. Sub Divisional Officer (Opr),
FESCO Ltd,
Satiana Sub Division,
Tehsil Jarranwala, Distt. 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. Noor Ahmed 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/069/2018/ 594
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. 069/2018

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Mr. Noor Ahmed, S/o Jahangir,
R/o. Chak No.227/G.B, Distric Faisalabad

.....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:

Mr. Saeed Ahmed Bhatti, Advocate
Mr. Muhammad Naeem Shehzad, SDO

For the respondent:

Nemo

DECISION

1. Brief facts giving rising to the filing of the instant appeal are that the respondent is a domestic consumer of Faisalabad Electric Supply Company (FESCO) under Ref. No. 13-12144-1312500 with sanctioned load of 1.5 kW under A-1a tariff category. Meter of the respondent was disconnected and removed by FESCO due to nonpayment of bill of Rs.42,101/- vide ERO No. 201508/17/00031 dated 31.08.2015. The site of the respondent was checked by FESCO team on 25.04.2016 and reportedly the respondent was found involved in dishonest abstraction of electricity through direct supply from low tension (LT) line. Notice was issued to the respondent on 22.01.2016 regarding the said discrepancy , and a letter was sent to SHO police station Tandlianwala Faisalabad

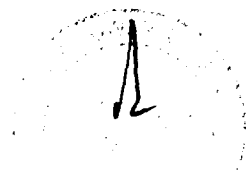




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on 26.01.2016 for registration of a FIR against the respondent for theft of electricity. A bill for 1752 units was charged to the respondent for the period September 2015 to December 2015 in the month of February 2016 on the basis of connected load. The site of the respondent was again checked by M&T FESCO and reportedly the respondent was again found using electricity through direct supply from LT line. Notice was issued to the respondent on 20.04.2016 and a letter was issued to SHO Police on 20.04.2016 to register a FIR against the respondent on account of dishonest abstraction of energy. A detection bill for 1752 units on the basis of connected load for the period January 2016 to April 2016 was issued to the respondent in June 2017. However both the detection bills were not paid by the respondent. The respondent received a bill for February 2017 which contained the arrears of Rs.113,277/-.

2. Being aggrieved with the arrears of Rs.113,277/- included in the bill for February 2017, the respondent filed an application before Provincial Office of Inspection, Faisalabad Region, Faisalabad (POI) on 25.05.2017 and challenged the same. POI disposed of the matter vide its decision dated 08.01.2018 with the conclusion that the arrears of Rs.113,277/- included in the bill for February 2017 is null and void. According to POI decision, FESCO was allowed to charge 378 units per month for a period of 4 months only against the above detection bills.
3. Being dissatisfied with the POI decision dated 08.01.2018 (hereinafter referred to as "impugned decision") FESCO has filed the instant appeal, and raised the preliminary objection and stated that the announcement of the impugned decision after the period of 90 days by POI after filing of the appeal by the respondent is ex-facie coram





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non-judice, ab-initio void and without jurisdiction as envisaged under Section 26 (6) of the Electricity Act 1910. FESCO also raised the objection regarding the jurisdiction of POI and contended that the detection bills were issued on account of dishonest abstraction of energy under Section 26-A of Electricity Act, 1910, therefore POI has no jurisdiction as per judgment of the honorable Supreme Court of Pakistan reported in PLD-2012 Supreme Court 371. FESCO inter-alia stated that during various site visit visits, the respondent was found using electricity illegally by means of direct connection. As per FESCO the detection bills raised are justified, payable by the respondent and the impugned decision being illegal, unlawful is liable to be set aside.

4. Notice was issued to the respondent for filing reply/parawise comments, which however were not submitted.
5. Notice was issued to both the parties and the appeal was heard in NEPRA Regional office Lahore, on 11.02.2019. There was no representative for the respondent. Leaned Counsel for FESCO reiterated the same arguments as given in the memo of the appeal and contended that the connection of the respondent was disconnected on 31.08.2015 and meter was removed from the site. He stated that the premises of the respondent was repeatedly inspected by FESCO team and on every occasion he was found stealing electricity directly. Hence detection bill for 1752 units for the period September 2015 to December 2016 and a detection bill for 1752 units for the period January 2016 to April 2016 were charged to the respondent after fulfilling all the legal and departmental formalities. FESCO averred that the Bill of Rs. 113,277/- added as arrears in February 2017 is justified and payable by the respondent.



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6. Arguments heard and record placed was examined. It has been observed as under:

- i) As regards the preliminary objection of FESCO regarding failure of POI in deciding the matter within 90 days under Section 26 (6) of Electricity Act, 1910, it may be noted that the said restriction of the time limit is inapplicable for the POI established under Section 38 of the NEPRA Act 1997. Reliance in this regard is placed on Lahore High Court Judgments cited as PLJ 2017-Lahore-627 and PLJ-2017-Lahore-309, the objection of FESCO in this regard carries no weight, hence dismissed.
- ii) The respondent was found stealing electricity directed from the LT main and letters dated 26.01.2016 & 20.04.2016 addressed to SHO police station Tandlianwala Faisalabad by SDO Satiana for registration of FIR against the respondent. We are convinced with the arguments of learned counsel of FESCO that it being a case of direct theft of electricity (by passing the meter) does not fall within the jurisdiction of POI as laid down in PLD-2012 Supreme Court 371. The impugned decision rendered by POI is void ab-initio without lawful authority, hence dismissed. The appeal of FESCO is accepted.

Muhammad Qamar-uz-Zaman
Member

Nadir Ali Khoso
Convener

Muhammad Shafique
Member

Dated: 18.03.2018

