



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

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No. NEPRA/AB/Appeal/117/2018/ 1028-1033

May 10, 2019

1. Muhammad Saleem
S/o. Jalal Din,
Through Muhammad Amin,
S/o. Muhammad Hanif,
Prop: Fish Farm, Chak No. 132/GB,
Satiana, District Faisalabad
2. Chief Executive Officer
FESCO Ltd,
West Canal Road, Abdullahpur,
Faisalabad
3. Saeed Ahmed Bhatti
Advocate High Court,
Akram Mansion, Neela Gumbad,
Lahore
4. Sub Divisional Officer (Operation)
FESCO Ltd,
Satiana Road Sub Division,
Faisalabad
5. Shabbir Ahmed Khan
Advocate Supreme Court,
Ghani Chambers, 13-Fane Road,
Lahore
6. Electric Inspector
Energy Department,
Govt. of Punjab,
Opposite Commissioner Office,
D.C.G Road, Civil Lines,
Faisalabad Region, Faisalabad

Subject: Appeal Titled FESCO Vs. Muhammad Saleem Against the Decision Dated 04.04.2018 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 09.05.2019, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

No. NEPRA/AB/Appeal/117/2018/ 1034
Forwarded for information please.

(Ikram Shakeel)

May 10, 2019

Assistant Director
Appellate Board

Registrar



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. 117/2018

Faisalabad Electric Supply Company LimitedAppellant

Versus

Muhammad Saleem S/o Jalal Din, Through Muhammad Amin S/o Muhammad Hanif,
Prop Fish Farm, Chak No.132/GB Satiana, FaisalabadRespondent

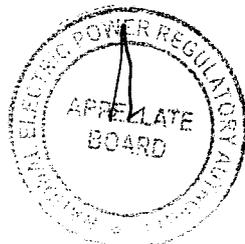
**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,
TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997
AGAINST THE DECISION DATED 04.04.2018 PASSED BY THE PROVINCIAL
OFFICE OF INSPECTION FAISALABAD REGION FAISALABAD**

For the appellant:
Mr. Liauat Ali SDO

For the respondent:
Mr. Shabir Ahmed Khan advocate

DECISION

1. As per fact of the case, the respondent is a consumer of Faisalabad Electric Supply Company Limited (FESCO) bearing Ref No.27-13144-6400479 with a sanctioned load of 15.42 kW. The respondent initially applied for an industrial connection for fish farm vide application dated 09.03.2015, which was energized by FESCO on 30.06.2015. Subsequently, the respondent approached FESCO for change of tariff being used for a fish farm and FESCO changed the tariff of the connection from B-1b (industrial) to D-1b (agricultural). As per respondent, electricity bills of the respondent for the period May 2017 to August 2017 were corrected manually by FESCO as per applicable tariff





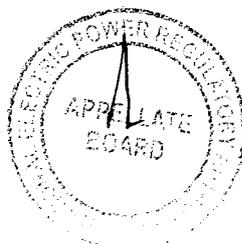
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D-1b but later on, FESCO debited the arrears of Rs.133,633/- of the said period in the billing month of September 2017.

2. Being aggrieved, the respondent filed an application before the NEPRA and prayed for a refund of Rs.500,000/- being excessively charged due to wrong application of tariff. The complaint of the respondent was referred by NEPRA to the Provincial Office of Inspection (POI) vide letter dated 01.11.2017. The matter was disposed of by POI vide its decision dated 04.04.2018 with the following conclusions:

“In view of above discussion, it is evident that same nature of load (fish farm) is being used from date of connection up-to-now and that the applicable tariff has been corrected from B-1 to D-1 from the billing month of 01/2018, so this forum is crystal clear that the same D-1 tariff is applicable to the petitioner’s premises for the previous period from its date of installation. Respondents are directed to reserve all the issued bills from date of installation (03/2015) up-to 12/2017 from the charged tariff of change of tariff into future billing of petitioner’s account accordingly.”

3. Through the instant appeal, FESCO has assailed the afore-referred decision (hereinafter referred to as the impugned decision) before NEPRA. In its appeal, FESCO inter alia stated that the electrical connection of the respondent was sanctioned under B-1 tariff on 30.06.2015 and the respondent made payment of electricity bills willingly. FESCO further contended that the tariff of the respondent was changed from B-1 to D-1 on his request and the connection is being billed under tariff D-1 w.e.f January 2018 and onwards. As per FESCO, the billing done under tariff B-1b is legal, valid and justified, whereas POI has declared the aforesaid billing since the date of installation of

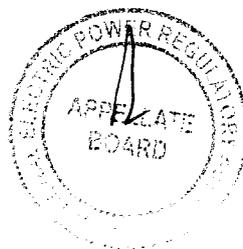




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connection as null and void without perusing the record. According to FESCO, the impugned decision is void, ab-initio and liable to be set aside.

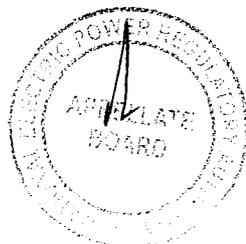
4. Notice of the appeal was issued to the respondent for filing reply/para-wise comments, which were filed on 13.03.2019. In his reply, the respondent objected the maintainability of the appeal and contended that the appeal is time-barred being filed after expiry of 30 days. The respondent further contended that the connection was installed for the fish farm so agricultural tariff was applicable but FESCO wrongly charged the billing under industrial tariff since the installation of connection. As per respondent, FESCO is bound to correct the entire billing from the date of installation of connection and onwards as rightly directed by POI.
5. After issuing notices to both the parties, hearing of the appeal was conducted in NEPRA's Regional Office at Lahore on 19.04.2019 in which both the parties were present. SDO FESCO reiterated the same arguments as narrated in the memo of the appeal and averred that the respondent initially applied for industrial connection as evident from his undertaking/application and the electricity bills were rightly charged by FESCO as per B-1 tariff and he made the payments without any objection. On the other hand, learned counsel for the respondent repeated his stance regarding the limitation and prayed for dismissal of the appeal being barred by time. On merits, learned counsel for the respondent argued that the respondent paid demand notice for agricultural connection to be used for the fish farm but FESCO charged the bills as per tariff B-1 instead of D-1. Learned counsel for the respondent supported the impugned decision and prayed for its maintainability.





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6. Arguments heard the record examined. It is observed as under:
- i. Regarding the preliminary objection of the respondent for limitation, it is observed that the copy of the impugned decision dated 04.04.2018 was obtained by FESCO on 17.04.2018 and the appeal was filed before NEPRA on 16.05.2018 within 30 days of receipt of the impugned decision. Hence objection of the respondent in this regard has no weight and dismissed.
 - ii. The respondent approached POI and prayed for a refund of Rs.500,000/- being excessively charged due to wrong application of tariff. The respondent averred that he was using electricity for the fish farm but the bills were charged by FESCO on industrial tariff (B-1b) instead of agricultural tariff (D-1b) since the date of installation of the connection being 30.06.2015. However, the perusal of record reveals that the respondent initially applied for an industrial connection B-1, which was energized by FESCO on 30.06.2015 after the departmental formalities. Subsequently, the respondent applied for the change of tariff from B-1b to D-1b before FESCO on 14.04.2017 but the billing was continued by FESCO on B-1b tariff till December 2017 and it was changed by FESCO from B-1b to D-1b w.e.f January 2018 and onwards. The above evidence indicates that the respondent paid monthly bills as per tariff B-1b since the date of installation of connection till April 2017 without raising any protest. Hence the impugned decision for revision of the entire bills from the date of installation of connection till December 2017 as per tariff D-1b is unjustified and liable to be withdrawn to this extent.
 - iii. Clause 7.4 of Consumer Service Manual (CSM) provides that FESCO is under





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obligation to accord approval for change of tariff within 30 days of receipt of the application but FESCO violated the ibid clause of CSM in the instant case. Besides, clause 7.5 (b) of CSM allows FESCO to charge the bills maximum for two months on account of misuse of the tariff. As the respondent approached FESCO on 14.04.2017, so on the same analogy the billing of the respondent be revised by FESCO from February 2017 and onwards as per applicable tariff D-1b in pursuance of clause 7.5 of CSM and the credit of difference of tariff be afforded by FESCO to the respondent, accordingly.

7. In consideration of what has been stated above, it is concluded as under:

- i. The impugned decision for revision of the respondent's bills since the date of installation of connection i.e. 30.06.2015 up-to December 2017 as per tariff D-1b is incorrect and declared null and void.
- ii. FESCO is directed to revise the bills of the respondent for the period February 2017 to December 2017 as per applicable tariff D-1b and the credit due to difference of tariff be afford to the respondent in the future bills.

8. The impugned decision is modified in above terms.

Muhammad Qamar-uz-Zaman
Member

Nadir Ali Khoso
Convener

Dated: 09.05.2019

