



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

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No. NEPRA/Appeal/096/POI/2019/ 1103

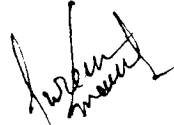
November 10, 2020

1. Aman Ullah
S/o. Sikandar Hayat,
R/o. Chak No. 188/JB,
Bhawana, District Chiniot
2. Chief Executive Officer
FESCO Ltd,
West Canal Road, Abdullahpur,
Faisalabad
3. Ch. Muhammad Shahid Iqbal
Advocate High Court,
Office No. T-3, Third Floor,
Makkah Tower, 13-Fane Road,
Lahore
4. Sub Divisional Officer (Opr)
FESCO Ltd,
Bukharian Sub Division,
District Chiniot
5. Electric Inspector/POI,
Energy Department, Govt. of Punjab,
Opposite Commissioner Office,
D.C.G Road, Civil Lines,
Faisalabad Region, Faisalabad

Subject: Appeal Titled FESCO Vs. Aman Ullah Against the Decision Dated 08.08.2018 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 05.11.2020, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above


(Ikram Shakeel)
Assistant Director
Appellate Board

Forwarded for information please.

1. Director (IT) –for uploading the decision on NEPRA website



National Electric Power Regulatory Authority

Before Appellate Board, National Electric Power Regulatory Authority Islamabad

In the matter of

Appeal No. 096/2019

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Amanullah s/o Sikandar Hayat R/o Chak No.188/JB,
Bhawana, District Chiniot

.....Respondent

APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 08.08.2018 PASSED BY PROVINCIAL OFFICE OF INSPECTION FAISALABAD REGION, FAISALABAD

For the appellant:

Ch. Shahid Iqbal Advocate
Mr. Moazzam Manzoor SDO

For the respondent:

Nemo

DECISION

1. As per facts of the case, the respondent is an agricultural consumer of Faisalabad Electric Supply Company Limited (hereinafter referred to as FESCO) bearing Ref No.29-13168-3015002 having a sanctioned load of 7.46kW under the D-1(b) tariff. Display of the billing meter of the respondent became washed, hence it was replaced with a new meter by FESCO in November 2017 and sent to the metering and testing (M&T) laboratory, wherein it was declared defective (burnt) vide report dated 17.04.2017. Notice dated 05.05.2017 was served to the respondent by FESCO regarding the above discrepancy. Initially, a detection bill for 6,948 units for the period June 2016 to November 2016(6 months) was debited to the respondent by FESCO on the basis of consumption of the corresponding months of the previous year, which



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subsequently was revised for the cost of 5,387 units for the period June 2016 to November 2016 by the review committee of FESCO @ 1,366 units/month.

2. Being dissatisfied, the respondent approached the Provincial Office of Inspection (POI) on 19.10.2017 and challenged the above detection bill. POI disposed of the matter vide its decision dated 08.08.2018, wherein the detection bill for 5,387 units for the period June 2016 to November 2016 was declared as null and void.
3. FESCO has filed the instant appeal before NEPRA and assailed the above-mentioned decision of POI (hereinafter referred to as the impugned decision) inter alia on the grounds that the application of the respondent was admitted on 19.10.2017 whereas the same was decided by POI on 08.08.2018 after the expiry of the said statutory period of 90 days as envisaged in Section 26(6) of Electricity Act 1910; that the detection bill of 5,387 units for the period June 2016 to November 2016 was charged to the respondent due to defective meter as declared by M&T vide report dated 17.04.2017; that the POI miserably failed to analyze the consumption data in its true perspective and erred in declaring the above detection bill as null and void; and that the impugned decision is liable to be set aside. Notice of the appeal was issued to the respondent for filing reply/para-wise comments, which were not filed.
4. Hearing of the appeal was held at NEPRA Regional Office Lahore on 02.10.2020 which was attended only by the learned counsel along with SDO FESCO and no one appeared for the respondent. Learned counsel for FESCO reiterated the same arguments as given in memo of the appeal and contended that the disputed billing

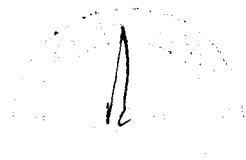


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meter of the respondent was replaced due to display washed and checked in M&T laboratory, which declared the same as defective vide report dated 17.04.2017. Learned counsel for FESCO further contended that the detection bill of 5,387 units for the period June 2016 to November 2016 was charged to the respondent to recover the revenue loss sustained due to defective meter. As per learned counsel for FESCO, the above detection bill is justified and payable by the respondent.

5. Arguments heard and the record perused. It is observed as under:

- i. As regards the preliminary objection of FESCO regarding the failure of POI in deciding the matter within 90 days as envisaged in Section 26(6) of the Electricity Act, 1910, it may be explained that the period of 90 days is provided in Electricity Act, 1910 which is not relevant for the offices of Provincial Offices of Inspection (POI) established under Section 38 of NEPRA Act, 1997. NEPRA is the appellate authority against the decisions of POI and not that of Electric Inspectors. It has already been held by Honorable Lahore High Court in judgments cited as PLJ 2017-Lahore-627 and PLJ-2017-Lahore-309 that the impugned order was passed by POI under section 38 of NEPRA Act, 1997 and not by Electric Inspector under Electricity Act, 1910 therefore, the outer time limit of 90 days is inapplicable. The objection of FESCO in this regard is devoid of force, therefore rejected.
- ii. The respondent agitated before POI the detection bill of 5,387 units for the period June 2016 to November 2016 charged by FESCO. However, FESCO neither associated the respondent during M&T checking nor produced the disputed billing meter before POI to ascertain its accuracy. Besides the above detection bill was





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charged for six months to the respondent by FESCO due to a defective meter, which is violation of clause 4.4(e) of the Consumer Service Manual (CSM). Said clause of CSM allows FESCO to charge the detection bill maximum for two months in case of a defective meter. Therefore the detection bill of 5,387 units for the period June 2016 to November 2016 charged by FESCO to the respondent is unjustified and liable to be withdrawn as already decided by POI.

- iii. Since the defective meter was replaced by FESCO in November 2017, hence the detection bill for the previous two months i.e. September 2017 and October 2017 may be charged to the respondent in pursuance of clause 4.4(e) of CSM, if the consumption during these months recorded less due to the defective meter.

Examination of consumption data is done below:

Period	Normal units/month
Disputed period: September 2017 and October 2017	479
Corresponding period before dispute: September 2016 and October 2016	1,788
Last eleven undisputed months: October 2016 to August 2017	1,042

The above consumption data reflects that the actual consumption was not recorded by the defective meter during the disputed period September 2017 and October 2017 as compared to the normal average consumption of corresponding months of the previous year and normal average consumption of last eleven undisputed months. Therefore it would be fair and appropriate to charge the bills @ 1,788 units/month for the disputed period September 2017 and October 2017 as recorded during the corresponding months of the previous year i.e. September 2016 and



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October 2016 being higher as per clause 4.4 of CSM. Calculation in this regard is done below:

Period: September 2017 and October 2017(2 months)

Total units to be charged = Units/month x No. of months=	1,788 x 6 =3,516 units
Total units already charged	= <u>(-) 958 units</u>
Net units chargeable	= 2,618 units

The respondent is liable to be charged net **2,618 units** as a detection bill as per above calculation. The impugned decision is liable to be modified to this extent.

6. Upshot of the above discussion is that the impugned decision for cancellation of detection bill of 5,387 units for the period June 2016 to November 2016 is correct and maintained to this extent. The respondent should be charged net **2,618 units** for the disputed months i.e. September 2016 to October 2016. The billing account of the respondent may be revised after making adjustments of payment made against the above detection bill.

7. The appeal is disposed of in the above terms

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Dated: 05.11.2020