



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

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No. NEPRA/Appeal/126/POI/2019/ 1262


December 29, 2020

1. Gul Bahar Ali  
S/o. Sardar Noshier Khan,  
Prop: Tube Well, Chak No. 184/GB,  
Kamalia
2. Chief Executive Officer  
FESCO Ltd,  
West Canal Road, Abdullahpur,  
Faisalabad
3. Saeed Ahmed Bhatti  
Advocate High Court,  
66-Khyber Block, Allama Iqbal Town,  
Lahore
4. Sub Divisional Officer (Opr)  
FESCO Ltd,  
Kamalia Rural Sub Division,  
Kamalia
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. Gul Bahar Ali Against the Decision Dated 09.01.2019 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 10.12.2020, regarding the subject matter, for information and necessary action accordingly.

Encl: **As Above**

  
(Ikram Shakeel)  
Deputy Director (M&E)/  
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.126/POI-2019

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Gul Bahar Ali s/o Sardar Noshir Khan, Prop Tube well,  
Chak No.184/G.B, Kamalia

.....Respondent

### **APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 09.01.2019 PASSED BY PROVINCIAL OFFICE OF INSPECTION FAISALABAD REGION, FAISALABAD**

#### For the appellant:

Mr. Saeed Ahmed Bhatti advocate  
Mr. Talat Bahsir SDO

#### For the respondent:

Nemo

### **DECISION**

1. Briefly speaking, the respondent is an agricultural consumer of Faisalabad Electric Supply Company Limited (FESCO) bearing Ref No.29-13372-2601340 having a sanctioned load of 15 kW and the applicable tariff is D-1(b). The metering equipment of the respondent was checked by metering and testing (M&T) FESCO on 22.02.2018 and reportedly the billing meter was found 33% slow due to the yellow dead phase and the backup meter was found working within BSS limits. The bills of 10,148 units and 9,507 units were issued to the respondent as per consumption of the backup meter in February 2018 and March 2018 respectively. Subsequently, the billing was shifted on the backup meter by FESCO vide meter change order (MCO) dated 28.04.2018 and the respondent was charged further bill of 4,745 units for 26 days as per the final reading of the removed meter.



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2. Being aggrieved, the respondent agitated the above bills before the Provincial Office of Inspection (POI) vide application dated 17.05.2018. The complaint of the respondent was disposed of by POI vide decision dated 09.01.2019 with the following conclusion:

*“Summing up all the above observations/discussion and keeping in view all the aspects of the case this forum declares that 1. The consumer be provided the refund of 6849 excessively charged units in the billing month of 03/2018 due to excessive estimated bill. 2. The consumer should be refunded subsidy as withdrawn in the bill of 04/2018 as the consumer has to approach FESCO for installment and then to this forum for relief due to excessive estimated bill of 03/2018. The respondents are directed to provide the consumer above declared refunds and overhaul the petitioner’s/complainant’s account by adjusting all Credits, Debits, Deferred Amount & payments already made by the Consumer.”*

3. Appeal in hand has been filed by FESCO against the POI decision dated 09.01.2019 (hereinafter referred to as the impugned decision) before NEPRA wherein the impugned decision was opposed inter alia, on the grounds that the billing meter of the respondent was found 33% slow; that 10,148 units and 9,507 units were charged to the respondent in February 2018 and March 2018 as per consumption of the backup meter; that 4,745 units were charged for 26 days as per final reading of the defective billing meter; that the POI misconceived the facts of the case, consumption data and erred in holding that the respondent may be refunded 6,849 units charged in March 2018 and the subsidy should be refunded as withdrawn by FESCO for the month of April 2018; that the impugned decision was pronounced by POI after the expiry of the statutory period of 90 days as laid down in



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Section 26(6) of Electricity Act 1910 and that the impugned decision is ex-facie corum non-judice, ab initio void and without jurisdiction and liable to be set aside.

4. Notice was sent to the respondent to submit reply/para-wise comments to the appeal, which however were not filed.
5. After issuing notice, hearing of the appeal was conducted at NEPRA Regional Office Lahore on 27.11.2020 wherein learned counsel along with SDO FESCO represented the appellant 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 33% slowness in the billing meter of the respondent was observed by FESCO during checking dated 22.02.2018. Learned counsel for FESCO further contended that 10,148 units and 9,507 units were charged in February 2018 and March 2018 as per consumption of the backup meter and 4,745 units were charged for 26 days as per the final reading of the defective billing meter. As per learned counsel for FESCO, the respondent agreed to the payment of the above bills through installments, hence he is not entitled to this subsidy.
6. Having heard arguments and the record perused. Following are our observations:
  - 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 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 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 Faisalabad High Court in judgments cited as PLJ 2017-Faisalabad-627 and PLJ-2017-Faisalabad-309 that impugned order was passed by POI under section 38 of NEPRA Act, 1997 and not by Electric Inspector



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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. Metering equipment of the respondent was checked by FESCO on 22.02.2018 wherein the billing meter was found 33% slow due to yellow dead phase and the backup meter was found working within BSS limits. The respondent was charged 10,148 units and 9,507 units in February 2018 and March 2018 respectively as per consumption of the backup meter and 4,745 units for 26 days as per the final reading of the defective billing meter by FESCO, which were disputed by him before POI.
- iii. Since 33% slowness was observed in the billing meter of the respondent by FESCO in February 2018, hence the respondent may be charged the detection bill for two months i.e. January 2018 and February 2018, and the onward bills with enhanced multiplication factor (MF) =1.5 till MCO dated 28.04.2018 in case of slow meter as laid down in clause 4.4 of the Consumer Service Manual (CSM). Calculation in this regard is done below:

Period: January 2018 to April 2018						
Units	Meter No.	Reading till December 2017	Reading as per MCO dated 28.04.2018	Difference of readings	M.F due to 33% slowness	Units
(A) To be charged	350660	88,627	106,394	17,767	1.5	26,650
(B) Already charged	Jan 2018+Feb 2018+Mar 2018+Apr 2018 4,442 + 10,148 + 9,507 + 4,965					29,062
(C) Net refundable	(B) - (A)					2,412

As per the above calculation, the respondent may be refunded 2,412 units being excessively charged by FESCO during the billing period January 2018 to April 2018.



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The impugned decision is liable to be modified to this extent. There is a force in the stance of FESCO that the government subsidy is afforded to the consumer in the same billing month and it cannot be given to the respondent against the disputed bills at a later stage. Hence the findings of POI in this regard are incorrect and liable to be withdrawn.

7. Forgoing in preceding paragraphs, it is concluded that FESCO should afford a credit of 2,412 units against the bills for the period January 2018 to April 2018 to the respondent. However, the government subsidy is not applicable in the instant case.
8. The impugned decision is modified in the above terms.

Muhammad Qamar-uz-Zaman  
Member/SA (Finance)

Muhammad Shafique  
Member/SA (Legal)

Nadir Ali Khoso  
Convener/DG (M&E)

Dated: 10.12.2020