



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

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No. NEPRA/Appeal/148/POI/2019/ 1267

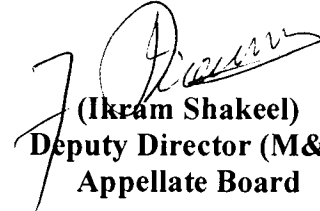
December 29, 2020

1. Muhammad Saleem Ansari  
S/o. Muhammad Yaqoob Ansari,  
R/o. Street No. 7, Madin Pura,  
Faisalabad
2. Chief Executive Officer  
FESCO Ltd,  
West Canal Road, Abdullahpur,  
Faisalabad
3. Malik Asad Akram Awan  
Advocate High Court,  
Sargodha Khushab Law Chambers,  
Turner Tower, First Floor,  
9-Turner Road, Lahore
4. Sub Divisional Officer (Opr)  
FESCO Ltd,  
Faizabad Sub Division,  
Faisalabad
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. Muhammad Saleem Ansari Against the Decision Dated 25.03.2019 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. 148/POI-2019

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Muhammad Saleem Ansari S/o Muhammad Yaqoob Ansari  
R/o Street No.7, Madina Pura, Faisalabad

.....Respondent

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,  
TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997  
AGAINST THE DECISION DATED 25.03.2019 PASSED BY PROVINCIAL  
OFFICE OF INSPECTION FAISALABAD REGION, FAISALABAD**

For the appellant:

Mr. Malik Asad advocate  
Syed Murad Ali Shah SDO

For the respondent:

Mr. Muhammad Saleem Ansari

### **DECISION**

1. Through this decision, an appeal filed by Faisalabad Electric Supply Company Limited (hereinafter referred to as FESCO) against the decision dated 25.03.2019 of the Provincial Office of Inspection, Faisalabad Region, Faisalabad (hereinafter referred to as POI) is being disposed of.
2. Brief facts of the case are that the respondent is an industrial consumer of FESCO bearing Ref No.21-13222-1996700-U with a sanctioned load of 4 kW and the applicable tariff is B-1. The premises of the respondent was checked by FESCO on 10.12.2015 and allegedly



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the respondent was found stealing electricity through the tampered meter. FESCO handed over the disputed meter to Police and registered FIR No.327/2017 dated 10.12.2015 against the respondent with the Police Station Ghulam Muhammad Abad Faisalabad. Thereafter a detection bill of Rs.260,362/- for 12,816 units for the period June 2015 to November 2015 (6 months) was charged to the respondent and added in the bill for January 2016.

3. Being aggrieved with the actions of FESCO, the respondent initially challenged the above detection bill before the Civil Court Faisalabad and after the litigation in different courts, the matter was finally decided by the Honorable Civil Judge Saira Irum vide order dated 24.04.2018 wherein the respondent was directed to approach the Provincial Office of Inspection (POI) for redressal of his grievance. Consequently, the respondent filed an application before the POI on 11.05.2018 and prayed for withdrawal of the above detection bill and for the restoration of the electric supply of the premises. POI pronounced its decision on 25.03.2019 wherein the detection bill of Rs.260,362/- for 12,816 units for the period June 2015 to November 2015 was declared as null and void and FESCO was directed to overhaul the respondent's account, accordingly.
4. Subject appeal has been filed against the POI decision dated 25.03.2019 (hereinafter referred to as the impugned decision) by FESCO before NEPRA. In its appeal, FESCO raised the objections against the impugned decision inter alia, on the grounds that POI committed the illegality while rendering the impugned decision as the claim of the respondent was for the remaining amount of Rs.127,178/- of the detection bill along with



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prayer for the restoration of electricity connection, whereas POI has declared the whole detection bill which is beyond the prayer of the respondent.; that POI failed to take into account the facts that the tampered meter of the respondent handed over to the Police was misplaced and same cannot be treated as a fault/shortcoming on the part of FESCO; that the respondent approached the wrong forum for redressal of grievance and wasted a considerable period; that POI arbitrarily mentioned that FESCO did not follow the procedure and preserve the evidence at site whereas the tampered billing meter was in the custody of Police and that the impugned decision may be set aside.

5. Notice was served to the respondent for filing the reply/para-wise comments to the appeal, which were filed on 04.09.2020. In his reply, the respondent rebutted the version of FESCO regarding limitation and submitted that the application before POI was well within time as the dispute was under litigation in the different courts and finally trial court vide order dated 24.04.2018 directed the respondent to approach POI. As per respondent, the impugned decision is lawful speaking order and according to the cannon of justice as the POI decided the matter based on the record produced by FESCO. According to the respondent, FESCO did not follow the provisions of the Consumer Service Manual (CSM) as the disputed billing meter was removed by FESCO without prior notice. The respondent prayed that the appeal may be dismissed with special cost.
6. Notice was issued to both the parties and the appeal was heard in NEPRA Regional Office Lahore on 27.11.2020 in which learned counsel along with SDO FESCO represented the appellants and the respondent appeared in person. Learned counsel for FESCO opposed the



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maintainability of the impugned decision on the plea that the billing meter of the respondent was found tampered during FESCO checking dated 10.12.2015; that the disputed billing meter was handed over to Police and FIR No. dated 10.12.2015 was lodged against the respondent; that the claim of the respondent is time-barred as time wasted in different courts cannot be justified as the respondent approached POI in the year 2018 against the disputed bill of the year 2015; that the consumption pattern of the respondent cannot be relied upon as the respondent has illegally shifted the load of the other meter of the same premises on the disputed billing meter; that the POI has not given any reasoning and the impugned decision is non-speaking. On the contrary, the respondent denied the allegation regarding the tampered meter and argued that the billing meter was functioning correctly and was damaged deliberately by FESCO during its removal from the premises. The respondent repudiated the version of learned counsel for FESCO regarding the limitation and averred that the detection bill of Rs.260,362/- for 12,816 units for the period June 2015 to November 2015 was initially assailed before the Civil Court and after litigation in different courts, the Trial Court vide order dated 24.04.2018 directed the respondent to approach the POI and accordingly an application was filed before the POI on 11.05.2018. The respondent stated that the meter checking fee was deposited to POI but FESCO did not produce the disputed billing meter for its checking. Regarding the disposal of FIR, the respondent informed that FESCO could not prove the allegation of theft, which resulted in the dismissal of FIR and his acquittal. The respondent supported the impugned decision and prayed for upholding the same.



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7. Having heard the arguments and the record perused, the following are our observations:
- i. As far as the objection of FESCO regarding the time-barred claim of the respondent, it is observed that the detection bill of Rs.260,362/- for 12,816 units for the period June 2015 to November 2015 was charged to the respondent by FESCO and added to the bill for January 2016, which was initially challenged by the respondent before the Civil Court Faisalabad and after the litigation in different Courts, the matter was finally decided by the trial court vide order dated 24.04.2018 with the direction to the respondent to approach the POI for redressal of his grievance. Consequently, the respondent filed an application before POI on 11.05.2018 and challenged the above detection bill. We are convinced with the arguments of the respondent that the time consumed in the different courts having no jurisdiction be excluded. Even otherwise, the respondent approached POI within three years of the date of the judgment of the trial court, which is within the time allowed as per Article 181 of Limitation Act 1908. In this regard, reliance is placed on the Lahore High Court, judgment dated 30.11.2015 in respect of writ petition No.17314-2015 in the case “Muhammad Hanif v/s NEPRA and others”, wherein it was held as under:

*“The petitioner at the most can invoke Article 181 of The Limitation Act, 1908 which is the residuary provision and caters the issue of limitation where no period of limitation is provided elsewhere in the Schedule of The Limitation Act, 1908 or under Section 48 of The Code of Civil Procedure (V of 1908). Article 181 of The Limitation Act, 1908 prescribes three years for filing an application that applies when the right to apply accrues as prescribed in Article 181 of Limitation Act, 1908.”*



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- In view of the above, the objection of FESCO regarding limitation is devoid of force, therefore overruled.
- ii. FESCO raised another objection that the respondent challenged remaining amount of Rs.127,178/- of the detection bill before POI, who however declared the entire detection bill of Rs.260,362/- as null and void. Perusal of application dated 11.05.2018 of the respondent revealed that detection bill of Rs.260,362/- was assailed before POI. Hence this objection of FESCO carries no weight and rejected.
- iii. FESCO charged the detection bill of Rs.260,362/- for 12,816 units for the period June 2015 to November 2015 (6 months) to the respondent on the basis of 40% load factor of the connected load i.e. 10 kW. However, FESCO neither observed such discrepancy of illegal extension of load during monthly readings nor produced any document for regularization of the illegally extended load. Besides FESCO failed to produce the disputed billing meter before POI being the competent forum for the checking despite payment of the meter checking fee by the respondent. Hence the only evidence remained with us is the analysis of the consumption data as provided by FESCO as given in the below table:

Table-A

Period	Undisputed	Disputed
Year	2014	2015
Month	Units	Units
June	145	849
July	109	685
August	388	634
September	1047	682
October	562	733
November	753	655
<b>Total</b>	<b>3,004</b>	<b>4,238</b>



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The above analysis of the consumption data reflects that the total normal consumption of the respondent during the disputed period June 2015 to November 2015 is considerably higher than the total normal consumption of the corresponding undisputed period of the previous year i.e. 2014. It indicates that the disputed billing meter of the respondent recorded the correct consumption during the disputed period of June 2015 to November 2015 and the allegation of FESCO regarding tampering with the meter has no force. Under these circumstances, we are in agreement with the determination of POI that the detection bill of Rs.260,362/- for 12,816 units for the period June 2015 to November 2015 (6 months) charged to the respondent is unjustified and should be declared as null and void. The billing account of the respondent may be revised after adjusting units/payment made (if any) against the above detection bill.

8. Foregoing in view, the appeal is dismissed.

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

Muhammad Shafique  
Member/SA (Legal)

Nadir Ali Khoso  
Convener/DG (M&E)

Dated: 10.12.2020