



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

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No. NEPRA/Appeal/235/POI/2019/ 024


January 19, 2021

1. Irshad Ali
S/o. Muhammad Ismail,
R./o. Kurak Muhammadi Jamiaabad,
Tehsil Bhowana, District Chiniot
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,
Bukharian Sub Division,
Bukharian, Distt. 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. Irshad Ali Against the Decision Dated 10.06.2019 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 08.01.2021, 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.235/POI-2019

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Irshad Ali S/o Muhammad Ismail R/o Kurak Muhammadi,
Jamiaabad, Tehsil Bhowana, District Chiniot

.....Respondent

APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION, TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 10.06.2019 PASSED BY PROVINCIAL OFFICE OF INSPECTION FAISALABAD REGION FAISALABAD

For the appellant:

Mr. Saeed Ahmed Bhatti advocate
Mr. Moazzam Manzoor SDO

For the respondent:

Nemo

DECISION

1. Brief facts giving rise to the filing of instant appeal are that Faisalabad Electric Supply Company Limited (hereinafter referred to as FESCO) is a licensee of National Electric Power Regulatory Authority (hereinafter referred to as NEPRA) for distribution of electricity in the territory specified as per terms and conditions of the license and the respondent is its agricultural consumer bearing Ref No.29-13168-3069308 having a sanctioned load of 7.46 kW under the applicable tariff D-1b. The billing meter of the respondent was found defective (burnt) and it was replaced with a new meter by FESCO



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in July 2018. The removed billing meter of the respondent was checked by metering and testing (M&T) FESCO on 07.11.2018 but the data could not be downloaded due to the burnt meter. After issuing notice dated 13.11.2018 to the respondent regarding the said discrepancy, a detection bill of Rs.76,780/- for 8,239 units for the period May 2018 to July 2018 (3 months) was debited by FESCO to the respondent and added in the bill for December 2018.

2. Being aggrieved, the respondent filed an application before the Provincial Office of Inspection (POI) on 31.01.2019 and challenged the above detection bill. The matter was decided by POI vide decision dated 10.06.2019 in which the detection bill of Rs.76,780/- for 8,239 units for the period May 2018 to July 2018 was cancelled and FESCO was allowed to charge the revised detection bill for 5,080 units for June 2018 and July 2018.
3. Subject appeal has been filed by FESCO against the above decision inter-alia on the grounds that the meter under dispute was checked by M&T FESCO on 07.11.2018 and it was found burnt intentionally; that the detection bill of Rs.76,780/- for 8,239 units for the period May 2018 to July 2018 was charged to the respondent on the basis of above checking; that POI declared the above detection bill as null and void by relying upon Clause 4.4 of the Consumer Service Manual (CSM) without applying his judicious mind and ignoring the real facts of the case; that aforesaid clause of CSM cannot be made applicable in the instant case; that the above detection bill charged to the respondent is legal, valid and justified; that the impugned decision is ex-facie, coram non-judice, ab-initio void and without jurisdiction as the POI has no jurisdiction to carry out the



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proceedings after the expiry of the mandatory period of 90 days as envisaged u/s 26(6) of the Electricity Act 1910 and that the impugned decision is liable to be set aside.

3. Notice of the appeal was served upon the respondent for filing reply/para-wise comments, which were not filed.
4. After issuing notice, hearing of the appeal was held in NEPRA Regional Office Lahore on 30.12.2020 in which learned counsel along with SDO FESCO appeared for the appellant and no one appeared for the respondent. Learned counsel for FESCO repeated the same contentions as given in memo of the appeal and contended that the meter of the respondent was found defective (burnt) and it was replaced with a new meter by FESCO in July 2018. As per learned counsel for FESCO, the detection bill of Rs.76,780/- for 8,239 units for the period May 2018 to July 2018 (3 months) debited to the respondent is justified and payable by the respondent.
5. Arguments heard and 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



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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. Reportedly the defective meter of the respondent was replaced by FESCO vide MCO dated 13.07.2018 and sent to M&T laboratory, wherein the meter was found burnt intentionally. Detection bill of Rs. Rs.76,780/- for 8,239 units for the period May 2018 to July 2018 was debited to the respondent in December 2018, which was assailed before POI.
- iii. FESCO charged the detection bill for three months (May 2018 to July 2018) to the respondent due to the defective meter, which is violative of clause 4.4 of CSM. The said clause of CSM allows FESCO to charge the detection bill maximum for two billing cycles due to defective meter. Besides the disputed billing meter was not produced by FESCO before POI for verification of defectiveness. Under these circumstances, the detection bill of Rs.76,780/- for 8,239 units for the period May 2018 to July 2018 charged by FESCO is illegal, unjustified, and may be cancelled, which is also the determination of POI.
- iv. As meter of the respondent was found defective in July 2018, hence it would be judicious to charge the detection bill for two months i.e. June 2018 and July 2018 based on the consumption of the corresponding month of the previous year or the average consumption of the last eleven undisputed months, whichever is higher in pursuance of clause 4.4 of CSM. The determination of POI for charging 5,080 units



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as detection bill for June 2018 and July 2018 is in line with the ibid clause of CSM and should be maintained to this extent.

6. In view of the above, the appeal is dismissed.

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

Nadir Ali Khoso
Convener/DG (M&E)

Muhammad Shafique
Member/SA (Legal)

Dated: 08.01.2021