



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

NEPRA Office , Ata Turk Avenue (East), G5/1, Islamabad  
Tel. No. +92 051 2013200 Fax No. +92 051 2600030  
Website: [www.nepra.org.pk](http://www.nepra.org.pk) E-mail: [office@nepra.org.pk](mailto:office@nepra.org.pk)

No. NEPRA/Appeal/236/POI/2019/064


February 03, 2021

1. Abdul Shahid  
S/o. Abdul Aleem,  
R/o. House No. 427, Mohallah Moazam Shah,  
Shor Pepli, Chiniot
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. Raja Fiaz Ahmed  
Advocate High Court,  
Chamber No. 26, Rana Tahir Block,  
District Courts, Chiniot
5. Sub Divisional Officer (Opr)  
FESCO Ltd,  
Chiniot-II Sub Division,  
Chiniot
6. 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. Abdul Shahid Against the Decision Dated 13.11.2018 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 25.01.2021, 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. 236/POL-2019**

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Abdul Shahid S/o Abdul Aleem R/o Mohallah Moazzam Shah,  
Shor Pepli City, Chiniot

.....Respondent

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,  
TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997  
AGAINST THE DECISION DATED 13.11.2018 PASSED BY PROVINCIAL  
OFFICE OF INSPECTION FAISALABAD REGION FAISALABAD**

For the appellant:

Mr. Malik Asad Advocate

Mr. Ali Sher Amar SDO

For the respondent:

Raja Fayyaz Ahmed Advocate

**DECISION**

1. Brief facts of the case are that the respondent is an industrial consumer of Faisalabad Electric Supply Company Limited (hereinafter referred to as the FESCO) bearing Ref No.27-13162-3103100 with a sanctioned load of 18 kW under B-1b tariff. The electricity meter of the respondent was checked by FESCO on 26.04.2011 and reportedly it was found 66% slow due to two dead phases. FESCO charged the following five detection bills to the respondent on different cause of actions:

- First detection bill of Rs.442,632/- for 44,203 units for the period from February 2011 to September 2011 was charged @ 66% slowness of the meter in January 2012.





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- Second detection bill of Rs.248,190/- for the period October 2011 to February 2012 (5 months) was charged @ 66% slowness of the meter and added in March 2012.
  - Third detection bill of Rs.112,456/- for the period March 2012 to June 2012 was charged due to the use of the excessive load as per Audit Note No.298 dated 20.09.2012 and added in March 2013.
  - Fourth detection bill of Rs.247,174/- and the fifth detection bill of Rs.291,323/- for the period September 2012 to June 2013 were charged due to excessive use of load in April 2014 and May 2014 respectively.
2. Being aggrieved with the actions of FESCO, the respondent initially filed the civil suit before the Civil Court Chiniot and challenged the above bills. After litigation in different courts, Lahore High Court Lahore vide order dated 12.02.2018 referred the matter to the Provincial Office of Inspection, Faisalabad Region, Faisalabad (hereinafter referred to as POI) for decision. Consequently, the respondent filed three complaints dated 14.03.2018 before the POI against the above irregular billing. POI consolidate all three applications of the respondent and disposed of vide single decision dated 13.11.2018 with the following conclusion:

*“i)Charging of first detection bill of Rs.442,632/- for 44,203 units for the period February 2011 to September 2011 is null, void and FESCO was directed to withdraw the same and charge revised detection bill for the cost of 38,104 units. ii) Charging of second detection bill of Rs.248,190/- for the period October 2011 to February 2012 is justified*

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*and payable by the respondent. iii) Third detection bill of Rs.112,456/- for the period March 2012 to June 2012 charged as per Audit Note No.298 dated 20.09.2012 and added in March 2013 is declared as null and void. iv) The respondent has withdrawn the claim for the fourth detection bill of Rs.247,174/-, therefore he is liable to pay the same. v) Charging of fifth detection bill of Rs.291,323/- for the period September 2012 to June 2013 is declared as null and void. vi) The respondent is allowed to pay the arrears in easy installments along with the monthly bill."*

3. Subject appeal has been filed by FESCO against the above decision of POI (hereinafter referred to as the impugned decision) inter-alia on the grounds that the respondent assailed the five detection bills [first detection bill of Rs.442,632/-, second detection bill of Rs.248,190/-, third detection bill of Rs.112,456/-, fourth detection bill of Rs.247,174/- and fifth detection bill of Rs.291,323/-] before POI vide three complaints; that the POI partially accepted the complaints of the respondent and declared the first, third and fifth detection bills as null and void; that the impugned decision suffers from serious misreading and non-reading of record; that the POI has not applied his judicious mind and passed the impugned decision without appreciating the available evidence on record; that the POI failed to take the legal aspect of the limitation as the complaints regarding the bills for the years 2012, 2013 and 2014 were filed on 14.03.2018 after the expiry of three years and that the impugned decision is liable to be set aside.
4. Notice of the appeal was served upon the respondent for filing reply/para-wise comments, which were filed on 04.10.2019. In his reply, the respondent raised the preliminary



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objection regarding the limitation and contended that the appeal was filed with a delay of seven months. The respondent rebutted the version of FESCO regarding the time-barred claim and contended that the excessive billing done by FESCO was initially disputed before the Civil Court Chiniot and after litigation in different courts, Lahore High Court Lahore vide order dated 12.02.2018 directed the litigants to approach POI, hence three complaints were filed by him before the POI on 14.03.2018. As per respondent, FESCO neither installed the check meter in series with the slow meter nor it was changed timely. According to the respondent, POI has afforded partial relief vide the impugned decision with the consent of the representatives of the appellant FESCO, hence there is no justification to file the appeal against the impugned decision. The respondent finally prayed for dismissal of the appeal with cost.

3. 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 a counsel represented the respondent. Learned counsel for FESCO repeated the same contentions as given in memo of the appeal and opposed the impugned decision on the plea that the respondent assailed the bills for the years 2012, 2013, and 2014 before POI in the year 2018. Learned counsel for FESCO contended that the POI has no given any justification for cancellation of the fifth detection bill of Rs.291,323/- and he is not authorized to allow the respondent for payment of legitimate arrears in installment. Learned counsel for FESCO termed all the five detection bills as justified and payable by the respondent. On the contrary, learned counsel for the respondent repeated his objection



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for limitation and argued that the appeal filed before NEPRA is time-barred. Learned counsel for the respondent repudiated the stance of learned counsel for FESCO regarding the time-barred claim and averred that the dispute of irregular billing was initially challenged before the Civil Court Chiniot and subsequently on the direction of Lahore High Court Lahore vide order dated 12.02.2018, the respondent approached POI on 14.03.2018 for redressal of the grievance. Learned counsel for the respondent supported the impugned decision and prayed that the impugned decision is liable to be maintained.

4. Arguments heard and the record perused. Following are our observations:

i. Regarding the preliminary objection of the respondent for limitation, it is observed that the copy of the impugned decision dated 13.11.2018 was received by FESCO on 27.06.2019 and the appeal was filed before NEPRA on 16.07.2019 within 30 days as envisaged in Section 38 of the NEPRA Act, 1997. The objection of the respondent in this regard carries no weight, hence rejected.

ii. As regards the objection of FESCO regarding the time-barred claim of the respondent, it is observed that the respondent disputed the five detection bills [first detection bill of Rs.442,632/-, second detection bill of Rs.248,190/-, third detection bill of Rs.112,456/-, fourth detection bill of Rs.247,174/- and fifth detection bill of Rs.291,323/-] before the Civil Court, Chiniot and after litigation in different courts, the honorable High Court vide order dated 12.02.2018 disposed of the matter with the direction to approach the POI. The respondent filed three complaints before POI on 14.03.2018 within three years of the order dated 12.02.2018 of the honorable



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Lahore High Court Lahore. Hence the objection of FESCO in this regard bears no force and should be dismissed.

- iii. The billing meter of the respondent was checked by FESCO on 26.04.2011 and reportedly it was found 66% slow due to two dead phases. FESCO charged five detection bills [first detection bill of Rs.442,632/- for 44,203 units for the period February 2011 to September 2011 (8 months) charged in January 2012, second detection bill of Rs.248,190/- for the period October 2011 to February 2012 (5 months) charged in March 2012, third detection bill of Rs.112,456/- for the period March 2012 to June 2012 charged as per Audit Note No.298 dated 20.09.2012 and added in March 2013, fourth detection bill of Rs.247,174/- and fifth detection bill of Rs.291,323/- for the period September 2012 to June 2013 charged in April 2014 and May 2014 respectively] to the respondent, which were assailed before POI.
- iv. POI vide impugned decision declared the second detection bill of Rs.248,190/- and the fourth detection bill of Rs.247,174/- as justified and payable by the respondent. Therefore the remaining three detection bills [first detection bill of Rs.442,632/- for 44,203 units, third detection bill of Rs.112,456/- charged as per Audit Note No.298 dated 20.09.2012, and fifth detection bill of Rs.291,323/- charged in May 2014] need to be examined.
- v. **Dispute-I:** Regarding the charging of the first detection bill of Rs.442,632/- for 44,203 units for the period February 2011 to September 2011 to the respondent @



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66% slowness of the meter, it is observed that the billing meter of the respondent was found 66% slow due to two dead phases, hence FESCO may charge the first detection bill for two months i.e. March 2011 and April 2011 and onwards @ 66% slowness of the meter as per clause 4.4(e) of the Consumer Service Manual (CSM). Whereas FESCO charged 66% slowness for the month of February 2011 as well in violation of the ibid clause of CSM. As such the determination of POI for cancellation of the first detection bill of Rs.442,632/- for 44,203 units for the period February 2011 to September 2011 and revision of the same for 38,104 units is correct being in line with the foregoing clause of CSM and should be maintained to this extent.

- vi. **DISPUTE-II:** FESCO charged two detection bills [third detection bill of Rs.112,456/- for the period March 2012 to June 2012 on the basis of Audit recommendation vide Audit Note No.298 dated 20.09.2012 and fifth detection bill of Rs.291,323/- for the period September 2012 to June 2013 as per and Audit Note No.529 dated 29.07.2013] to the respondent due to the use of load beyond 25 kW. It is observed that FESCO failed to point out any discrepancy of misuse of tariff (from B-1 to B-2) and illegal extension of load during the monthly readings. Besides, FESCO did not disconnect the supply of the respondent on account of the illegal extension of load beyond the sanctioned load as required in clause 8.1 of the CSM. Even otherwise, the audit observation is an internal matter between FESCO and the Audit Department and the respondent cannot be held responsible for payment of any detection bill on the recommendation of the Audit Department. In this regard,





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reliance is placed on the various cases reported in 2014 MLD 1253 titled M/s. Mehmood Textile Mills v/s MEPCO and 2008 YLR 308 titled WAPDA v/s Fazal Karim. In view of the above, both the detection bills i.e. third detection bill of Rs.112,456/- for the period March 2012 to June 2012 charged as per Audit Note No.298 dated 20.09.2012 and the fifth detection bill of Rs.291,323/- for the period September 2012 to June 2013 charged as per Audit Note No.529 dated 29.07.2013 are declared as illegal, unjustified and should be cancelled as already decided by POI.

vii. The billing account of the respondent may be overhauled accordingly and the arrears may be recovered in easy monthly installments along with the current bill.

5. Foregoing in view, the appeal is dismissed.

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

Nadir Ali Khoso  
Convener/DG (M&E)

Muhammad Shafique  
Member/SA (Legal)

Dated: 25.01.2021