



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

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No. NEPRA/Appeal/064/2024/ 267

March 28, 2025

1. Fazal Rahim,
Through Siraj Wali, Manger,
M/s. Rahim & Brothers (Pvt.) Ltd,
Industrial Estate, Risalpur,
Nowshera
Cell No. 0319-9328919
2. Chief Executive Officer
PESCO Ltd,
WAPDA House, Sakhi Chashma,
Shami Road, Peshawar
3. Saeed Khan Akhunzada,
Advocate High Court,
Chamber No. 19, Muslim Block,
District Courts, F-8 Markaz,
Islamabad
Cell No. 0300-8597974
4. Executive Engineer (Operation),
PESCO Ltd,
Nowshera Division-II,
Nowshera
5. Sub Divisional Officer (Operation),
PESCO Ltd,
Risalpur Sub Division,
Risalpur
Cell No. 0370-1340225
6. POI/Electric Inspector,
Nowshera Region,
Tehsil Road, Near Police Station,
Nowshera Kalan, Nowshera

Subject: Appeal No.064/2024 (PESCO Vs. Fazal Rahim) Against the Decision Dated 09.01.2024 of the Provincial Office of Inspection to Government of the Khyber Pakhtunkhwa Nowshera Region, Nowshera

Please find enclosed herewith the decision of the Appellate Board dated 28.03.2025 (05 pages), regarding the subject matter, for information and necessary action, accordingly.

Encl: As Above

(Ikram Shakeel)
Deputy Director
Appellate Board

Forwarded for information please.

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



National Electric Power Regulatory Authority

Before The Appellate Board

In the matter of

Appeal No.064/POI-2024

Peshawar Electric Supply Company Limited

.....Appellant

Versus

Fazal Rahim Through Siraj Wali Manager,
M/s. Rahim & Brothers (Pvt) Ltd,
Industrial Estate Risalpur, Nowshera

.....Respondent

APPEAL UNDER SECTION 38(3) OF THE REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997

For the Appellant:

Mr. Saeed Khan Akhunzada Advocate
Mr. Muhammad Saleem SDO
Mr. Farooq Jehan RO

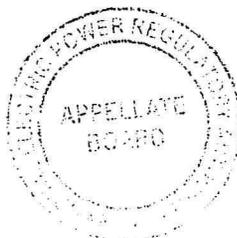
For the Respondent:

Mr. Siraj Wali

DECISION

1. Brief facts of the case are that Fazal Rahim (hereinafter referred to as the “Respondent”) is an industrial consumer of Peshawar Electric Supply Company Limited (hereinafter referred to as the “Appellant”) bearing Ref No.30-26225-0163804 having sanctioned load of 320 kW and the applicable tariff category is B-2(b). The metering equipment of the Respondent was checked by the M&T team of the Appellant on 22.05.2023 and reportedly the billing meter was found 33% slow due to the one phase being dead. On the request of the Appellant, the impugned meter of the Respondent was checked by the Provincial Office of Inspection, Nowshera Region, Khyber Pukhtunkhwa (hereinafter referred to as the “POI”), who vide vetting assessment dated 14.07.2023 recommended the Appellant to charge 33% slowness of the impugned meter for 22.11.2022 to 22.05.2023. Subsequently, a detection bill of Rs.7,940,729/- against 197,737 (OP=171,849+P=25,888) units+1,220 kW MDI for the period from 31.03.2021 to 25.05.2023 was debited to the Respondent @ 33% slowness of the meter and added to the bill for December 2023.
2. Being aggrieved with the abovementioned actions of the Appellant, the Respondent approached the POI on 09.01.2024 and challenged the above detection bill. The matter was

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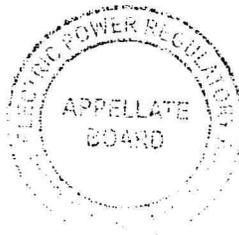
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decided by POI vide decision dated 14.03.2024, wherein the detection bill of Rs.7,940,729/- for 197,737 (OP=171,849+P=25,888) units+1,220 kW MDI for the period from 31.03.2021 to 25.05.2023 was declared null and void and the Appellant was allowed to debit the revised bill of net 10,134 units+70 kW MDI for two billing cycles i.e. April 2023 and May 2023 @ 33% slowness of the meter.

3. Being dissatisfied, the Appellant has filed the instant appeal before NEPRA and assailed the decision dated 14.03.2024 of the POI (hereinafter referred to as the "impugned decision"). In its appeal, the Appellant opposed the maintainability of the impugned decision, *inter-alia*, on the following grounds that the impugned detection bill of Rs.7,940,729/- against 197,737 (OP=171,849+P=25,888) units+1,220 kW MDI for the period from 31.03.2021 to 25.05.2023 was debited to the Respondent on account of theft of electricity through tampering with the meter as observed on 25.05.2023; that the POI has not applied his mind to the facts that the Respondent was charged as per COSMOS data; that the CSM 2021 has not answered the question of burnt/damaged CTs of AMR meter as the CTs are fixed outside the metering equipment; that the POI has ignored the fact that subject assessment was vetted by the said forum prior communication to the Respondent and passed the impugned decision arbitrarily; and that the impugned decision is liable to be set aside.
4. Notice dated 12.07.2024 of the appeal was issued to the Respondent for filing reply/para-wise comment, which were filed on 31.07.2024. In the reply, the Respondent prayed for dismissal of the appeal *inter alia*, on the main grounds that the checking report was neither signed by the SDO nor the Respondent; that the irrelevant documents are attached with the appeal, which shows the interest of the Appellant; that the assessment of 25 months was charged by the Appellant in violation of NEPRA Rules; that said clause allows the Appellant to debit the detection bill maximum for two months; that the appeal is devoid of merits as well as time-barred.

5. Hearing

- 5.1 Hearing of the appeal was conducted at NEPRA Head Office Islamabad on 06.11.2024, wherein both parties tendered appearance. Learned counsel for the Appellant contended that the Respondent was found involved in the illegal abstraction of electricity through deliberately tampering (one CT intentionally made defective) during checking dated 22.05.2023, which was verified by the POI vide assessment dated 14.07.2023. Learned counsel for the Appellant



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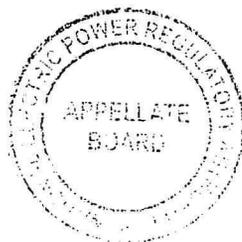
further contended that the impugned meter of the Respondent remained 33% slow for more than twenty-five months, therefore a detection bill of Rs.7,940,729/- against 197,737 (OP=171,849+P=25,888) units+1,220 kW MDI for the period from 31.03.2021 to 25.05.2023 was debited to the Respondent to account for revenue loss sustained by the Appellant due to theft of electricity through tampering with the meter. As per learned counsel for the Appellant, the POI did not consider the real aspects of the case and erroneously declared the above detection bill as null and void and allowed the Appellant to recover 33% slowness of the impugned meter for two billing cycles only against his vetting assessment dated 14.07.2023, wherein the Appellant was allowed to recover 33% slowness for six months. Learned counsel for the Appellant finally prayed that the impugned decision is unjustified and liable to be struck down.

5.2 On the contrary, the representative for the Respondent rebutted the version of the Appellant and averred that the impugned meter was functioning correctly till the last billing cycle before checking dated 22.05.2023 and no discrepancy whatsoever was pointed out by the Appellant during the monthly readings, hence there is no justification to debit detection bill on account of alleged theft of electricity. As per learned counsel for the Respondent, if presumed the Respondent was involved in dishonest abstraction of electricity through tampering with the meter as to why the Appellant failed to follow the procedure as laid down in Chapter 9 of the CSM-2021. According to the learned counsel for the Respondent, the Appellant even did not take legal proceedings against the Respondent as laid down in Chapter 9 of the CSM-2021. Learned counsel for the Respondent opposed the charging of the impugned detection bill of Rs.7,940,729/- against 197,737 (OP=171,849+P=25,888) units+1,220 kW MDI for the period from 31.03.2021 to 25.05.2023 and defended the impugned decision for cancellation of the same. He finally pleaded for dismissal of the appeal being barred by time.

6. Having heard the arguments and record perused. Following are our observations:

6.1 Limitation:

While considering the preliminary objection of limitation raised by the Respondent, it is noted that the Appellant obtained the copy of the impugned decision dated 14.03.2024 in May 2024 and filed the present appeal before the NEPRA on 14.06.2024, which is within time as given in Section 38(3) of the NEPRA Act. There is no force in the arguments of the Respondent that the time of limitation starts from the date of announcement. Reliance in this regard is placed on the judgment of the honorable Lahore High Court Lahore cited as *2016 YLR 1916*, wherein it was held that the POI is required to send a copy of the impugned decision to the



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parties and the period of limitation for filing the appeal will start from the date of receipt of the impugned decision. In view of the above, the objection of the Respondent regarding limitation is not valid and, therefore dismissed.

6.2 Detection bill of Rs.7,940,729/- against 197,737 (OP=171,849+P=25,888) units+1,220 kW MDI for the period from 31.03.2021 to 25.05.2023:

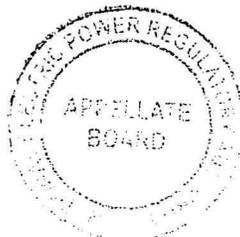
In the instant case, the Appellant claimed that M&T on 22.05.2023 detected that the impugned meter was intentionally tampered with (defective CT) and debited a detection bill of Rs.7,940,729/- against 197,737 (OP=171,849+P=25,888) units+1,220 kW MDI for the period from 31.03.2021 to 25.05.2023 to the Respondent @ 33% slowness of the impugned meter.

6.3 Having found the above discrepancies, the Appellant was required to follow the procedure stipulated in Clause 9.2 of the CSM-2021 to confirm the illegal abstraction of electricity by the Respondent and thereafter charge the Respondent accordingly. However, in the instant case, the Appellant has not followed the procedure as stipulated under the ibid clause of the CSM-2021. From the submissions of the Appellant, it appears that the billing meter of the Respondent was checked and removed by the Appellant in the absence of the Respondent.

6.4 As per the judgment of the Supreme Court of Pakistan reported in *PLD 2012 SC 371*, the POI is the competent forum to check the metering equipment, wherein theft of electricity was committed through tampering with the meter and decide the fate of the disputed bill, accordingly. POI vide assessment dated 14.07.2023 confirmed 33% slowness of the impugned meter and recommended to charge the detection bill for six (06) months i.e. 22.11.2022 to 22.05.2023. However, this does not tantamount to the Appellant to debit the detection bill for more than twenty-five months to the Respondent due to the negligence on their part. In the case of theft of electricity through tampering with the meter, the Respondent may be charged the detection bill maximum for six months as per Clause 9.2.3c(ii) of the CSM-2021. The Appellant committed illegality while charging the impugned detection bill as the Appellant neither followed the procedure as laid down in CSM-2021 to establish theft of electricity through tampering with the meter nor debited the detection bill as per the ibid clause of the CSM-2021.

6.5 In view of the foregoing discussion, we are of the considered view that the detection bill of Rs.7,940,729/- against 197,737 (OP=171,849+P=25,888) units+1,220 kW MDI for the period from 31.03.2021 to 25.05.2023 charged to the Respondent is unjustified and the same is liable to be cancelled as already determined by the POI.

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- 6.6 Since the impugned meter was found running 33% slow due to red defective CT during the M&T team checking dated 22.05.2023 of the Appellant and it is also confirmed by the POI vide vetting assessment dated 14.07.2023 that the impugned meter remained 33% slow. In such cases, NEPRA has clarified vide letter No. NEPRA/DG(CAD)/TCD-10/17187-13 dated 26.03.2021 that if due to any reason the charges i.e. MDI, fixed charges, multiplication factor, power factor penalty, tariff category, etc. have been skipped by the DISCO, the difference of these charges can be raised within one year of the discrepancy noticed and maximum for six billing cycles. As per said clarification, the Appellant is allowed to recover the detection bill due to 33% slowness of the impugned meter for six retrospective months before checking dated 22.05.2023. The impugned decision is liable to be modified to this extent.
7. In view of what has been stated above, it is concluded that the detection bill of Rs.7,940,729/- against 197,737 (OP=171,849+P=25,888) units+1,220 kW MDI for the period from 31.03.2021 to 25.05.2023 is unjustified, and the same is cancelled. The Respondent may be charged the revised detection bill for six retrospective billing cycles @ 33% slowness of the impugned meter before checking dated 22.05.2023 of the Appellant as per the above-referred clarification dated 26.03.2021 of the revised CSM-2021. The bills w.e.f checking dated 22.05.2023 and onwards till the replacement of the impugned meter be charged with enhanced MF due to 33% slowness of the meter as per Clause 4.3.3c(ii) of the CSM-2021.
8. The impugned decision is modified in the above terms.

On leave
Abid Hussain
Member/Advisor (CAD)

Dated: 28-03-2025


Naweed Illahi Sheikh
Convener/DG (CAD)


Muhammad Irfan-ul-Haq
Member/ALA (Lic.)

