



National Electric Power Regulatory Authority
Islamic Republic of Pakistan

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Registrar

No. NEPRA/ADG(CAD)/TCD-04/ 16060-42

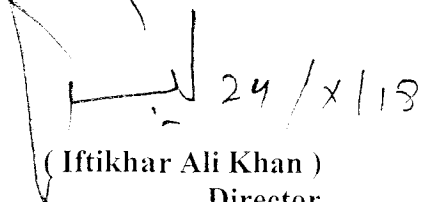
October 24, 2018

Chief Executive Officer
Faisalabad Electric Supply Company (FESCO)
Abdullah Pur, Canal Bank Road,
Faisalabad.

Subject: **ORDER IN THE MATTER OF COMPLAINT FILED BY
DR. KHALID MAHMOOD, ETC UNDER SECTION 39 OF THE
REGULATION OF GENERATION, TRANSMISSION AND
DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST
FESCO REGARDING SHIFTING OF CONNECTIONS
FESCO-64/05/2018**

Enclosed find herewith the Order of Member (Consumer Affairs) dated 23.10.2018
(06 Pages) regarding the subject matter for necessary action and compliance within thirty
(30) days, please.

Encl: As above


(Iftikhar Ali Khan)
Director

Registrar Office

Copy to:

- i. C.E./Customer Services Director
Faisalabad Electric Supply Company (FESCO)
Abdullah Pur, Canal Bank Road,
Faisalabad.
- ii. Dr. Khalid Mahmood
Chak No. 100/SB,
Tehsil & District Sargodha.



BEFORE THE
NATIONAL ELECTRIC POWER REGULATORY AUTHORITY
(NEPRA)

Complaint No. FESCO-64/05/2018

Dr. Khalid Mahmood **Complainant**
Chak No. 100/SB, Tehsil and District Sargodha.

Versus

Faisalabad Electric Supply Company Limited (FESCO) **Respondent**
Abdullah Pur, Canal Bank Road, Faisalabad.

Date of Hearing: 10th July 2018

Date of Decision: October 23, 2018

On behalf of

Complainant: 1) Mr. Khalid Mahmood
2) Mr. Riaz Ahmad

Respondent: Mr. Muhammad Saleem, Superintending Engineer

Subject: **ORDER IN THE MATTER OF COMPLAINT FILED BY DR. KHALID MAHMOOD, ETC UNDER SECTION 39 OF THE REGULATION OF GENERATION, TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST FESCO REGARDING SHIFTING OF CONNECTIONS**

ORDER

1. This Order shall dispose of the complaint dated 9th May 2018 filed by Dr. Khalid Mahmood, etc, R/o Chak No. 100/SB, Tehsil and District Sargodha (hereinafter referred to as the "Complainant") against Faisalabad Electric Supply Company Limited (hereinafter referred to as the "Respondent" or "FESCO") under Section 39 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (hereinafter referred to as the "NEPRA Act").

2. Brief facts of the case are that the Complainant, in his complaint, stated that he owns six (06) connections for tubewells at Village Wallah Tehsil Lalian, District Chiniot since May 2008 on a leased land of the Federal Government and possessed by the Pakistan Air Force (PAF) Base, Mushaf, Sargodha. Due to some land dispute, PAF did not renew their contract and illegally forced him to vacate the premises on 4th December 2015. The PAF authorities allowed him to shift electrical installations, however, he obtained a status quo order on 2nd December 2015 from the Civil Court, Sargodha against the dispossession by the PAF and use of electrical material by FESCO for any electrification purpose without his consent. The concerned XEN was requested that usage of electrical installation may be refrained for any other connection. However, the XEN and concerned LS provided electricity connections to Mr. Ehsan Ullah Shams from the installed lines in April 2016 without his consent. The Complainant has, inter alia, requested that the connections may be taken back from FESCO's illegal custody and be shifted to site(s) of his choice. Further, the meter installed at Reference No. 29-13167-1138506 (27-13172-1138506) got burnt and was removed by FESCO for retrieval of data, however, the data was not retrieved and FESCO illegally charged detection bill. As such, data of the other five (05) meters may be retrieved and over charged amount (if any) be adjusted accordingly.

3. The matter was taken-up with FESCO for submission of parawise comments/report. In response, FESCO vide its letter dated 31st May 2018 submitted its report, wherein it was stated that six (06) connections remained under use of the Complainant on leased land of PAF Base Mushaf, Sargodha. On report of concerned LS, the concerned SDO approached SHO Police Station on 23rd December 2015 for registration of FIR regarding six (06) stolen transformers. Later, it revealed that the transformers were under the custody of the Complainant, and the same were recovered on 30th January 2018, whereby four (04) transformers had empty bodies and two (02) were found as damaged. Mr. Ehsan Ullah Shams, another consumer, got contract agreement with PAF Base Land and applied for tubewell connection on 22nd December 2015 along with NOC and Farad. Meanwhile, the Complainant obtained stay order from Civil Court, Sargodha. Further, the other consumer filed a writ petition in Lahore High Court, Lahore. The orders/directions of the Honorable High Court were received on 1st March 2016. In pursuance of the High Court's directions, connections of the new contractor were energized after completion of all departmental formalities. The Civil Suit filed by the Complainant was dismissed by the Civil Court and appeal thereof was also dismissed on 13th February 2018 by Additional District Judge, Sargodha. The Complainant has not yet applied properly for RCO/shifting of connections.



The same will be shifted whenever the Complainant applies for RCO/shifting as per prevailing policy.

4. The report of FESCO was forwarded to the Complainant for information/comments. In response, the Complainant vide letter dated 26th June 2018 raised observations on the report of FESCO. In order to probe further into the matter, a hearing was held on 10th July 2018 at NEPRA Head Office, Islamabad which was attended by representatives of both the parties who advanced their arguments on the basis of their earlier submissions. The complainant added that FESCO has favored the new occupant and has allowed connection from the HT line (22 structures) installed on cost deposit basis and is not returning the material to him. He further submitted that due to FESCO officials he has faced irreparable financial loss. The complainant also requested for compensation against financial losses.

5. The case has been examined in detail in light of the arguments made by the parties, the documents on record and the applicable law. The following has been observed:

- (i). The Complainant obtained land on lease in Mouza Wallah owned by PAF, Sargodha for ten (10) years in the year 2005. He obtained six (06) connections for agricultural purpose in 2008-2009. As per the complainant, independent transformers, HT line (22 structures) and other material including conductor were installed by FESCO on a cost-deposit basis.
- (ii). A significant share of the Complainant's grievances and arguments relate to alleged illegal rescindment of lease over the impugned property, dispossession of the same from the Complainant and award of a new lease to Mr. Ehsan Ullah. The Authority is of the view that the vires of lease cancellation, dispossession of property and award of lease to a new party lies beyond its jurisdiction and statutory mandate, as provided in the NEPRA Act 1997. Therefore, the arguments relating to these subjects are disregarded in the instant proceedings.
- (iii). It has further been submitted that, due to non-payment of electricity bills by the Complainant, FESCO issued Equipment Removal Orders (EROs) against his account numbers as under:

- a. 27-13172-1138505 on 30th December 2014
- b. 27-13172-1138506 on 19th February 2015
- c. 27-13172-1138507 on 30th November 2015
- d. 27-13172-1138508 on 3rd March 2016
- e. 27-13172-0689940 on 15th December 2014
- f. 27-13172-0689941 on 30th December 2014.

(iv). According to the complainant, a detection bill amounting to Rs. 250,000 was issued against connection bearing Reference No. 29-13167-1138506 (27-13172-1138506). On the subject of detection bill, the Complainant has argued that the detection bill has been issued illegally and seeks issuance of bill on the basis of actual consumption. FESCO has not provided a rebuttal to this issue. The Authority is of the view that no conclusive evidence has been placed on record by FESCO w.r.t imposition of the detection bill. Even during the hearing no proper response was placed on record, from this it can be construed that FESCO has charged detection bill without following the procedure laid down in Consumer Service Manual.

(v). The final grievance raised by the Complainant relates to compensation with respect to the installed electrical equipment(s) on the property. The Complainant has argued that he is entitled to compensation for the electrical equipment(s) on the property formerly leased to him, which includes 6 transformers, 22 HT structures, conductor and other allied material. FESCO has submitted that the material retrieved from the Complainant's former property, specifically the transformers, are in an exceedingly dilapidated condition, with 4 out of 6 transformers were only found as empty bodies with no coil, core, oil etc. The Complainant attributed these conditions to the work of dacoits in the area, for which he should not suffer financial loss and be compensated in full. FESCO has further submitted that PAF Base Mushaf, Sargodha paid outstanding dues against the Complainant, amounting to Rs. 424,000, while the complainant has averred that said amount has been deducted by PAF from the security amount already been deposited with the PAF Base Mushaf, Sargodha.



- (vi). To resolve the issue of compensation, it is pertinent to establish the nature and ownership of the electrical equipment(s). From the record, it is observed that FESCO charged the Complainant/applicant amount vide demand Notices nos. 2038, 2039, 2040, 2041, 2042 and 2043 issued on 30th May 2008 and the payments were made by the Complainant to the distribution company for procurement and installation of electrical equipment(s) for the purposes of establishing and energizing connections for the Complainant's former property. However, no compensation of the electrical equipment(s) has been made to the complainant so far. During the hearing, the complainant submitted that since no compensation has been given to him by FESCO on account of material installed on cost deposit basis, therefore, the material be returned to him.
- (vii). Lastly, during the hearing, the Complainant urged the Authority to award punitive damages as restitution for lost earnings and irreparable damage to his property and business. NEPRA is constrained in imposing punitive damages upon FESCO based on claims of a civil nature. The competent forum to seek relief and obtain punitive civil damages is a civil court of competent jurisdiction.

6. In view thereof, FESCO is directed as under:

- i. To shift the connections of the complainant along with all the material (excluding the material installed by the new consumer) which were installed at site on cost deposit basis to a place(s) to be indicated by the complainant after following all the codal formalities and as per the policy in vogue.
- ii. To withdraw the impugned detection bill imposed against Reference No. 29-13167-1138506 (27-13172-1138506) and issue a new bill to the Complainant for any outstanding amounts payable for actual consumption of electricity. Actual consumption to be




determined by data retrieval of meter installed at the Complainant's former property.

iii. The actual consumption recorded on other five (05) meters (i.e. 27-13172-1138505, 27-13172-1138507, 27-13172-1138508, 27-13172-0689940 and 27-13172-0689941) be ascertained through data retrieval.

iv. It is prerogative of CEO FESCO to take action against the officers/officials if found guilty in the subject matter.

7. Compliance report be submitted accordingly.


23/10/2018
Member (Consumer Affairs)
23/10/2018

Islamabad, October 23 , 2018