



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

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No. NEPRA/Appeal/139/POI/2019/1265

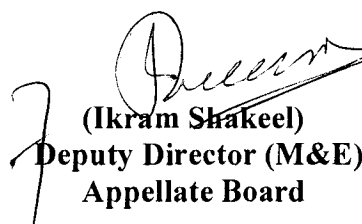
December 29, 2020

- |   |   |
|---|---|
| 1. Asim Maqsood<br>S/o. Haji Maqsood Ahmad,<br>Ittehad Fabrics (Pvt.) Ltd,<br>Jarranwala Road, Faisalabad | 2. Chief Executive Officer<br>FESCO Ltd,<br>West Canal Road, Abdullahpur,<br>Faisalabad   |
| 3. Mian Muhammad Javed<br>Advocate Supreme Court,<br>4-Link Farid Kot Road,<br>Lahore                     | 4. Salman Mansoor<br>Advocate Supreme Court,<br>30/31, Hajvery Complex,<br>2-Mozang Road, Lahore  |
| 5. Sub Divisional Officer (Opr)<br>FESCO Ltd,<br>Khurrianwala Sub Division,<br>Faisalabad                 | 6. Electric Inspector/POI,<br>Energy Department, Govt. of Punjab,<br>Opposite Commissioner Office,<br>D.C.G Road, Civil Lines,<br>Faisalabad Region, Faisalabad |

Subject: **Appeal Titled FESCO Vs. Asim Maqsood Against the Decision Dated 07.01.2012 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.139/POI-2019**

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Asim Maqsood s/o Haji Maqsood Ahmed Ittihad Fabrics Ltd,  
Jarranwala Road Faisalabad

.....Respondent

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,  
TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997  
AGAINST THE DECISION DATED 07.01.2012 PASSED BY PROVINCIAL  
OFFICE OF INSPECTION FAISALABAD REGION, FAISALABAD**

For the appellant:

Mian Muhammad Javiad advocate

For the respondent:

Nemo

### **DECISION**

1. Briefly speaking, the respondent is an industrial consumer of Faisalabad Electric Supply Company Limited (FESCO) bearing Ref No.24-13153-5700325 having a sanctioned load of 453 kW and the applicable tariff is B-2(b). The metering equipment of the respondent was checked by metering and testing (M&T) FESCO on 11.08.2011 and reportedly the billing meter was found 33.33% slow due to the red dead phase. Multiplication factor (MF) of the respondent was raised from 200 to 298.5 by FESCO w.e.f August 2011 and onwards. FESCO proposed a detection bill for the period November 2010 to July 2011 and approached the Provincial Office of Inspection (POI) for verification of slowness of the billing meter. POI checked the metering equipment in presence of both the parties on 21.10.2011, and 33.33% slowness in the billing meter was established. The matter was disposed of by POI vide decision dated 07.11.2012 with the following conclusion:



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*“Summing up all the above discussion, it is held that the metering equipment was correct till 07/2011 and it became 33.33% slow w.e.f. 08/11 and onwards till its replacement and the respondent is liable to pay 33.33% slowness accordingly for which FESCO has already enhanced MF from 200 to 298.5. The detection bill proposed from 11/2010 to 07/2011 is unjustified. FESCO is directed to replace the defective meter with an accurate one immediately.”*

2. FESCO has initially filed the appeal before the Advisory Board, Government of Punjab Lahore (the Advisory Board) against the decision dated 07.01.2012 of POI (hereinafter referred to as the impugned decision). The Advisory Board vide its letter dated 26.01.2016 intimated FESCO that the appeal cannot be placed before this forum after amendment in Section 38 of NEPRA Act, 1997 on 25.09.2011 and FESCO may approach the right forum NEPRA Authority. Feeling aggrieved with the actions of the Advisory Board, FESCO approached the Lahore High Court, Lahore through the writ petition, which was dismissed by the honorable High Court vide order dated 06.11.2017. Against which intera-court appeal (ICA) was filed by FESCO before Lahore High Court Lahore, who vide order dated 12.03.2018 directed FESCO to approach NEPRA.
3. FESCO has filed the instant appeal before NEPRA on 17.10.2018, wherein it is inter alia, contended that the Electric Inspector has to decide the case within 90 days from the receipt of the application as per judgment of Lahore High Court Lahore cited as 2015 MLD 1307; that the impugned decision is against the facts and law; that the Electric Inspector did not apply his judicious mind and passed the impugned decision based on illegal assumptions



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and presumptions; that the same is liable to be set aside. In its application for condonation of the delay, FESCO explained that the appeal against the impugned decision was initially filed before the Advisory Board, which refused to adjudicate the matter against which writ petition was filed before Lahore High Court, Lahore. The Honorable High Court dismissed the same without considering the facts of the case, hence section 14 of the Limitation Act is not applicable. FESCO prayed that the delay in filing the appeal may be condoned in the best interest of justice.

4. Notice of the appeal was issued to the respondent for filing reply/para-wise comment, which were filed on 09.12.2020. In the reply, the respondent prayed for the dismissal of the appeal on the ground of limitation and contended that the appeal was filed by FESCO before NEPRA in the year 2019 against the impugned decision dated 07.01.2012, which is badly time barred. As per respondent, FESCO has not filed any appeal before the Advisory Board as evident from the letter No.SO (Power)/ED/Misc./2015 dated 26.01.2016 of the Advisory Board.
5. Notice was issued to both the parties and hearing of the appeal was held in NEPRA regional office Lahore on 27.11.2020 which was attended only by the learned counsel for FESCO. At the outset of the hearing, the learned counsel for FESCO contended that the impugned decision was announced by POI on 07.01.2012, copy of the same was received on 09.01.2012 against which the appeal was initially filed before the Advisory Board on 02.04.2012 but the Advisory Board kept it pending and decided the appeal vide the order dated 25.01.2016. Learned counsel for FESCO averred that writ petition was filed before the Lahore High Court, which was dismissed by the honorable High Court vide order dated  
Appeal No.139-2019



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06.11.2017. As per learned counsel for FESCO, an intera-court appeal (ICA) was filed by FESCO before Lahore High Court Lahore against the above order, the Honorable High Court vide order dated 12.03.2018 directed FESCO to approach NEPRA and the appeal was therefore filed before NEPRA. According to the learned counsel for FESCO, the time consumed during this process is liable to be excluded. Learned counsel for FESCO finally prayed for the condonation of the delay and the decision on merits.

6. We have heard the arguments of both the parties and examined the record placed before us. Following are our observations:

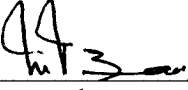
- i. As regards the preliminary objection of FESCO regarding the failure of POI in deciding the matter within 90 days as envisaged in Section 26(6) of Electricity Act, 1910, it may be explained that the period of 90 days is provided in Electricity Act, 1910 which is not relevant for the offices of Provincial Offices of Inspection (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, therefore the outer time limit of 90 days is inapplicable. The objection of FESCO in this regard is devoid of force, therefore rejected.
- ii. As the point of limitation has been observed, therefore it will be judicious to decide the matter on limitation in the first instance. It is observed that the impugned decision was announced on 07.01.2012, admittedly copy of the same was received by FESCO on 09.01.2012 and the appeal was filed before the NEPRA on 17.10.2018 after a lapse of more than 6 years. As per FESCO, the appeal was initially filed before the

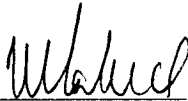


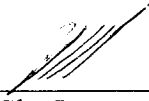
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Advisory Board on 02.04.2012 and the time was lost due to the pendency of the appeal at the wrong forum, which is liable to be condoned. For the sake of arguments, if suppose FESCO was under the impression to file the appeal against the impugned decision before the provincial government, it is noted that the appeal was filed before the Advisory Board on 02.04.2012 after the expiry of 84 days of receipt of the impugned decision. Prior to the insertion of subsection 3 of Section 38 of NEPRA Act, 1997 on 25.09.2011, any aggrieved person may file an appeal against the final order made by the Provincial Office of Inspection before the Advisory Board constituted within 30 days in pursuance of clause 10 of the Punjab (Establishment and Powers of Office of Inspection) Order, 2005. Even before the wrong forum, the appeal was filed after the time limit as provided in the Punjab (Establishment and Powers of Office of Inspection) Order, 2005.

7. From the discussion made above, we have concluded that the appeal filed by FESCO is time-barred, hence dismissed on the ground of limitation.

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

  
Nadir Ali Khoso  
Convener/DG (M&E)

  
Muhammad Shafique  
Member/SA (Legal)

Dated: 10.12.2020