



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

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No. NEPRA/AB/Appeal/181/POI/2019/ 1055


December 28, 2021

1. Tariq Riaz
S/o. Ch. Riaz Ahmed,
Prop: Power Looms Factory,
Madina Street, Samundri Road,
Faisalabad
2. Chief Executive Officer
FESCO Ltd,
West Canal Road, Abdullahpur,
Faisalabad
3. Ch. Muhammad Shahid Iqbal,
Advocate High Court,
Office No. T-3, Third Floor,
Makkah Tower, 13-Fane Road,
Lahore
4. Sub Divisional Officer (Opr),
FESCO Ltd,
Samundri Road Sub Division,
Faisalabad
5. POI/Electric Inspector,
Energy Department, Govt. of Punjab,
Opposite Commissioner Office,
D.C.G Road, Civil Lines,
Faisalabad Region, Faisalabad

Subject: **Appeal Titled FESCO Vs. Tariq Riaz Against the Decision Dated 21.02.2018 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 30.11.2021, 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

In the matter of

Appeal No.181/POI-2019

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Tariq Riaz S/o Ch. Riaz Ahmed, Prop: Power Looms Factory,
Madina Street, Samundari Road, Faisalabad

.....Respondent

APPEAL U/S 38 OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 199

For the Appellant:

Ch. Muhammad Shahid Iqbal Advocate
Mr. Munir Ahmed MI

For the Respondent:

Nemo

DECISION

1. Brief facts of the case are that the Respondent is an industrial consumer of the FESCO having Ref No.24-13242-5209605-R with a sanctioned load of 98.66 kW under the B-2b Tariff. Both the Time of Use (TOU) billing and backup meters of the Respondent were reportedly found 33% slow due to the red dead phase during the Metering and Testing (M&T) FESCO checking dated 26.12.2016, hence the onwards bills with enhanced Multiplication Factor (MF)= 59.6 were charged by the FESCO. In addition to the above, a detection bill of Rs.682,376/- for 45,511 units for the period August 2016 to December 2016 five (5) months was charged to the Respondent by the



FESCO on account of 33% slowness and included in the bill for April 2017.

2. The Respondent was aggrieved with the above actions of the FESCO, therefore challenged the above detection bill before the Provincial Office of Inspection, Faisalabad Region, Faisalabad (the POI) on 29.08.2017. The complaint of the Respondent was disposed of vide the POI decision dated 21.02.2019, wherein the detection bill of Rs.682,376/- for 45,511 units for the period August 2016 to December 2016 five (5) months along with late payment surcharges (LPS) was declared null and void. As per the POI decision, FESCO was allowed to charge the revised detection bill for the period October 2016 to December 2016 three (3) months and onwards bills with enhanced MF=59.6. The FESCO was further directed to replace the defective meter with a new meter and shift the billing on the said meter.
3. The instant appeal has been filed by the FESCO against the afore-mentioned decision (hereinafter referred to as the impugned decision) before the NEPRA. In its appeal, FESCO objected the maintainability of the impugned decision inter alia, on the following grounds, (1) the TOU billing and the backup meters of the Respondent were found 33% slow on 26.12.2016; (2) the detection bill of Rs.682,376/- for 45,511 units for the period August 2016 to December 2016 five (5) months was debited to the Respondent at the rate of 33% slowness of the meter; (3) the onwards billing of the Respondent was charged with enhanced MF=59.6 due to 33% slowness of the meter; (4) the impugned decision was rendered by the POI after the expiry of statutory period of ninety (90) days, hence it is ex-facie coram non judice, ab-initio void and without jurisdiction; (5) the Respondent did not serve notice prior filing complaint to the POI



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as required under Section 26(6) of the Electricity Act 1910; (5) the POI neither recorded the evidence nor perused the consumption record in its true perspective; (6) the impugned decision is liable to be set aside being illegal, unlawful, arbitrary and based on surmises and conjectures.

4. The Respondent was issued notice for filing reply/para-wise comments, which however were not filed.
5. Hearing of the appeal was conducted at the NEPRA Regional Office Lahore on 22.10.2021, wherein Ch. Muhammad Shahid Iqbal advocate along with FESCO official appeared for the Appellant and no one made appearance for the Respondent. At the beginning of the hearing, learned counsel for the FESCO repeated its objections that the impugned decision was not given by POI within 90 days and the Respondent did not give notice before approaching the POI as required under the Electricity Act 1910. On merits, learned counsel for the FESCO defended the charging of the detection bill of Rs.682,376/- for 45,511 units for the period August 2016 to December 2016 five (5) months on the plea that the dip in the consumption was observed in the said months which indicated that the meter remained slow. Learned counsel for the FESCO prayed for declaring the above detection bill as justified and payable by the Respondent.
6. Arguments heard, perused the record placed before us and our observations are as under:
 - i. With regard to the preliminary objection of the FESCO for failure of the POI in deciding the matter within ninety (90) days as provided under Section 26(6) of

the Electricity Act, 1910, it is clarified that the period of ninety (90) days provided in the Electricity Act, 1910 is not relevant for the POI established under Section 38 of the NEPRA Act, 1997. NEPRA is the appellate authority against the decision of the POI and not that of Electric Inspectors. The same has already been held by the Honorable Lahore High Court in the following cited judgments, PLJ 2017-Lahore-627 and PLJ-2017-Lahore-309. Therefore, the stated time limit of ninety (90) days is inapplicable. The objection of the FESCO in this regard is devoid of force, therefore rejected.

- ii. As regards another objection of the FESCO for not issuing notice as per the Electricity Act, 1910 by the Respondent before filing a complaint to the POI, it is elucidated that the matter was adjudicated by the POI under the NEPRA Act, 1997 and as per procedure laid down in Punjab (Establishment and Powers of Office of Inspection) Order, 2005, which does not require for service of any notice before approaching the POI. The above objection of FESCO is not valid, therefore dismissed.
- iii. FESCO charged the detection bill of Rs.682,376/- for 45,511 units for the period August 2016 to December 2016 five (5) months on account of 33% slowness of the meter as observed on 26.12.2016. Pursuant to Clause 4.4 of the Consumer Service Manual (CSM), a consumer can be charged the detection bill maximum for two (2) months in case of a slow meter. In the instant case, FESCO has violated the foregoing Clause of the CSM by charging the detection bill beyond two (2) months. Therefore, we are of the view that the detection bill of



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Rs.682,376/- for 45,511 units for the period August 2016 to December 2016 five (5) months charged by the FESCO is unjustified and the same along with LPS should be declared as null and void, which is also the determination of the POI.

- iv. Since the red phase of the disputed meter was found defective on 26.12.2016, the Respondent should be charged the detection bill for two (2) months i.e. October 2016, November 2016 and the bill of December 2016 with enhanced MF=59.6 due to 33% slowness of the disputed meter. Moreover, the onward bills already charged with enhanced MF=59.6 by the FESCO are justified and payable by the Respondent as decided by the POI.

9. Forgoing in view, the impugned decision is maintained and the appeal is dismissed.

Abid Hussain
Member/Advisor (CAD)

Maria Rafique
Member/ Legal Advisor

Nadir Ali Khoso
Convener/Senior Advisor (CAD)

Dated: 30.11.2021

