



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

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No. NEPRA/AB/Appeal/269/POI/2019/ 1056


December 28, 2021

1. Muhammad Nawaz
S/o. Muhammad Yaqoob,
R/o. Atta Chaki, Chak No. 155/JB,
Chiniot
2. Chief Executive Officer
FESCO Ltd,
West Canal Road, Abdullahpur,
Faisalabad
3. Saeed Ahmed Bhatti
Advocate High Court,
66-Khyber Block, Allama Iqbal Town,
Lahore
4. Sub Divisional Officer (Opr),
FESCO Ltd,
Narawala 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. Muhammad Nawaz Against the Decision Dated 09.08.2019 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. 269/POI-2019

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Muhammad Nawaz S/o Muhammad Yaqoob R/o Atta Chaki
Chak No.155/JB Chiniot

.....Respondent

APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 09.08.2019 PASSED BY PROVINCIAL OFFICE OF INSPECTION FAISALABAD REGION, FAISALABAD

For the Appellant:

Mr. Saeed Ahmed Bhatti Advocate

For the Respondent:

Nemo

DECISION

1. Through this decision, an appeal filed by the Faisalabad Electric Supply Company Limited (hereinafter referred to as the FESCO) against the decision dated 09.08.2019 of the Provincial Office of Inspection, Faisalabad Region, Faisalabad (hereinafter referred to as the POI) is being disposed of.
2. FESCO is a licensee of the National Electric Power Regulatory Authority (hereinafter referred to as NEPRA) for distribution of electricity in the territory specified as per terms and conditions of the license and the Respondent is its





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industrial consumer bearing Ref No.27-13225-6584380 with a sanctioned load of (7.5) kW under the B-1(b) Tariff. As per fact of the case, the billing meter of the Respondent was checked by the Metering and Testing (M&T) FESCO on 23.01.2019 and reportedly it was found 66% slow due to the two dead phases. Notice dated 11.02.2019 was served by the FESCO to the Respondent regarding the above slowness and the Multiplication Factor (MF) was raised from 1 to 2.94 w.e.f January 2019 and onwards. Later on, a detection bill of Rs.103,173/- for 5,366 units for the period August 2018 to December 2018 five (5) months was charged to the Respondent by the FESCO at the rate of 66% slowness of the meter and included in the bill for March 2019.

3. Being dissatisfied, the Respondent filed an application dated 02.05.2019 before the POI and disputed the above detection bill. The billing meter of the Respondent was inspected by the POI on 25.07.2019 in presence of both the parties and it was found 64.83% slow. The complaint of the Respondent was disposed of vide the POI decision dated 09.08.2019, wherein the detection bill of Rs.103,173/- for 5,366 units for the period August 2018 to December 2018 five (5) months was declared null and void. As per the POI decision, FESCO was allowed to charge the detection bill for the period November 2018 and December 2018 two (2) months and the bills with enhanced MF=2.94 w.e.f January 2019 and onwards.
4. Subject 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 to the maintainability of the impugned decision inter alia, on the



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- following grounds, (1) the billing meter of the Respondent was found 66% slow on 23.01.2019; (2) the detection bill of Rs.103,173/- for 5,366 units for the period August 2018 to December 2018 five (5) months was debited to the Respondent at the rate of 66% slowness of the meter; (3) the onwards billing of the Respondent was charged with enhanced MF=2.94 due to 66% slowness of the meter; (4) Clause 4.4 of the CSM could not be made applicable in the instant case for the determination of the detection bill; (5) 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; (6) the Respondent did not serve notice prior filing complaint to the POI as required under Section 26(6) of the Electricity Act 1910; and (7) the impugned decision is liable to be set aside.
5. The Respondent was issued notice for filing reply/para-wise comments, which were not filed.
6. Hearing of the appeal was conducted at the NEPRA Regional Office Lahore on 22.10.2021, wherein learned counsel appeared for the FESCO and no one appeared for the Respondent. In response to the issue of limitation, learned counsel for the FESCO averred that copy of the impugned decision dated 09.08.2019 was received by the FESCO on 19.08.2019, and the appeal was filed on 18.09.2019 within thirty (30) days of receipt of the impugned decision as per Section 38(3) of the NEPRA Act, 1997. Learned counsel for the FESCO reiterated the same contentions as given in memo of the appeal and stated that the detection bill of Rs.103,173/- for 5,366 units for the period August 2018 to December 2018 five (5) months was debited to





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the Respondent at the rate of 66% slowness of the meter as observed on 23.01.2019.

Learned counsel for the FESCO argued that 64.83% slowness in the billing meter of the Respondent was established during the POI joint checking dated 25.7.2019, as such the above detection bill charged to the Respondent is justified and payable by him. He averred that the significant increase in the consumption noticed after the rectification of fault in the meter justifies the charging of the above detection bill. Learned counsel for the FESCO opposed the impugned decision for revision of the above detection bill for two (2) months and prayed to allow the entire period of the above detection bill.

7. 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 the 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 the Section 38 of NEPRA Act, 1997. NEPRA is the appellate authority against the decisions of the POI and not that of Electric Inspectors. The same has already been held by the Honorable Lahore High Court, Lahore 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 carries no weight, therefore rejected.





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- 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 overruled.
- iii. FESCO charged the detection bill of Rs.103,173/- for 5,366 units for the period August 2018 to December 2018 five (5) months on account of 66% slowness of the meter as observed on 23.01.2019. According to Clause 4.4 of the 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 ibid Clause of the CSM by charging the detection bill beyond two (2) months. Therefore, we are of the view that the detection bill of Rs.103,173/- for 5,366 units for the period August 2018 to December 2018 five (5) months charged by the FESCO is unjustified and the same along with Late Payment Surcharges should be declared null and void, which is also the determination of the POI.
- iv. Since 66% slowness was observed in the disputed meter of the Respondent on 23.01.2019 and it was confirmed by the POI during joint checking dated 25.07.2019, the Respondent should be charged the detection bill for two (2)





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months i.e. November 2016 and December 2016 due to 66% slowness of the disputed meter. Moreover, the onward bills already charged with enhanced MF=2.94 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)

Date: 30.11.2021

