



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

NEPRA Office , Ata Turk Avenue (East), G5/1, Islamabad  
Tel. No. +92 051 2013200 Fax No. +92 051 2600030  
Website: [www.nepra.org.pk](http://www.nepra.org.pk) E-mail: [office@nepra.org.pk](mailto:office@nepra.org.pk)

No. NEPRA/Appeal/032/POI/2021/ 226

March 10, 2021

- |   |   |
|---|---|
| 1. M/s. Ashfaq Textile Mills Ltd<br>Through Shahnawaz Ashi,<br>48-Chenab Market, Susan Road,<br>Faisalabad  | 2. Chief Executive Officer<br>FESCO Ltd,<br>West Canal Road, Abdullahpur,<br>Faisalabad   |
| 3. Khalil-ur-Rehman<br>Advocate High Court,<br>SKL Law Associates, Third Floor,<br>Hameed Law Chambers, Near Al-Taj Hotel,<br>1-Turner Road, Lahore | 4. Dr. Muhammad Irtiza Awan<br>Advocate High Court,<br>Al-Majeed Centre, 1-Mozang Road,<br>38-Link Farid Kot Road, Lahore                                       |
| 5. Sub Divisional Officer (Opr)<br>FESCO Ltd,<br>Faisalabad Road Sub Division,<br>Jarranwala  | 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 M/s. Ashfaq Textile Mills Ltd Vs. FESCO Against the Decision Dated 15.01.2021 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 08.03.2021, 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.032/POI-2021

M/s. Ashfaq Textile Mills Ltd Through Shahnawaz Ashi,  
48-Chenab Market Susan Road, Faisalabad

.....Appellant

Versus

Faisalabad Electric Supply Company Limited

.....Respondent

### **APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 15.01.2021 PASSED BY PROVINCIAL OFFICE OF INSPECTION FAISALABAD REGION, FAISALABAD**

For the appellant:

Mr. Khalil-ur-Rehman advocate

For FESCO:

Dr. M. Irtiza Awan advocate

Mr. Muhammad Waleed Iqbal RO

## **DECISION**

1. Briefly speaking, the appellant is an industrial consumer of Faisalabad Electric Supply Company Limited (FESCO) bearing Ref No.28-12143-5303600 having a sanctioned load of 717 kW and the applicable tariff is B-3(b). Metering equipment of the appellant was checked by metering and testing (M&T) FESCO on 17.12.2019 and reportedly the billing meter was found defective with erratic behavior and the backup meter was found working within BSS limits and there was a difference of consumption between the billing and backup meters. After issuing notice dated 18.12.2019 to the appellant, FESCO debited a detection bill amounting to Rs.5,330,701/- for 270,380 units (off peak=223,948, peak=46,432) for the period 16.04.2019 to 21.11.2019 to the appellant being the



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difference of consumption between the billing and backup meters and added in the bill for December 2019.

2. Being aggrieved, the appellant agitated the above detection bill before the Provincial Office of Inspection (POI) on 30.12.2019. POI inspected the metering equipment of the appellant in presence of both the parties, wherein the accuracy of all the meters (billing meter, backup meter & check meter) found within permissible limits. The complaint of the appellant was disposed of by POI vide decision dated 15.01.2021 in which the detection bill of Rs.5,330,701/- for 270,380 units (off peak=223,948, peak=46,432) for the period 16.04.2019 to 21.11.2019 charged based on the difference of consumption between the billing and backup meters was declared as legal, valid and payable by the appellant. As per the POI decision, FESCO was directed to recover the remaining 50% amount of the above detection bill in four equal installments.
3. Appeal in hand has been filed by the appellant against the POI decision dated 15.01.2021 (hereinafter referred to as the impugned decision) before NEPRA wherein the impugned decision was opposed on the grounds that FESCO charged the detection bill of Rs.5,330,701/- for 270,380 units (off peak=223,948, peak=46,432) for the period 16.04.2019 to 21.11.2019 to the respondent being the difference of consumption between the billing and backup meters in December 2019; that the same is illegal, unjustified as FESCO neither associated the appellant during checking dated 17.12.2019 nor associated during the preparing of the above detection bill; that FESCO misplaced the reliance of clause 4.4.3 of CSM while passing the impugned decision; that the same was pronounced

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after a lapse of one year; that the impugned decision be set aside and that FESCO be restrained from the recovery of remaining 50% amount of the aforesaid detection bill.

4. Notice was sent to FESCO to submit reply/para-wise comments to the appeal, which however were not filed.
5. Meanwhile, the appellant approached Lahore High Court Lahore vide W.P No.9602/2021 and prayed that the appeal pending before NEPRA is neither decided nor the temporary injunction against the impugned decision was given by the said forum. Honorable High Court vide order dated 12.02.2021 disposed of the matter with the direction to NEPRA for grant of a temporary injunction within 10 days of receipt of this order and the decision within a period of three months.
6. In compliance with the direction of the Honorable High Court, notice for hearing of the appeal was sent to both the parties and the appeal was heard at NEPRA Regional Office Lahore on 26.02.2021 wherein learned counsels for both the parties were in attendance. Learned counsel for the appellant reiterated the same arguments as given in memo of the appeal and contended that the detection bill of Rs.5,330,701/- for 270,380 units (off peak=223,948, peak=46,432) for the period 16.04.2019 to 21.11.2019 was debited due to the difference of consumption between the billing and backup meters but neither the appellant was associated during FESCO checking nor the appellant was present at the time of preparation of the above detection bill. Learned counsel for the appellant argued that no difference bill is chargeable to the appellant as per provisions of CSM 2010 and the above detection bill is liable to be withdrawn. Conversely, learned counsel for FESCO opposed the contention of the learned counsel for the appellant, supported the impugned decision, and pleaded for maintainability of the same.



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

- i. As regards the objection of the appellant regarding the decision by POI after a lapse of one year, it may be noted that no time restriction for the decision by the Provincial Offices of Inspection (POI) is provided in Section 38 of NEPRA Act, 1997. It has already been held by Honorable Lahore High Court in judgments cited as PLJ 2017-Lahore-627 and PLJ-2017-Lahore-309 that impugned order was passed by POI under section 38 of NEPRA Act, 1997 therefore, the outer time limit is inapplicable. The objection of the appellant in this regard is devoid of force, therefore rejected.
- ii. Metering equipment of the appellant was checked by M&T FESCO on 17.12.2019 and reportedly the billing meter was found defective with erratic behavior and the backup meter was found working within BSS limits. The appellant was charged a detection bill of Rs.5,330,701/- for 270,380 units (off peak=223,948, peak=46,432) for the period 16.04.2019 to 21.11.2019 by FESCO due to the difference of consumption between the billing and backup meters, which was disputed before POI.
- iii. To verify the stance of FESCO, the consumption recorded by both the TOU billing and back meters during the period June 2019 to November 2019 is tabulated below:

Period	(A) Units of TOU meter	(B) Units of backup meter	(C) Difference of units
Jun-19	274790	341600	66810
Jul-19	35460	367825	332365
Aug-19	359470	371275	11805
Sep-19	286170	352175	66005
Oct-19	304700	351650	46950
Nov-19	288800	352725	63925
Total	1,549,390	2,137,250	587860



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(D)	$= \frac{\text{Difference of units}}{\text{Units of backup meter}} \times 100$	
% Slowness	$= \frac{587,860}{12,137,250} \times 100$	$= 27\% \text{ slow}$

Analysis of the above table indicates that the TOU billing meter remained 27% slow as compared to the backup meter, which is beyond the permissible limits of 3% as laid down in Rule 32 of Electricity Rules, 1937, which is reproduced below:

***“Rule 32. Limits of errors in the meters.*** *The limits of error permissible, in a meter placed upon a consumer's premises in accordance with section 26 are for the purposes of that section the following, namely:- (a) where the meter is of a type included in the British Standard Specification for Electricity Meters, No. 37' dated 1930, the limits of error laid down in that Specification; (b) where the meter is of any other type, it shall not register more than 3 percent, above or below absolute accuracy at all loads in excess of one-fifth of full load and up to full load ; (c) no meter shall register at no load.”*

- iv. Moreover, the stance of FESCO further checked from the comparison of the normal consumption of disputed months June 2019 to November 2019 with corresponding month's consumption of preceding year in the below table:

Disputed period	Units	Undisputed period	Units
Jun-19	274790	Jun-18	376190
Jul-19	35460	Jul-18	344120
Aug-19	359470	Aug-18	394940
Sep-19	286170	Sep-18	396400
Oct-19	304700	Oct-18	367290
Nov-19	288800	Nov-18	378860
Total	1,549,390	Total	2,257,800

From the above table, it is revealed that the consumption during the disputed period is much lesser than the consumption of corresponding months of the year 2018. This indicates that the TOU billing meter recorded less

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consumption during the disputed period due to erratic behavior. As such the detection bill of Rs.5,330,701/- for 270,380 units (off peak=223,948, peak=46,432) for the period 16.04.2019 to 21.11.2019 charged by FESCO due to the difference of consumption between the billing and backup meters is justified and the appellant should pay the remaining 50% amount of the above detection bill in 4 equal installments along with the current bill. However, no late payment surcharges against the nonpayment of the above detection bill is recoverable from the appellant.

8. In view of the above, the appeal is dismissed.

Muhammad Qamar-uz-Zaman  
Member

Nadir Ali Khoso  
Convener

Dated:08.03.2021