



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

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No. NEPRA/Appeal/158/POI/2019/ 234

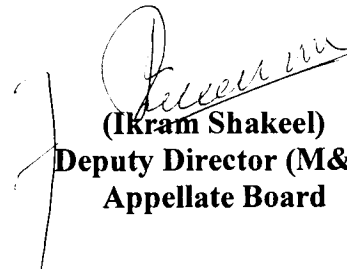
March 19, 2021

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|--|---|
| 1. Amjad Pervaiz<br>S/o. Muhammad Afzal,<br>Chak No. 67/JB, Saddar,<br>Jhang Road, Faisalabad  | 2. Chief Executive Officer<br>FESCO Ltd,<br>West Canal Road, Abdullahpur,<br>Faisalabad   |
| 3. Muhammad Nawaz Waseer<br>Advocate Supreme Court,<br>Sargodha Khushab Law Chambers,<br>9-Turner Road, Turner Tower,<br>First Floor, Lahore | 4. Mirza Muhammad Ijaz<br>Advocate High Court,<br>Chamber No. 08, Ground Floor,<br>Abu Anees Sufi Muhammad Barkat Ali<br>Law Chambers, District Courts,<br>Faisalabad |
| 5. Sub Divisional Officer (Opr)<br>FESCO Ltd,<br>Jhang Road 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. Amjad Pervaiz Against the Decision Dated 18.03.2019 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 17.03.2021, 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. 158/POI-2019

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Amjad Parvaiz S/o Muhammad Afzal, Chak No.67/JB,  
Saddar Jhang Road Faisalabad

.....Respondent

### **APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 18.03.2019 PASSED BY PROVINCIAL OFFICE OF INSPECTION FAISALABAD REGION, FAISALABAD**

#### For the appellant:

Mr. M. Nawaz Waseer Advocate

Mr. Ali Raza LS-II

#### For the respondent:

Mirza Muhammad Ijaz Advocate

## **DECISION**

1. As per facts of the case, the respondent is an industrial consumer of Faisalabad Electric Supply Company Limited (FESCO) bearing Reference No.24-13215-5501456 having sanctioned load of 60 kW under the B-2(b) tariff. Both the TOU billing and backup meters of the respondent were found 33% slow due to one phase being dead during the metering and testing (M&T) FESCO checking dated 31.08.2015. Multiplication factor (MF) of the respondent was raised from 40 to 59.6 by FESCO due to 33% slowness of the billing meter w.e.f September 2015 and onwards. Thereafter a detection bill of Rs.355,283/- for 18,835 units for the period March 2015 to August 2015 (6 months) was debited to the respondent by FESCO @ 33% slowness of the meter and added in the bill



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for October 2015. The respondent made payments of Rs.431,963/- against the total arrears of Rs.888,589/- to avoid disconnection of electric supply.

2. Being aggrieved with the actions of FESCO, the respondent initially filed Civil Suit on 11.07.2018, from where the matter was referred to the Provincial Office of Inspection (POI) for adjudication. The respondent filed an application before POI on 06.08.2018 and challenged the arrears of Rs.459,339/- which included the above detection bill. During POI joint checking dated 26.12.2018, the billing meter was found broken and the backup meter was found disconnected. During another checking dated 19.02.2019 of POI, the backup meter was found 33% slow. POI disposed of the matter vide decision dated 18.03.2019, wherein the detection bill of Rs.355,283/- for 18,835 units for the period March 2015 to August 2015 was declared as null & void, and FESCO was allowed to recover 7,545 units+28 kW MDI as detection bill and the bills with enhanced MF=59.8 due to 33% slowness of the meter w.e.f September 2015 and onwards.
  3. Being dissatisfied with the decision dated 18.03.2019 of POI (hereinafter referred to as the impugned decision), FESCO has filed the instant appeal before NEPRA, wherein FESCO prayed for setting aside the impugned decision inter alia on the grounds that the POI has not applied his judicious mind while reaching the conclusion; that the POI afforded the relief beyond the prayer of the respondent by declaring the entire detection bill of Rs.355,283/- for 18,835 units for the period March 2015 to August 2015 as null and void; that the respondent approached POI on 06.08.2018 after a long delay against the above detection bill; that FESCO charged the above detection bill on account of the slowness of the meter; and that the impugned decision is a result of misreading of the
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- evidence.
4. Notice of the appeal was sent to the respondent for filing reply/para-wise comments, which were filed on 12.09.2019. In the reply, the respondent raised the preliminary objection regarding the authorization and stated that the appeal was filed by FESCO without any special resolution passed by the Board of Directors. The respondent raised another objection regarding limitation and further stated that the appeal is time-barred by 17 days. As per respondent, FESCO charged the detection bill of Rs.355,283/- for 18,835 units for the period March 2015 to August 2015 in violation of clause 4.4 of the Consumer Service Manual (CSM). According to the respondent, the dispute of billing was assailed before the Civil Court on 11.07.2018, who referred the matter to POI being billing and metering dispute. The respondent finally prayed for dismissal of the appeal along with a legal cost of Rs.22,000/-.
5. Hearing of the appeal was held at NEPRA Regional Office Lahore on 11.03.2021 in which both the parties were in attendance. Learned counsel for FESCO reiterated the same arguments as given in memo of the appeal and contended that 33% slowness was observed in the billing and backup meters during M&T FESCO checking dated 31.05.2018, hence the detection bill of Rs.355,283/- for 18,835 units for the period March 2015 to August 2015 was charged to the respondent @ 33% slowness of the meter. As per learned counsel for FESCO, the above detection bill is justified and payable by the respondent as less consumption recorded by the meter during the disputed period in comparison with the corresponding consumption of the previous year. Learned counsel for FESCO repeated his objections regarding the time-barred claim of the respondent and
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submitted that the relief granted by POI is beyond the prayer of the respondent. Learned counsel for FESCO finally prayed for setting aside the impugned decision. On the contrary, learned counsel for the respondent repeated the objection regarding the authorization, supported the impugned decision and prayed for its maintainability.

6. Arguments were heard and the record was perused. It is observed as under:

- i. As regards the preliminary objection of the respondent regarding authorization of FESCO is concerned, it is observed that FESCO has placed BoD resolution dated 27.12.1999, wherein Director (HR & Admin) has been authorized to sign the memorandum of the appeal and vakalatnama. Hence preliminary objection of the respondent regarding the filing of the appeal by an authorized person is not justified and overruled.
- ii. Regarding another objection of the respondent for limitation, it is observed that the copy of the impugned decision dated 18.03.2019 was received by FESCO on 20.03.2019, and the appeal was initially filed before NEPRA on 18.04.2019 within 30 days of receipt of the impugned decision in pursuance of Section 38 of NEPRA Act 1997. Therefore the objection of the respondent in this regard carries no weight, hence rejected.
- iii. FESCO is of the view that the complaint of the Consumer about the detection bill of Rs.355,283/- for 18,835 units for the period |March 2015 to August 2015 before POI is time-barred. To verify the contention of FESCO, the billing statement as provided



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by FESCO was examined, which revealed that the above detection bill was charged by FESCO to the respondent in October 2015, which was agitated by the respondent before POI vide an application on 06.08.2018 within 3 years as per Article 181 of limitation Act, 1908. Hence, the objection of FESCO in this regard is incorrect and dismissed.

- iv. The respondent assailed before POI the arrears of Rs.459,339/- which contained the detection bill of Rs.355,283/- for 18,835 units for the period March 2015 to August 2015 charged by FESCO @ 33% slowness of the meter. Admittedly, 33% slowness in the meter was established during POI joint checking dated 19.02.2019. Hence only the period of slowness needs to be determined.
- v. Pursuant to clause 4.4 of CSM, a detection bill may be charged maximum for two months by FESCO in case of a slow meter, whereas in the instant case, FESCO debited the above detection bill for a period of six months due to slow meter, which is inconsistent with the foregoing clause of CSM. Hence we are convinced with the contentions of the respondent that the detection bill of Rs.355,283/- for 18,835 units for the period March 2015 to August 2015 is unjustified and should be cancelled, which is also the determination of POI.
- vi. Since the metering equipment of the respondent was found 33% slow by FESCO on 31.08.2015, as such the respondent is liable to be charged the detection bill for two months @ 33% slowness of the meter. In consideration of POI, the determination of POI for recovery of the bills for 7,545 units+28 kW MDI for two months only i.e.



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July 2015 and August 2015 and further bills with enhanced MF=59.7 w.e.f September 2015 and onwards @ 33% slowness of the meter is correct and should be maintained to this extent.

vii. The billing account of the respondent should be revised accordingly.

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

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

Nadir Ali Khoso  
Convener/DG (M&E)

Dated: 17.03.2021