



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

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No. NEPRA/Appeal/252/POI/2019/ 238


April 06, 2021

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|---|---|
| 1. Allah Ditta
S/o. Punnu Khan (Deceased),
R/o. Chak No. 188/GB,
Tehsil & District Toba Tek Singh | 2. Chief Executive Officer
FESCO Ltd,
West Canal Road, Abdullahpur,
Faisalabad |
| 3. Dr. Muhammad Irtiza Awan
Advocate High Court,
Al-Majeed Centre, 1-Mozang Road,
38-Link Farid Kot Road, Lahore | 4. Sardar Pervez Akhtar Khan Baloch
Advocate High Court,
Qadria Law & Associates,
District Courts, Toba Tek Singh |
| 5. Sub Divisional Officer (Opr)
FESCO Ltd,
Kamalia Rural Sub Division,
Kamalia | 6. Electric Inspector/POI,
Energy Department, Govt. of Punjab,
Opposite Commissioner Office,
D.C.G Road, Civil Lines,
Faisalabad Region, Faisalabad |

Subject: **Appeal Titled FESCO Vs. Allah Ditta Against the Decision Dated 18.06.2019 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 29.03.2021, 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. 252/POI-2019

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Allah Dita S/o Punnu Khan (Deceased) R/o Chak No.188/GB,
Tehsil & District Toba Tek Singh

.....Respondent

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,
TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997
AGAINST THE DECISION DATED 18.06.2019 PASSED BY THE PROVINCIAL
OFFICE OF INSPECTION FAISALABAD REGION FAISALABAD**

For the appellant:

Dr. M. Irtaza Awan advocate
Mr. Talat Bashir SDO

For the respondent:

Nemo

DECISION

1. As per fact of the case, the respondent is an agricultural consumer of Faisalabad Electric Supply Company Limited (FESCO) bearing Ref No.229-13372-2600280 having a sanctioned load of 14.92 kW under the D-2b tariff. The metering equipment of the respondent was checked by Task Force FESCO on 24.04.2013 and reportedly the TOU billing meter was found 66% slow due to two dead phases and the backup meter was found working ok. A check meter was installed in series with the disputed billing meter by FESCO on 30.05.2013. Later on, a detection bill (hereinafter referred to as the first

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detection bill) of Rs.136,306/- for 9,415 units for the period February 2013 to May 2013 (4 months) was debited by FESCO to the respondent and added in the bill for September 2013. Later on, FESCO charged another detection bill (hereinafter referred to as the second detection bill) of Rs.104,535/- for 10,000 units to the respondent based on the final reading of the TOU billing meter and added in the bill for January 2015.

2. The respondent was aggrieved with the above billing, hence filed a civil suit before the Civil Court Toba Tek Singh and challenged the first detection bill of Rs.136,306. After litigation in different Courts, the respondent withdrew his appeal before the Additional Session Judge Toba Tek Singh on 08.02.2019 to file the complaint before the Provincial Office of Inspection (POI), which was filed before POI on 06.02.2019 against the above first and second detection bills. POI vide decision dated 18.06.2019 declared the first detection bill of Rs.136,306/- for 9,415 units for the period February 2013 to May 2013 as illegal and directed FESCO to issue the revised bill for the cost of 4,459 units for the months April 2013 and May 2013. POI further directed FESCO to implement the decision of the review committee for affording the credit of 7,890 units against the second detection bill of Rs.104,535/-.
3. Through the instant appeal, FESCO has assailed the afore-referred decision (hereinafter referred to as the impugned decision) before NEPRA. In its appeal, FESCO opposed the maintainability of the impugned decision inter alia on the grounds that the first detection bill of Rs.136,306/- for 9,415 units for the period February 2013 to May 2013 was charged on account of slowness due to two phases of the TOU billing meter of the respondent observed during Task Force checking; that the second detection bill of Rs.104,535/- for

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the cost of 10,000 units was debited to the respondent due to less charging of bills at the time of meter change order (MCO); that the petition of the respondent before POI against the above bills of September 2013 and January 2015 is time-barred; that the above bills were charged after the approval of competent authority; that the impugned decision is illegal, void and liable to be set aside. In the application for condonation of delay, FESCO submitted that a certified copy of the impugned decision was obtained on 18.07.2019 and the appeal was filed after approval from the department. FESCO further submitted that the delay in filing the appeal is neither intentional nor deliberate but it is due to insurmountable circumstances, which may be condoned under the limitation Act, 1908

4. Notice of the appeal was issued to the respondent for filing reply/para-wise comments, which were filed on 23.02.2019. In the reply, the respondent rebutted the stance of FESCO regarding charging the detection bills beyond two billing cycles and stated that the POI has rightly decided the fate of detection bills, which is in line with clause 4.4 of the Consumer Service Manual (CSM) and liable to be maintained. In the reply, the respondent pointed out that the appeal is time-barred, which is liable to be dismissed with cost.
5. Notice was issued and the appeal was heard in NEPRA Regional Office Lahore on 11.03.2021 in which learned counsel along with SDO FESCO appeared for the appellant and no one appeared for the respondent. Learned counsel for FESCO argued that the impugned decision about the second detection bill of Rs104,535/- is not challenged in the appeal. Learned counsel for FESCO averred that the first detection bill of Rs.136,306/- for 9,415 units for the period February 2013 to May 2013 was debited to the respondent on account of 66% slowness of the billing meter and the entire period of the first detection

bill may be allowed being justified as the consumption during the said period remains low due to the slowness of the billing meter.

6. Arguments heard and the record examined. Following are our observations:

- i. As regards the preliminary objection of FESCO regarding the time-barred claim, it is observed that the respondent initially filed a civil suit in the Civil Court Toba Tek Singh and challenged the first detection bill of Rs.136,306. After litigation in different Courts, the respondent finally withdrew his appeal before the Additional Session Judge Toba Tek Singh on 08.02.2019 and filed a complaint before POI against the above first detection bill of Rs.136,306/- and second detection bill of Rs.104,535/-, which is within 3 years from the order dated 08.02.2019 as per Article 181 of Limitation Act, 1908. The objection of FESCO in this regard is incorrect and rejected.
- ii. The respondent raised the objection regarding limitation and prayed for dismissal of the appeal being time-barred. To verify the version of the respondent, the record was examined, wherein it was revealed that a copy of the impugned decision dated 18.06.2019 was obtained by FESCO on 17.07.2019, and the appeal was received in NEPRA on 27.08.2019 after a delay of 10 days. Pursuant to Section 38(3) of NEPRA Act 1997, any aggrieved person may file an appeal before NEPRA within 30 days of receipt of the decision of POI. Obviously, the appeal is time-barred and FESCO failed to give cogent reasons in justifying the delay in filing the appeal. The objection of the respondent regarding limitation has force and the appeal is dismissed on the ground of limitation.





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- iii. Even otherwise, the impugned decision for revision of the first detection bill for 4,459 units for April 2013 and May 2013 and for affording credit of 7,890 units against the second detection bill is correct and should be maintained.

9. In view of the above discussion, the appeal is dismissed.

Muhammad Qamar-uz-Zaman
Member

Nadir Ali Khoso
Convener

Dated: 29.03.2021