



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

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No. NEPRA/AB/Appeal/268/2019/& 276/2019/ 240

April 06, 2021

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|---|--|
| 1. Muhammad Rafique Tahir<br>S/o. Taj Din,<br>Mashallah Paper Board,<br>Chak No. 217/RB, Near Bypass Chowk,<br>Narewal Road, Tehsil & Distt. Faisalabad | 2. Chief Executive Officer<br>FESCO Ltd,<br>Canal Bank, Abdullahpur,<br>Faisalabad   |
| 3. Dr. Muhammad Irtiza Awan<br>Advocate High Court,<br>Al-Majeed Centre, 1-Mozang Road,<br>38-Link Farid Kot Road, Lahore                               | 4. Ch. Muhammad Imran Bhatti<br>Advocate High Court,<br>44-District Courts,<br>Faisalabad  |
| 5. Sub Divisional Officer (Operations),<br>FESCO Ltd,<br>Narwala Sub Division,<br>Faisalabad  | 6. POI/Electric Inspector<br>Faisalabad Region,<br>Energy Department, Govt. of Punjab,<br>Opposite Commissioner Office,<br>D.C.G Road, Civil Lines, Faisalabad |

Subject: **Appeal Titled Muhammad Rafique Tahir Vs. FESCO & FESCO Vs. Muhammad Rafique Tahir Against the Decision Dated 30.08.2019 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 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. 268/POI-2019

Muhammad Rafiq Tahir S/o Taj Din Mashallah Paper Board  
Chak No.217/RB, Near Bypass Chowk, Narewala Road,  
Tehsil & District Faisalabad

.....Appellant

Versus

Faisalabad Electric Supply Company Limited

.....Respondent

### Appeal No. 276/POI-2019

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Muhammad Rafiq Tahir S/o Taj Din Mashallah Paper Board  
Chak No.217/RB, Near Bypass Chowk, Narewala Road,  
Tehsil & District Faisalabad

.....Respondent

## **APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION, TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 30.08.2019 PASSED BY PROVINCIAL OFFICE OF INSPECTION FAISALABAD REGION FAISALABAD**

### For FESCO:

Dr. M. Irtiza Awan Advocate  
Mr. Qaisar Shahzad Meter Reader

### For Consumer:

Ch. Muhammad Imran Bhatti advocate

## DECISION

1. Faisalabad Electric Supply Company Limited (hereinafter referred to as FESCO) is a licensee of the National Electric Power Regulatory Authority (hereinafter referred to as

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NEPRA) for distribution of electricity in the territory specified as per terms and conditions of the license and Mr. Rafique Tahir is its industrial consumer bearing Ref. No.24-13225-5503300-R with sanctioned load of 250 kW under the tariff B-2b (hereinafter referred to as "the Consumer"). As per facts of the case, the metering and testing (M&T) FESCO checked the metering equipment of the Consumer on 31.10.2018 and reportedly both the TOU billing and backup meters were found 33% slow due to one phase being dead. Multiplication factor (MF) of the Consumer was raised from 80 to 119.4 w.e.f November 2018 and onwards till the replacement of TOU billing meter. After issuing notice dated 23.05.2018 to the respondent, a detection bill of Rs.1,476,038/- for 70,207 units+322 kW MDI for the period June 2018 to September 2018 (4 months) was charged by FESCO to the Consumer @ 33% slowness of the TOU billing meter and added in the bill for May 2019.

2. Being aggrieved with the actions of FESCO, the Consumer filed a complaint before the Provincial Office of Inspection (POI) on 28.05.2019 and challenged the above detection bill and the bills with enhanced MF=119.4 from November 2018 and onwards. Complaint of the Consumer was disposed of by POI vide decision dated 30.08.2019 (hereinafter referred to as the impugned decision) wherein the detection bill of Rs.1,476,038/- for 70,207 units+322 kW MDI for the period June 2018 to September 2018 was declared as null, void and not payable by the Consumer. As per the impugned decision, FESCO was directed to issue a detection bill for the cost of 51,352 units+170 kW MDI for two months i.e. September 2018 and October 2018 to the Consumer.



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4. Being dissatisfied with the impugned decision, both parties filed cross-appeals. As the facts and subject matter of the appeals are same, both have been clubbed and being disposed of through a single/consolidated decision.
5. In its appeal, the Consumer raised the preliminary objection regarding authorization and stated that no one is authorized to plead the case on behalf of FESCO without a fresh special resolution passed by the Board of Directors after filing the complaint on 28.05.2019 before POI. The Consumer explained the facts of the case that the detection bill amounting to Rs.1,476,038/- for 70,207 units+322 kW MDI for the period June 2018 to September 2018 was debited by FESCO in May 2019 on the basis of audit observation; that the above detection bill was charged on the basis of unilateral checking in violation of provisions of the Consumer Service Manual (CSM); that both the TOU billing and backup meters were found under BSS limits; that POI has not decided the dispute with regard to charging of wrong MF=119.4 for November 2018 and December 2018; that the meter bearing No.4159 appearing in the bill for June 2017 is still mentioned in the bill for the month of May 2019, as such the entire proceedings were illegal, without notice, unilateral and were violative of Chapter No.4 of the CSM; that no complaint with regard to the fault in the billing meter was pointed by the meter reader till 22.10.2018 and the alleged checking dated 31.10.2018 has no binding upon the Consumer; that the POI did not decide the fate of late payment surcharges (LPS) and that the instant appeal may be accepted with the cost. On the contrary, FESCO contended that the TOU billing meter of the Consumer found 33% slow due to one dead phase during M&T FESCO dated



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31.10.2018 and the detection bill of Rs.1,476,038/- for 70,207 units+322 kW MDI for the period June 2018 to September 2018 charged to the Consumer @ 33% slowness of the TOU billing meter is quite legal, valid and justified. FESCO further contended that the POI misconstrued the real facts of the case, declared the above detection bill as null and void. FESCO finally prayed for setting aside the impugned decision.

6. Notice of the appeals was sent to both parties for reply/para-wise comments. No reply was filed by any party.
7. Hearing of both the appeals was conducted in NEPRA Regional Office Lahore on 11.03.2021, which was attended by both parties. Learned counsel for the Consumer reiterated the same contentions as given in memo of Appeal No.268/2019 and contended that FESCO charged the detection bill of Rs.1,476,038/- for 70,207 units + 322 kW MDI for the period June 2018 to September 2018 as per Audit Note. As per learned counsel for the Consumer, the above detection bill was charged without prior notice and the Consumer was also not associated during FESCO checking dated 31.10.2018, hence the Consumer is not bound to pay the above detection bill. According to the learned counsel for the Consumer, the impugned decision for allowing the detection bill of 51,353 units+170 kW MDI for the period September 2018 and October 2018 is illegal and liable to be set aside. Learned Counsel for the Consumer argued that the bills with enhanced MF=119.4 for November 2018 and December 2018 are unjustified and the same are liable to be withdrawn. On the contrary, learned counsel for FESCO rebutted the version of learned counsel for the Consumer and argued that 33% slowness was observed in the



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TOU billing meter of the Consumer during M&T checking dated 31.10.2018, hence the detection bill of Rs.1,476,038/- for 70,207 units+322 kW MDI for the period June 2018 to September 2018 and the onwards bills with enhanced MF=119.4 due to 33% slowness are correct and payable by the Consumer. As per learned counsel for FESCO, an increase in consumption after the replacement of the slow TOU billing meter supports the version of FESCO for charging the above detection bill and the bills with enhanced MF=119.4 to the Consumer. Learned counsel for FESCO opposed the impugned decision about the revision of the above detection bill for 51,352 unit+ 170 kW MDI for the period September 2018 to October 2018 and pleaded that the entire period of the above detection bill be allowed as already charged by FESCO @ 33% slowness of the TOU billing meter.

8. Arguments of both the parties heard and the record examined. Following has been observed:

- i. As regards the preliminary objection of the Consumer for authorization of FESCO, 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 Consumer regarding the filing of the appeal by an authorized person is not justified and overruled.
- ii. The Consumer in his complaint before POI challenged (i) the bills with enhanced MF=119.4 for the period October 2018 to December 2018 and (ii) the detection bill of Rs.1,476,038/- for 70,207 units+322 kW MDI for the period June 2018 to September 2018 charged @ 33% slowness of the TOU billing meter.

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- iii. 33% slowness in the TOU billing meter of the Consumer was observed during M&T FESCO checking dated 31.10.2018. FESCO may charge the detection bill maximum for two months in case of a slow billing meter, pursuant to clause 4.4 of the CSM. However, FESCO charged the detection bill for four months i.e. June 2018 to September 2018 due to 33% slowness of the meter, which is violative of the ibid clause of CSM. We are in agreement with the findings of POI that the detection bill amounting to Rs.1,476,038/- for 70,207 units+322 kW MDI for the period June 2018 to September 2018 is unjustified and the same should be cancelled along with LPS.
- iv. According to clause 4.4 of CSM, the Consumer may be charged the detection bill for two months i.e. September 2018 and October 2018 @ 33% slowness of the TOU billing meter, if actual consumption was not recorded by the billing meter during the said months. In this regard, analysis of the consumption data is done below:

Undisputed period			Disputed period		
Month	Units	MDI	Month	Units	MDI
Sep-17	39520	252	Sep-18	40960	175
Oct-17	67040	250	Oct-18	63840	167

Examination of the above consumption data transpires that MDI recorded in the disputed months i.e. September 2018 and October 2018 is much lesser than the MDI of the corresponding undisputed months of the previous year i.e. 2017. This indicates that the TOU billing meter of the Consumer remained 33% slow during the disputed months i.e. September 2018 and October 2018, hence the determination of POI for allowing net 51,352 units+170 kW MDI for September 2018 and October 2018 is



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correct and should be maintained to this extent. Similarly, the Consumer is responsible for payment of the bills with enhanced MF=119.4 for November 2018 and December 2018 due to 33% slowness of the TOU billing meter. The billing account of the Consumer may be overhauled in accordance with the above findings and the payment made (if any) against the disputed bills be adjusted, accordingly.

9. Foregoing in view, both the appeals are dismissed.

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

Nadir Ali Khoso  
Convener/DG (M&E)

Dated: 29.03.2021