



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

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No. NEPRA/Appeal/011/POI/2020/ *1301*

November 21, 2022

- |   |   |
|---|---|
| 1. Rana Muhammad Ashraf,<br>S/o. Sardar Muhammad Khan,<br>R/o. Chak No. 223/RB,<br>Assa Singh Wala D-Type Colony,<br>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>First Floor, Turner Tower,<br>9-Turner Road, Lahore                   | 4. Sub Divisional Officer,<br>FESCO Ltd,<br>Allama Iqbal Sub Division,<br>Chiniot       |
| 5. POI/Electric Inspector,<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. Rana Muhammad Ashraf Against the Decision Dated 28.06.2019 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 17.11.2022, 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. Additional Director (IT) –for uploading the decision on NEPRA website



## National Electric Power Regulatory Authority

### Before The Appellate Board

In the matter of

Appeal No. 011/POI-2020

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Rana Muhammad Ashraf, S/o Sardar Muhammad Khan,  
R/o Chak No.223/RB, Assa Singh Wala  
D-Type Colony, Faisalabad

.....Respondent

**APPEAL UNDER SECTION 38(3) OF THE REGULATION OF GENERATION,  
TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997  
AGAINST THE DECISION DATED 28.06.2019 PASSED BY THE PROVINCIAL  
OFFICE OF INSPECTION FAISALABAD REGION, FAISALABAD**

For the Appellant:

Mr. Malik Asad Advocate  
Mr. Wajid-ur-Rehman SDO

For the Respondent:

Nemo

### DECISION

1. Briefly speaking, Mr. Rana Muhammad Ashraf (hereinafter referred to as the "Respondent") is a domestic consumer of Faisalabad Electric Supply Company Limited (hereinafter referred to as 'the Appellant') bearing Ref No.05-13244-0387101 having sanctioned load of 2 kW under the A-1(a) tariff category. Reportedly, the billing meter of the Respondent was found defective with the washed display during the Metering and Testing (M&T) checking dated 09.07.2014. Notice dated 14.07.2014 was sent to the Respondent by the Appellant regarding the above discrepancy and a detection bill of Rs.49,776/- against 2,342 units for eight (08) months for the period December 2013 to July 2014 was debited to the Respondent on the basis of







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consumption of corresponding months of the previous year. Further, bills w.e.f August 2014 and onwards till the date of replacement of the defective meter i.e. 02.09.2014 were debited by the Appellant to the Respondent on DEF-EST code.

2. Being aggrieved, the Respondent initially filed a civil suit before the Civil Court Faisalabad, which was subsequently dismissed by the Honorable Civil Court vide order dated 10.07.2018 due to the lack of jurisdiction. Thereafter, the Respondent approached the Provincial Office of Inspection, Faisalabad Region, Faisalabad (hereinafter referred to as the "POI") on 26.04.2019 and assailed the above-referred detection bill. The POI vide the decision dated 28.06.2019 declared the detection bill of Rs.49,776/- against 2,342 units for eight (08) months for the period December 2013 to July 2014 as null and void. As per the POI decision dated 28.06.2019, the Appellant may charge the revised detection bill for net 241 units for two months i.e. May 2014 and June 2014 to the Respondent based on consumption for the months i.e. May 2013 and June 2013 due to the defectiveness of the meter.
3. Being dissatisfied, the Appellant has filed the instant appeal before the NEPRA against the POI decision dated 28.06.2019 (hereinafter referred to as 'the impugned decision'), wherein it is contended that the old meter of the Respondent became defective, hence the defective code was fed for the billing w.e.f August 2014 and onwards. The Appellant further contended that the defective meter was replaced with a new meter on 02.09.2014 and a detection bill of Rs.49,776/- against 2,342 units for eight (08) months for the period December 2013 to July 2014 was debited to the Respondent. As per the Appellant, the impugned decision suffers from serious misreading and





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non-reading of the record and has been passed in mechanical and slipshod manner. According to the Appellant, the POI did not apply his independent and judicious mind while passing the impugned decision. The Appellant submitted that the POI has not attended the point of limitation as the complaint was hopelessly time barred being filed after five (05) years of the impugned detection bill. The Appellant finally prayed that the impugned decision be set aside.

#### **4. Proceedings by the Appellate Board**

Upon filing of the instant appeal, a Notice dated 20.02.2020 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days. However, no reply/para-wise comments were received from the Respondent.

#### **5. Hearing**

5.1 Hearing in the matter of the subject Appeal was fixed for 31.12.2021 at Lahore and accordingly, the notices dated 24.12.2021 were sent to the parties (i.e. the Appellant and the Respondent) to attend the hearing. As per schedule, the hearing of the appeal was conducted at the NEPRA Regional Office Lahore on 31.12.2021, in which the representative for the Appellant sought adjournment with the plea that the learned counsel for the Appellant could not attend the hearing as he was busy before other courts. In view of the above, the hearing was adjourned.

5.2 Hearing of the Appeal was again fixed for 11.03.2022 for which notices dated 03.03.2022 were sent to both parties. On the given date, the hearing was adjourned due to the non-availability of learned counsel for the Appellant. The







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hearing of the subject matter was rescheduled for 03.06.2022 at NEPRA Head Office Islamabad for which notices dated 26.05.2022 were sent to both parties. On the given date no one could appear on behalf of the Respondent, whereas SDO represented the Appellant. In order to provide an opportunity of hearing to both parties, the case was adjourned.

5.3 After issuing notices dated 08.06.2020 to both parties, the hearing was conducted at NEPRA Regional Office Lahore on 17.06.2022, which was attended by the representatives of the Appellant and no one was present for the Respondent. The representatives for the Appellant informed that the counsel for the Appellant is suffering from severe illness and could not attend the hearing. In view of the above, the hearing was adjourned with the direction to the Appellant that the adjournment in the next hearing would be allowed with special cost equivalent to the traveling expense of the Respondent to be borne by the Appellant.

5.4 Lastly, notices dated 15.08.2022 were issued to both parties i.e. the Appellant and the Respondent and a hearing of the Appeal was conducted at NEPRA Regional Office Lahore on 23.08.2022, which was attended by a counsel along with SDO for the Appellant but no one appeared for the Respondent. During the hearing, learned counsel for the Appellant reiterated the same arguments as given in memo of the appeal and defended the charging of the detection bill of Rs.49,776/- against 2,342 units for eight (08) months to the Respondent on the ground that the said detection bill was charged on the basis of consumption of corresponding months of the previous year due to the defective meter. He opposed the impugned decision for revision of the above detection bill for two





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months and prayed to allow the above-mentioned detection bill being justified.

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

6.1 Before going into the merits of the case, the preliminary objection of the Appellant regarding the time-barred complaint of the Respondent needs to be addressed. It is observed that the Respondent agitated the detection bill of Rs.49,776/- for 2,342 units for eight (08) months for the period December 2013 to July 2014 before the POI vide the application dated 26.04.2019. Before approaching the POI, the Respondent initially disputed the above detection bill before the Civil Court, Faisalabad. The honorable Civil Court vide order dated 10.07.2018 disposed of the Civil Suit due to the lack of jurisdiction. Hence the complaint of the Respondent with regard to the above-referred detection bill before the POI be treated as within three (3) years after excluding the time spent in proceedings before the Civil Court, Faisalabad as per Article 181 of the Limitation Act, 1908. In this regard, reliance is placed on the Lahore High Court, judgment dated 30.11.2015 passed in the Writ Petition No.17314-2015 titled “Muhammad Hanif v/s NEPRA and others”, wherein it is held as under:

*“The petitioner at the most can invoke Article 181 of The Limitation Act, 1908 which is the residuary provision and caters the issue of limitation where no period of limitation is provided elsewhere in the Schedule of The Limitation Act, 1908 or under Section 48 of The Code of Civil Procedure (V of 1908). Article 181 of The Limitation Act, 1908 prescribes the period of three years for filing an application that applies when the right to apply accrues as prescribed in Article 181 of*







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*Limitation Act, 1908."*

In view of the above, the objection of the Appellant is devoid of force, therefore rejected.

- 6.2 The Appellant claims that the display of the billing meter of the Respondent was found vanished during the Appellant's checking dated 09.07.2014, therefore a detection bill of Rs.49,776/- against 2,342 units for eight (08) months for the period from December 2013 to July 2014 was debited to the Respondent, which was assailed by him before the POI. The POI vide impugned decision reduced the period of detection bill from eight months to two months.
- 6.3 Since the dispute pertains to the period December 2013 to July 2014, when the Consumer Service Manual-2010 (the "CSM-2010") was applicable, the matter shall be dealt under CSM-2010. The Appellant has charged the above detection bill to the Respondent after observing that the meter display was found vanished on 09.07.2014.
- 6.4 As per Clause 4.4 of the CSM-2010, the accuracy of the metering equipment need to be checked under the intimation to the Consumer and the metering equipment shall be removed from the premises with the written consent of the Consumer. In the instant case, the Appellant failed to provide any documentary evidence that the meter was checked in the presence of the Consumer and removed with their consent. Therefore, the claim of the Appellant based on the unilateral actions in disregard of the laid down procedure in the applicable law suffers from a credibility deficit.
- 6.5 It is further important to clarify that the detection bill is allowed in case of direct theft or illegal abstraction through means specified in Chapter 9 of the CSM-2010. With regard to the charging the Respondent on the basis of a defect



or fault of the meter, Clause 4.4(e) of the CSM-2010 is relevant, which states that:

**Clause 4.4(e) of the CSM-2010**

*The charging of consumers on the basis of defective code, where the meter has become defective and is not recording the actual consumption will not be more than two billing cycles. The basis of charging will be % of the consumption recorded in the same month of the previous year or the average consumption of the last 11 months whichever is higher. Only the Authorized employee of FESCO will have the power to declare a meter defective. However, the consumer has a right to challenge the defective status of the energy meter and the FESCO will get the meter checked at the site with a check meter or a rotary sub-standard or digital power analyzer accompanied by an engineer of the metering and testing laboratory free of cost.*

- 6.6 The above provision is clear that the Appellant can charge the bill maximum of up to two billing cycles. Therefore, the detection bill of Rs.49,776/- against 2,342 units for eight (08) months for the period from December 2013 to July 2014 debited to the Respondent is unjustified and the same is cancelled, which is also the determination of the POI.
- 6.7 Since the stated discrepancy of the vanished display was noticed on 09.07.2014. The Respondent may be charged the bills for two billing cycles on the basis of consumption of corresponding months of the previous year or average consumption of the last eleven months, whichever is higher as per Clause 4.4(e) of the CSM-2010. Impugned decision is liable to be modified to this extent.
7. Summing up the foregoing discussion, it is concluded that a detection bill of Rs. 49,776/- against 2,342 units for eight (08) months for the period from December 2013 to July 2014 is unjustified and cancelled. The Respondent may be charged the revised bills for two months on the basis of consumption of corresponding months of the previous year or average consumption of the last eleven months, whichever is higher as per Clause 4.4(e) of CSM-2010. However, the payments





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already made against the above bills be adjusted in future bills.

8. The appeal is disposed of in the above terms.

Syed Zawar Haider  
Member

Muhammad Irfan-ul-Haq  
Member

Abid Hussain  
Convener

Dated: 17/11/2022

