



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

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No. NEPRA/AB/Appeal/027/2020/1299

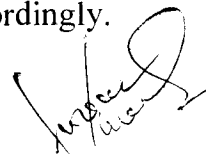
November 18, 2022

- | | |
|---|---|
| 1. Syed Nasir Ali Shah,
S/o. Akbar Ali Shah,
Prop: Tube Well, R/o. Burhamanwala,
District Chiniot | 2. Chief Executive Officer
FESCO Ltd,
West Canal Road, Abdullahpur,
Faisalabad |
| 3. Muhammad Nawaz Waseer,
Advocate Supreme Court,
Sargodha Khushab Law Chambers,
First Floor, Turner Tower,
9-Turner Road, Lahore | 4. Sub Divisional Officer,
FESCO Ltd,
City Sub Division,
Laaliyan |
| 5. POI/Electric Inspector,
Energy Department, Govt. of Punjab,
Opposite Commissioner Office,
D.C.G Road, Civil Lines,
Faisalabad Region, Faisalabad | |

Subject: **Appeal Titled FESCO Vs. Syed Nasir Ali Shah Against the Decision Dated 29.11.2019 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 14.11.2022, 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. 027/POI-2020

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Syed Nasir Ali Shah, S/o Akbar Ali Shah, Prop: Tube Well,
R/o Burhamanwala, District Chiniot

.....Respondent

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,
TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997
AGAINST THE DECISION DATED 29.11.2019 PASSED BY THE PROVINCIAL
OFFICE OF INSPECTION FAISALABAD REGION, FAISALABAD**

For the Appellant:

Mr. Malik Asad Advocate

For the Respondent:

Nemo

DECISION

1. Brief facts leading to the filing of instant appeal are that Syed Nasir Ali Shah (hereinafter referred to as the "Respondent") is an agricultural consumer of Faisalabad Electric Supply Company Limited (hereinafter referred to as 'the Appellant') bearing Ref No.29-13171-3004015 having sanctioned load of 11 kW under the D-1(b) tariff category. Reportedly, the billing meter of the Respondent was found 33% slow due to the red phase being defective during the Metering and Testing (M&T) checking dated 15.08.2018 of the Appellant. The impugned billing meter of the Respondent was replaced with a new meter by the Appellant in September 2018. Subsequently, a detection bill of Rs.114,376/- against 10,538 units for four (04) months for the period May 2018 to August 2018 was debited to the Respondent on the basis of consumption





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of corresponding months of the previous year and added to the bill for June 2019 against which the Respondent deposited an amount of Rs.30,000/- under protest to avoid disconnection of electric supply.

2. Being aggrieved, the Respondent filed a complaint dated 20.08.2019 before the Provincial Office of Inspection, Faisalabad Region, Faisalabad (hereinafter referred to as the "POI") and assailed the above-referred detection bill. The POI vide the decision dated 29.11.2019 (hereinafter referred to as the "impugned decision") declared the detection bill of Rs.114,376/- against 10,538 units for four (04) months for the period May 2018 to August 2018 as null and void. As per the impugned decision, the Appellant may charge the revised detection bill for net 1,098 units for four months i.e. May 2018 to August 2018 to the Respondent due to 33% slowness of the meter.
3. Being dissatisfied, the Appellant has filed the instant appeal before the NEPRA against the impugned decision, wherein it is contended that the billing meter of the Respondent was found 33% slow during the M&T checking, hence the detection bill of Rs.114,376/- against 10,538 units for four (04) months for the period May 2018 to August 2018 was charged to the Respondent as per law. The Appellant further contended that the POI illegally and unlawfully declared the above detection bill null and void and allowed to recover 1,098 units from the Respondent. As per the Appellant, the impugned decision suffers from serious misreading and 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 failed to take into





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account that the meter of the Respondent was found slow during the M&T checking.

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 wherein no one entered appearance for both parties. 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 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 of the hearing, both parties again failed to participate. 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





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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.114,376/- against 10,538 units for four (04) months for the period May 2018 to August 2018 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 33% slowness of the billing meter. He opposed the impugned decision for revision of the above detection bill for the cost of 1,098 units and prayed to allow the above-mentioned detection bill being justified.

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

6.1 The Appellant claims that the billing meter of the Respondent was found 33% slow during the checking dated 15.08.2018 based on which a detection bill of Rs.114,376/- against 10,538 units for four (04) months for the period May 2018 to August 2018 was debited to the Respondent. The above detection bill was





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calculated on the basis of consumption of corresponding months of the previous year, which was assailed by the Respondent before the POI.

6.2 The POI vide impugned decision revised the detection bill for 1,098 units due to 33% slowness of the meter. The Appellant has filed this appeal defending the abovementioned detection bill charged to the Respondent and prayed for setting aside the impugned decision.

6.3 33% slowness of the billing meter of the Respondent was allegedly discovered by the Appellant on 15.08.2018 and the disputed detection bill was issued in June 2019. Therefore the matter will be dealt with under the Consumer Service Manual-2010 (the "CSM-2010"). Clause 4.4 of the CSM-2010 enumerates the procedure to confirm the defect in the metering equipment and charge the consumer on the basis of the defective code. Sub-clauses (b), (c), and (e) of Clause 4.4 of the CSM-2010 being relevant in the instant are reproduced below:

"4.4 Meter Replacement

(b) Should the FESCO at any time, doubt the accuracy of any metering equipment, the FESCO may after informing the consumer, install another duly calibrated and tested metering equipment in series with the impugned metering equipment to determine the difference in consumption or maximum demand recorded by the check metering equipment and that recorded by the impugned metering equipment during a fixed period. If one such comparative test being made the impugned metering equipment should prove to be incorrect, the impugned metering equipment shall be removed from the premises with the written consent of the consumer, and the FESCO in the absence of any interference or alteration in the mechanism of the impugned metering equipment being detected by the FESCO shall install "correct meter" without any further delay.

(c) Where it is not possible for the FESCO to install check metering equipment of appropriate capacity in series with the impugned metering equipment, to check the accuracy of the impugned metering equipment as described above, the FESCO





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shall, after information (in writing) the consumer, test the accuracy of the impugned metering equipment at the site by means of Rotary Sub-Standard or digital power analyzer. If incorrect, the impugned metering equipment shall be removed and immediately removed upon settlement/payment of assessed amount. In case if a correct meter is not available then the multiplying factor shall be charged accordingly till the replacement with correct meter.

(e) 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.

Under sub-clause 'b' above, upon doubt about the accuracy of the metering equipment of the Respondent, the Appellant was required to install a check metering equipment, after informing the Consumer, to determine the difference in consumption or maximum demand recorded by the check metering equipment and the impugned metering equipment during a fixed period. In case of confirmation of defect in the impugned meter, the same was required to be removed with the written consent of the Consumer.

6.4 Alternatively, the Appellant was required to follow the procedure given in sub-clause (c) of Clause 4.4 of the CSM-2010, which stipulates the checking of metering equipment after informing (in writing) the consumer, by means of Rotary Sub-standard or digital power analyzer.

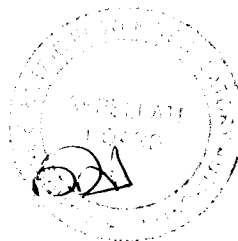
6.5 As per the record presented before us, there is no evidence that the Appellant





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- followed the procedure either under sub-clause (b) or sub-clause (c) of the CSM-2010.
- 6.6 The Appellant has claimed that the metering equipment was checked in presence of the Respondent, however, the Test check proforma dated 15.08.2018 was not provided by the Appellant to substantiate their stance. Need not to emphasize that the essence of Clause 4.4 of the CSM-2010 is to ensure transparency by taking the consumer on board. Had the stipulated procedure been adopted by the Appellant in letter and spirit, the dispute could have been avoided. Disregard for the applicable law on the part of the Appellant has diminished the credibility of its claim about the defect.
- 6.7 Under these circumstances, the detection bill of Rs.114,376/- against 10,538 units for four (04) months for the period May 2018 to August 2018 charged by the Appellant to the Respondent is unjustified and the same is liable to be set aside.
- 6.8 The Respondent assailed the detection bill for four months before the POI who vide impugned decision directed to revise the detection bill for 1,098 units due to 33% slowness of the meter. The Appellant has challenged the impugned decision before the NEPRA.
- 6.9 Since 33% slowness was observed by the Appellant on 15.08.2018, the Respondent may be charged the bills for two previous billing cycles i.e. June 2018 and July 2018 as per Clause 4.4(e) of the CSM-2010 and the bill of August 2018 with enhanced MF due to 33% slowness of the meter as per Clause 4.4(c) of the CSM-2010. Impugned decision is liable to be modified to this extent.
7. In view of the above, it is held that the detection bill of Rs.114,376/- against 10,538 units for four (04) months for the period May 2018 to August 2018 is cancelled being unjustified. The Respondent may be issued the revised bill for two previous





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months i.e. June 2018 and July 2018 as per Clause 4.4(e) of the CSM-2010 and the bill of August 2018 with enhanced MF on account of 33% slowness as per Clause 4.4(c) of the CSM-2010. The billing account be overhauled, accordingly.

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

My file is attached
Syed Zavar Haider *X*
Member

Abid Hussain
Abid Hussain
Convener

Muhammad Irfan-ul-Haq
Muhammad Irfan-ul-Haq
Member

Dated: 14/11/2022.



Under Clause 4.4(C) of CSM-2010, the right course of action for the Appellant was to replace the slow meter with the correct one immediately upon confirmation of slowness. Otherwise, the Appellant should have increased the Multiplying Factor (MF) proportionally to make-up for the 33% slowness till the replacement of defective meter. As per table given Under Clause 4.4(e) of CSM-2010, defective changing on the basis of slowness of meter is allowed upto two billing cycles for regular bills while **no previous charging** is allowed. Further, the 'Note' given under Chapter 9 of CSM-2010 further strengthens the assertion that for any fault in the meter due to normal atmosphere effects or some internal fault for which the consumer cannot be held responsible, DISCOs cannot charge Detection Bill.

Therefore, under the above provisions of CSM-2010, explicitly prohibiting pervious charging, detection bill for previous months on account of meter slowness cannot be allowed. Under the Clause 4.4(c) read with the table under Clause 4.4(e), the Appellant can be allowed to charge the Respondent on the basis of enhance MF maximum upto two regular billing cycles w.e.f the date when the slowness was noted/confirmed. [**emphasis added**]



(Syed Zāwar Haider)
Member

