



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

NEPRA Office , Ata Turk Avenue (East), G5/1, Islamabad  
Tel. No.+92 051 2013200 Fax No. +92 051 2600030  
Website: [www.nepra.org.pk](http://www.nepra.org.pk) E-mail: [office@nepra.org.pk](mailto:office@nepra.org.pk)

No. NEPRA/AB/Appeal/268/2019 & 276/2019/ 298

November 18, 2022

- |  |   |
|--|---|
| 1. Muhammad Rafique Tahir,<br>S/o. Taj Din,<br>R/o. Masha Allah Paper Board,<br>Chak No. 217/RB, Near Bypass Chowk,<br>Narwala Road, Tehsil & District<br>Faisalabad | 2. Chief Executive Officer<br>FESCO Ltd,<br>West Canal Road, Abdullahpur,<br>Faisalabad   |
| 3. Shahzad Ahmed Bajwa,<br>Advocate High Court,<br>12-Faisal Park, Imamia Colony,<br>Shahdara, Lahore  | 4. Ch. Muhammad Imran Bhatti,<br>Advocate High Court,<br>44-District Courts, Faisalabad   |
| 5. Executive Engineer (Op),<br>FESCO Ltd,<br>Ghulam Muhammad Abad Division,<br>Faisalabad  | 6. Sub Divisional Officer (Operation),<br>FESCO Ltd,<br>Narwala Sub Division,<br>Faisalabad   |
| 7. Assistant Audit Officer,<br>Local Audit Party,<br>FESCO Chief Office,<br>Canal Road, Faisalabad   | 8. 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 Muhammad Rafiq Tahir Vs. FESCO & FESCO Vs. Muhammad Rafiq 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 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 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 THE PROVINCIAL OFFICE OF INSPECTION FAISALABAD REGION FAISALABAD**

### For FESCO:

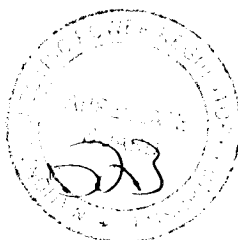
Mr. Shahzad Ahmed Bajwa Advocate  
Mr. Muhammad Ibrahim SDO  
Mr. Muhammad Zeeshan Audit Assistant

### For Consumer:

Ch. Muhammad Imran Bhatti Advocate

## **DECISION**

1. As per the facts of the case, Faisalabad Electric Supply Company Limited (hereinafter referred to as the "FESCO") is a licensee of the National Electric Power Regulatory Authority (hereinafter referred to as the "NEPRA") for the distribution of electricity





## National Electric Power Regulatory Authority

in the territory specified as per the terms and conditions of the license. Mr. Rafique Tahir is its industrial consumer bearing Ref. No.24-13225-5503300-R with sanctioned load of 250 kW under the tariff category B-2(b) (hereinafter referred to as the "Consumer"). FESCO claims that the metering equipment of the Consumer was checked by the Metering and Testing (M&T) team of the FESCO on 31.10.2018, wherein both the TOU billing and backup meters were found 33% slow due to one phase being dead. Multiplication Factor (the "MF") of the Consumer was raised from 80 to 119.4 w.e.f October 2018 and onwards. Later on, FESCO issued notice dated 23.05.2019 to the Consumer and debited a detection bill of Rs.1,476,038/- for 70,207 units+322 kW MDI for four months for the period from June 2018 to September 2018 was charged by FESCO to the Consumer @ 33% slowness of the TOU billing meter and added to the bill for May 2019.

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





## National Electric Power Regulatory Authority

4. Being dissatisfied with the above-referred decision of POI (the “impugned decision”), both parties filed cross-appeals before the NEPRA. As the facts and subject matter of the appeals were same, therefore both have been clubbed by the Appellate Board and disposed of through a single/consolidated decision dated 29.03.2021 (hereinafter referred to as the “first decision”). As per the first decision of the Appellate Board, the detection bill amounting to Rs.1,476,038/- for 70,207 units+322 kW MDI for four months for the period from June 2018 to September 2018 along with Late Payment Surcharges (LPS) was cancelled, FESCO was allowed to recover net 51,352 units +170 kW MDI for September 2018 and October 2018 and the bills with enhanced MF=119.4 for November 2018 and December 2018 due to 33% slowness of the TOU billing meter.

5. Writ Petition No.53905-21 filed by FESCO before the Lahore High Court Lahore

5.1 FESCO filed Writ Petition No.53905-21 before the Lahore High Court Lahore and assailed the first decision dated 29.03.2021 of the NEPRA Appellate Board. Honorable Lahore High Court disposed of the matter vide order dated 20.05.2022, the operative portion of which is reproduced below:

*“I have gone through the impugned appellate order which Ex-facie shows that respondent No.1 endorsed the findings of respondent No. In view of the above, instant petition is allowed in the matter that impugned and the contentions raised by the parties were not properly thrashed out by the appellate authority in the light of the available record which is not proper exercise of jurisdiction rendering the impugned order non-speaking, being against the mandate of Section appellate order dated 29.03.2021 is declared to be illegal and without- A of the General Clauses Act, 1897. Needless to say that there must be something in the order itself to show that the authority concerned was conscious of each and every aspect of the matter and had applied its mind to the questions of prime importance.*



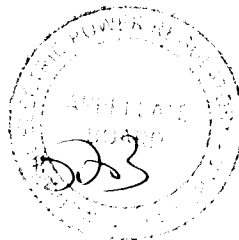


## National Electric Power Regulatory Authority

*In view of the above, the instant petition is allowed in the manner that the impugned appellate order dated 29.03.2021 is declared to be illegal and without lawful authority. Consequently, the matter shall be deemed pending before respondent No.1, which shall be decided afresh strictly in accordance with law, through a well-reasoned speaking order, after hearing petitioner-FESCO, respondent No.3, and all concerned, preferably within 30 days from the date of receipt of certified copy of this order, under intimation to this Court through Deputy Registrar (Judicial)."*

### 6. Hearings

- 6.1 In compliance with the above-referred order of the honorable High Court, hearing in the subject appeals was fixed for 17.06.2022 at Lahore. In this regard, notices dated 08.06.2022 were served to both the FESCO and the Consumer. On the given date of hearing, counsels for both parties were present. Learned counsel for FESCO requested for the adjournment to file power of attorney to plead the case, which was not opposed by the counsel for the Consumer. In view of the above, the hearing was adjourned till the next date.
- 6.2 Hearing in the matter was again fixed for 23.08.2022 at Lahore and notices dated 15.08.2022 thereof were issued to both parties. On the given date of hearing, learned counsel for FESCO submitted that his engagement in the instant case is under process. He requested adjournment, which was not opposed by the counsel for the Consumer. Hence the adjournment request of the counsel for FESCO acceded and the case was adjourned till the next date.
- 6.3 Lastly, hearing of the subject appeals was conducted at NEPRA Regional Office Lahore on 30.09.2022 wherein counsels for both the Appellant and the Respondent were present to plead the case. Learned counsel for the Consumer repeated the same contentions as given in memo of the Appeal No.268-2019 and argued that the meter





## National Electric Power Regulatory Authority

under dispute was functioning correctly till the meter reading date i.e. 22.10.2018, hence there is no justification to charge the detection bill amounting to Rs.1,476,038/- for 70,207 units+322 kW MDI for four months for the period from June 2018 to September 2018 to the Consumer on account of alleged 33% slowness of the TOU billing meter. As per learned counsel for the Consumer, FESCO did not adhere to the procedure to prove 33% slowness of the meter as laid down in Chapter 4 of the Consumer Service Manual 2010 (the "CSM-2010"), as such the Consumer cannot be held responsible for payment of any detection bill on account of unilateral checking. Learned counsel for the Consumer prayed that the detection bill of Rs.1,476,038/- for 70,207 units+322 kW MDI for four months for the period from June 2018 to September 2018 charged by FESCO to the Consumer @ 33% slowness of the TOU billing meter be declared as null and void.

6.4 Learned counsel for FESCO rebutted the version of learned counsel for the Consumer and averred that the meter reader cannot identify the slowness in the metering equipment and the above detection bill was charged to the Consumer due to a dip in consumption during the disputed months i.e. June 2018 to September 2018, which supports our claim regarding 33% slowness in the impugned meter of the Consumer. However, SDO FESCO agreed with the findings of the NEPRA Appellate Board rendered in the first decision and prayed for upholding the same.

7. Arguments of both parties were heard and the record was examined. Following has been observed:

7.1 Both FESCO and the Consumer have challenged the impugned decision of POI.





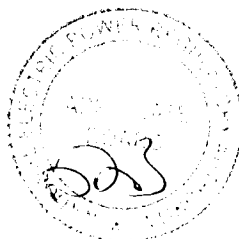
## National Electric Power Regulatory Authority

FESCO has opposed the reduction of the period of the detection bill from four months to two months and has defended its detection bill of Rs.1,476,038/- for 70,207 units+322 kW MDI for four months for the period from June 2018 to September 2018 charged due to 33% slowness of the TOU billing meter observed during M&T checking dated 31.10.2018. On the other hand, the Consumer has challenged the above detection bill on the basis that it was charged on the basis of audit observation and the actions of FESCO were in violation of provisions of CSM-2010 and the fake entries in the bills.

7.2 33% slowness in the billing meter was allegedly discovered by the FESCO on 31.10.2018 and the disputed detection bill was issued in May 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 slowness in the metering equipment and charge the Consumer accordingly. 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 information 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 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 replaced upon settlement/payment of the assessed amount. In case if a correct meter is not available then the multiplying factor shall be charged accordingly till the replacement with the correct meter.*

*(d) .....*

*(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 Consumer, FESCO was required to install a check meter, after informing the Consumer, to determine the difference in consumption or maximum demand recorded by the check meter and the impugned meter during a fixed period. In case of confirmation of slowness in the impugned meter, the same was required to be removed with the written consent of the Consumer.

7.3 Alternatively, FESCO 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.

7.4 As per the record presented before us, there is no evidence that FESCO followed the procedure either under sub-clause (b) or sub-clause (c) of the CSM-2010. FESCO has claimed that the metering equipment was checked in presence of the Consumer, however, the Test check proforma dated 31.10.2018 as submitted by the FESCO is not signed by the Consumer. 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 FESCO in letter and spirit, the dispute could be avoided.

7.5 FESCO has raised the detection bill for four months on account of 33% slowness of the meter, however, they could not provide any justification. In the absence of verifiable evidence, the consumption data of the Consumer could help to confirm any abrupt variation/drop in the consumption pattern in the below table:

Undisputed		Disputed		% (increase/decrease)
Month	MDI	Month	MDI	
Jun-17	240	Jun-18	238	-1%
Jul-17	249	Jul-18	179	-28%
Aug-17	260	Aug-18	230	-12%
Sep-17	252	Sep-18	175	-31%

7.6 The above comparative statement of the consumption data shows that the impugned billing meter recorded healthy MDI (kW) till August 2018 as compared to the MDI (kW) of corresponding months of the year 2017, however, a considerable decline in MDI (kW) of the Consumer noticed in September 2018 vis-à-vis consumption during the same months of previous year i.e. 2017 for which the Consumer could not put forth



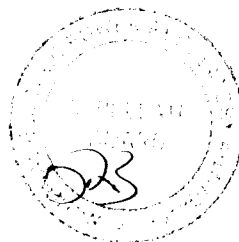
## National Electric Power Regulatory Authority

any cogent reason. Similarly, the contention of FESCO for charging the detection bill for four months on account of 33% slowness of the impugned billing meter is neither consistent with Clause 4.4(e) of the CSM-2010 nor supported with the above comparison of the consumption data. In view of the above, discussion, we hold that the detection bill of Rs.1,476,038/- for 70,207 units+322 kW MDI for four months for the period from June 2018 to September 2018 charged due to 33% slowness of the TOU billing meter is unjustified and the same is cancelled. The determination of the POI is liable to be upheld to this extent.

7.7 The following table as given under Clause 4.4(e) of the CSM-2010 is self-explanatory for charging consumers on account of slow meters:

Type of fault/ Defect	Cost of replacement of meter	Mode of determination of consumption	Competent Authority	Appellate Authority	Period of Loss	Remarks
Slowness owing to age/other reasons not related to illegal abstraction/stealing	Cost to be borne by DISCO	Through previous consumption data. Check meter, Slowness through check/Rotary Substandard, Grid meter/power analyzer	The Competent Authority to determine the type of fault/defect shall be the respective load sanctioning authority	On meter being declared as slow Next higher office, Review Committee, POI, NEPRA in the order of appearance	Defective charging to a maximum of two billing cycles for regular bills. No previous charging on defective code	Test check Proforma to be got signed by the consumer/ his authorized representative or POI at the time of inspection

7.8 The above provision of the CSM-2010 restricts FESCO to charge the bills for maximum of two previous months i.e. August 2018 and September 2018 in case of a slow meter. However, the MDI chart analysis in the table given at para 7.5 above indicates that the impugned billing meter was functioning correctly till August 2018 and became 33% slow in September 2018. Hence, the Consumer is liable to be charged





## National Electric Power Regulatory Authority

the revised bill of only one month i.e. September 2018 after adding 33% slowness of the meter. The impugned decision is liable to be modified to this extent.

7.9 As per the record, 33% slowness in the billing meter was observed by FESCO on 31.10.2018 and the MF was enhanced from 80 to 119.4 w.e.f October 2018 and onwards on account of 33% slowness of the meter, which is justified and payable by the Consumer being in line with Clause 4.4(c) of the CSM-2010.

8. Summing up the foregoing discussion, it is concluded as under:

8.1 The detection bill of Rs.1,476,038/- for 70,207 units+322 kW MDI for four months for the period from June 2018 to September 2018 charged to the Consumer along with LPS is unjustified and cancelled.

8.2 FESCO may charge the revised bill for September 2018 after adding 33% slowness of the meter to the Consumer.

8.3 The bills with enhanced MF=119.4 already charged by FESCO w.e.f October 2018 and onwards are justified and payable by the Consumer.

8.4 The billing account of the Consumer may be revised accordingly after adjusting payments made against the above bills.

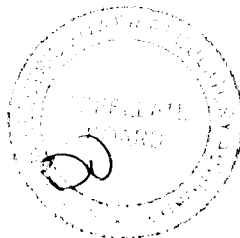
9. The impugned decision is modified in the above terms.

*My note attached*  
Syed Zawar Haider  
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. [**emphasis added**]

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.

  
(Syed Zavar Haider)  
Member

