



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 E-mail: office@nepra.org.pk

No. NEPRA/Appeal/016/POI/2021/ 05/

January 25, 2023

- | | |
|---|---|
| 1. Mudassar Ahmed,
S/o. Mushtaq Ahmed Gill,
R/o. Chak No. 120/RB,
Faisalabad | 2. Chief Executive Officer
FESCO Ltd,
West Canal Road, Abdullahpur,
Faisalabad |
| 3. Saeed Ahmed Bhatti,
Advocate High Court,
66-Khyber Block, Allama Iqbal Town,
Lahore | 4. Sub Divisional Officer (Operation),
FESCO Ltd,
Muslim Town Sub Division,
Faisalabad |
| 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. Mudassar Ahmed Against the Decision Dated 13.10.2020 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 19.01.2023, 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.016/POI-2021

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Mudasar Ahmed S/o Mushtaq Ahmed Gill,
R/o. Chak No.120/RB, Faisalabad

.....Respondent

APPEAL U/S 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997

For the Appellant:

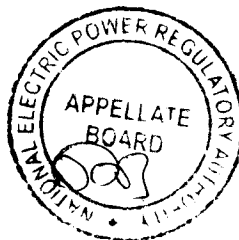
Mr. Saeed Ahmed Bhatti Advocate

For the Respondent:

Nemo

DECISION

1. Through this decision, the appeal filed by the Faisalabad Electric Supply Company Limited (hereinafter referred to as the "Appellant") against the decision dated 13.10.2020 of the Provincial Office of Inspection, Faisalabad Region, Faisalabad (hereinafter referred to as the "POI") is being disposed of.
2. Briefly speaking, Mr. Mudasar Ahmed (hereinafter referred to as the "Respondent") is an industrial consumer of the Appellant bearing Ref No.24-13128-5802050 with sanctioned load of 100kW and the applicable Tariff category is B-2(b). The Appellant has claimed that the yellow phase of both the billing and backup meters of the

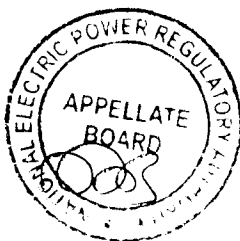




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Respondent was found dead stop during the Metering & Testing ("M&T") team checking dated 23.10.2017. Resultantly, the Multiplication Factor (MF) of the Respondent was enhanced from 40 to 59.7 due to 33.33% slowness of the impugned billing meter w.e.f November 2017 and onwards. Later on, notice dated 14.12.2017 was issued to the Respondent regarding the slowness of the meter, and a detection bill amounting to Rs.405,813/- against 20,876 units+103 kW MDI for seven months for the period from April 2017 to October 2017 was debited to the Respondent @ 33.33% slowness of the meter and added to the bill for October 2018.

3. Being aggrieved with the above actions of the Appellant, the Respondent filed a complaint before the POI on 05.03.2020 and challenged the above detection bill. The POI inspected the metering equipment of the Respondent on 10.09.2020 in presence of both parties, wherein both the billing and backup meters were found 66% slow due to two phases being dead. The complaint of the Respondent was disposed of by the POI vide the decision dated 13.10.2020, wherein the detection bill of Rs.405,813/- against 20,876 units+103 kW MDI for seven months for the period from April 2017 to October 2017 was cancelled. The Appellant was directed to charge the revised detection bill of 5,319 units+37 kW MDI for September 2017 and October 2017. The Appellant was further directed to overhaul the billing account of the Respondent.
4. Through the instant appeal, the afore-referred decision dated 13.10.2020 of the POI has been impugned by the Appellant before the NEPRA. In its appeal, the Appellant objected to the maintainability of the impugned decision, *inter alia*, on the main





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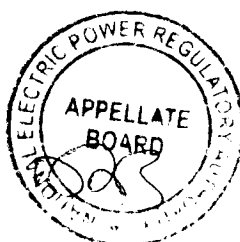
grounds, (1) both the billing and backup meters of the Respondent were found running 33% slow due to the yellow phase being defective on 23.10.2017, therefore MF was raised from 40 to 59.7 for onward billing; (2) a detection bill of Rs.405,813/- against 20,876 units+103 kW MDI for seven months for the period from April 2017 to October 2017 was debited to the Respondent after approval of competent authority; (3) 66% slowness in both the billing and backup meters of the Respondent was witnessed during the POI joint checking dated 10.09.2020 but the POI cancelled the above detection bill and revise the same for two months relying upon Clause 4.3 of the Revised CSM-2020; (4) the POI failed to apply his independent and judicious mind while passing the impugned decision; (5) the POI has not considered the facts of the case and failed to analyze the consumption data; and (6) the impugned decision is liable to be set aside.

5. Proceedings by the Appellate Board

5.1 Upon filing of the instant appeal, a notice dated 29.01.2021 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days. The Respondent however did not submit the reply to the Appeal.

6. Hearing

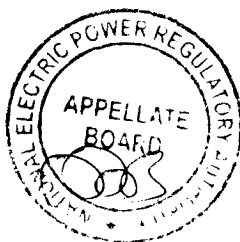
6.1 After issuing notices dated 08.06.2022 to both parties, hearing of the subject appeal was conducted at NEPRA Regional Office Lahore on 17.06.2022 in which a counsel along with an official appeared for the Appellant and no one represented the Respondent. In order to provide an opportunity for hearing to the Respondent, the case was adjourned till the next date.





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- 6.2 The hearing of the Appeal was rescheduled at Lahore on 23.08.2022 for which notices dated 15.08.2022 were issued to both the Appellant and the Respondent. On the given date of the hearing, no one appeared for both parties, however, a written request was made by the counsel for the Appellant for the adjournment. In view of the above, the hearing of the case was adjourned till the next date.
- 6.3 Notices dated 22.09.2022 were served to the parties and hearing of the appeal was conducted at Lahore on 30.09.2022, which was attended by counsel along with an official for the Appellant but there was no representation for the Respondent. The representative for the Appellant reiterated the same version as contained in the memo of the appeal and contended that one phase of both the billing and backup meters of the Respondent was found dead stop on 23.10.2017, as such the detection bill of Rs.405,813/- against 20,876 units+103 kW MDI for seven months for the period from April 2017 to October 2017 was debited to the Respondent. The representative for the Appellant averred that the impugned meter remained 33% slow during the disputed period from April 2017 to October 2017 and 66% slowness in the impugned meter was confirmed by the POI during joint checking dated 10.09.2020, as such the impugned decision for cancellation of the above detection bill is unjustified and the same is liable to be set aside.





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7. Arguments heard and the record perused. Following are our observations:

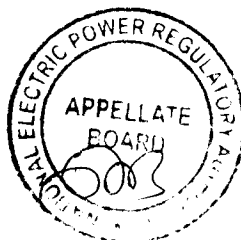
7.1 Detection bill of Rs.405,813/- against 20,876 units+103 kW MDI for seven months for the period from April 2017 to October 2017 debited in October 2018

The facts submitted before us transpire that the Appellant found both the billing and backup meters of the Respondent defective due to one dead stop during checking dated 23.10.2017, therefore a detection bill of Rs.405,813/- against 20,876 units+ 103 kW MDI for seven months for the period from April 2017 to October 2017 was issued to the Respondent, which was assailed by him before the POI. The Appellant has filed this appeal defending the above detection bill charged to the Respondent and prayed for setting aside the impugned decision.

7.2 One phase of the billing meter of the Respondent was allegedly discovered as dead stop by the Appellant on 23.10.2017 and the disputed detection bill was issued in October 2018. Therefore, the matter will be dealt with under the provisions of 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 thereof. 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





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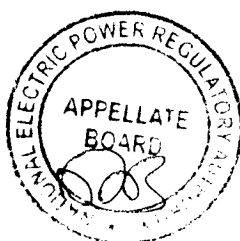
metering equipment should prove to be incorrect, the impugned metering equipment shall be removed from the premises with the written consent of the consumer, and the FESCO in the absence of any interference or alteration in the mechanism of the impugned metering equipment being detected by the FESCO 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 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.

(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 Respondent, the Appellant was required to install a check metering equipment, after informing the Respondent, 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





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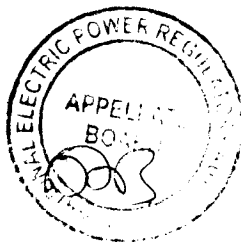
meter, the same was required to be removed with the written consent of the Consumer.

7.3 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 a Rotary Sub-standard or digital power analyzer.

7.4 As per the record presented before us, there is no evidence that the Appellant followed the procedure either under sub-clause (b) or sub-clause (c) of the CSM-2010. The essence of Clause 4.4 of the CSM-2010 is to ensure transparency by taking the consumer on board. The claim of the Appellant about the meter slowness without following the laid down procedure suffers from credibility insufficiency.

7.5 Notwithstanding the above observation, it is noted that the Respondent did not raise objection on the enhancement of MF w.e. November 2017, which shows that the meter slowness is admitted by the Respondent. In this situation, the Respondent is liable to be charged by the Appellant under Clause 4.4(e) of the CSM-2010 which restricts the Appellant to charge slowness maximum for two months. Therefore, we hold that the detection bill of Rs.405,813/- against 20,876 units+103 kW MDI for seven months for the period from April 2017 to October 2017 charged to the Respondent due to the 33% slowness of the meter is liable to be declared null and void.

7.6 Similarly, the determination of POI for revision of the bill for 5,319 units+37 kW MDI





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for two months i.e. September 2017 and October 2017 is consistent with Clause 4.4(e) of the CSM-2010 and the same is liable to be maintained to this extent.

7.7 The billing account of the Respondent may be overhauled after adjustment of the payments made against the above detection bill.

8. Foregoing in view, the appeal is dismissed.

Syed Zawar Haider
Member

Muhammad Irfan-ul-Haq
Member

Abid Hussain
Convener

Dated: 19/01/2023

