



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

NEPRA Office, Ataturk 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/AB/Appeal/029/2023/ 558

September 19, 2023

1. Shoukat Ali Bhalli,
S/o. Ch. Muhammad Sadiq Bhalli,
R/o. Chak No. 340/JB, Tehsil Gojra,
District Toba Tek Singh
2. Chief Executive Officer
FESCO Ltd,
West Canal Road, Abdullahpur,
Faisalabad
3. Shahzad Ahmed Bajwa,
Advocate High Court,
12-Faisal Park, Imamia Colony,
Shahdara, Lahore
4. Sub Divisional Officer,
FESCO Ltd,
Nia Lahore Sub Division,
Nia Lahore
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. Shoukat Ali Bhalli Against the Decision Dated 02.01.2023 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 19.09.2023 (05 pages), regarding the subject matter, for information and necessary action accordingly.

Encl: **As Above**


(Ikram Shakeel)
Deputy Director (AB)

Forwarded for information please.

1. Director (IT) –for uploading the decision on NEPRA website



National Electric Power Regulatory Authority

Before The Appellate Board

In the matter of

Appeal No.029/POI-2023

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Shoukat Ali Bhalli S/o. Ch. Muhammad Sadiq Bhalli,

R/o. Chak No.340/jb, Tehsil Gojra, District Toba Tek Singh.....Respondent

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

For the Appellant:

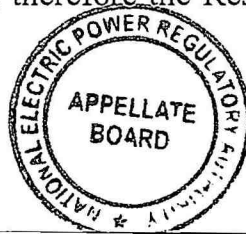
Mr. Shahzad Ahmed Bajwa Advocate

For the Respondent:

Mr. Shoukat Ali Bhalli

DECISION

1. Through this decision, the appeal filed by Faisalabad Electric Supply Company Limited (hereinafter referred to as the "Appellant") against the decision dated 02.01.2023 of the Provincial Office of Inspection, Faisalabad Region, Faisalabad (hereinafter referred to as the "POI") is being disposed of.
2. Brief facts of the case are that Mr. Shoukat Ali Bhalli (hereinafter referred to as the "Respondent") is an agricultural consumer of the Appellant bearing Ref No.29-13334-3600380-R with sanctioned load of 19 kW and the applicable tariff category is D-2(b). The impugned meter of the Respondent became defective with washed display in June 2018, therefore the Respondent approached the Appellant

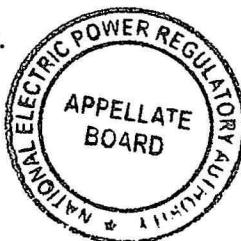




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for replacement of the impugned meter vide application dated 27.06.2018. The Respondent challenged before the POI the bills for the period from June 2018 to August 2018 with the plea that excessive billing was done during the said months. The complaint of the Respondent was disposed of vide the POI decision dated 02.01.2023, wherein the bills for the period from June 2018 to August 2018 along with late payment surcharges (LPS) were cancelled and the Appellant was allowed to revise the bill of the above said disputed months @ 1,402 units per month as per average consumption of last eleven months being higher. The Appellant was further directed to overhaul the billing account of the Respondent, accordingly.

3. Through the instant appeal, the afore-referred decision dated 02.01.2023 of the POI has been impugned by the Appellant before the NEPRA. In the appeal, the Appellant opposed the impugned decision, *inter alia*, on the following grounds that the impugned meter of the Respondent became defective in June 2018, therefore the bills for the period from June 2018 to August 2018 were charged as per M&T checking report; that the impugned decision is against the facts and law of the case; that the Appellant has no personal grudge or grouse against the Respondent to issue the excessive bills; that the POI did not consider the case in letter and spirit and misread and misinterpreted the material available on record and illegally passed the impugned decision; that the impugned decision is based on surmises and conjectures and the same is not sustainable in the eye of law. In the application for condonation of the delay, the Appellant submitted that the delay in filing the appeal was not intentional but due to the serious illness of the counsel. The Appellant finally prayed that the delay in filing the instant appeal be condoned in the larger interest of justice law and equity.



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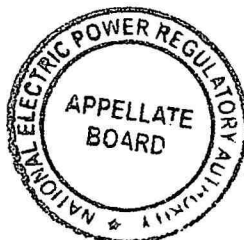
interest of justice law and equity.

4. Proceedings by the Appellate Board

Upon filing of the instant appeal, notice dated 20.03.2023 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days. The Respondent submitted reply to the Appeal on 07.04.2023, wherein he objected to the maintainability of the appeal *inter alia*, on the following grounds that the appeal filed by the Appellant before the NEPRA after delay of three days from the prescribed limit as envisaged in NEPRA Act, hence not maintainable in the eyes of law; that the impugned meter became defective in June 2018; that the Appellant debited irregular, excessive billing for the period from June 2018 to August 2018; that the Appellant failed to retrieve the data of the impugned meter, hence the revision of the bills for the above said months was rightly done by the POI with proper appreciation of facts and law; and that the appeal is liable to be dismissed.

5. Hearing

5.1 Hearing in the matter of the subject Appeal was conducted at NEPRA Regional Faisalabad on 24.06.2023 which was attended by both parties. The Respondent repeated the preliminary objection of limitation and averred that the appeal filed before the NEPRA is hopelessly time barred, hence the same is liable to be dismissed. On merits, the Respondent contended that the excessive billing was carried out by the Appellant for the period from June 2018 to August 2018, which may be checked through analysis of consumption data before and after the dispute.



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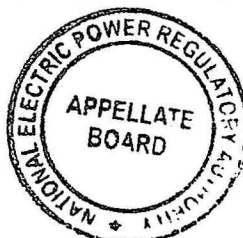
On the contrary, learned counsel for the Appellant repudiated the version of the counsel for the Respondent and argued that the delay in filing the appeal was not intentional but due to the internal departmental process. He prayed that the delay in filing the appeal be condoned and the appeal be decided on merits instead of technical grounds. Learned counsel for the Appellant assured for submission of written arguments regarding limitation.

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

6.1 **Limitation for filing Appeal:**

Before going into the merits of the case, the preliminary objection of the Respondent regarding limitation needs to be addressed. It is observed that a copy of the impugned decision was obtained by the Appellant on 12.01.2023 and the appeal was filed before the NEPRA on 07.03.2023 after the prescribed time limit of 30 days. This shows that the Appellant filed the instant appeal after a lapse of fifty-four (54) days from the date of receipt of the impugned decision. As per subsection (3) of Section 38 of the NEPRA Act 1997, any person aggrieved by the decision of the POI may prefer an appeal to NEPRA within thirty days of receipt of the order. Further, it is supplemented with Regulation 4 of the NEPRA (Procedure for filing Appeals) Regulations, 2012 (the "Appeal Procedure Regulations") which also states that the Appeal is required to be filed within 30 days of the receipt of the impugned decision of POI by the Appellant, however, a margin of 7 days' is provided in case of submission through registered post, and 3 days in case of submission of appeal through courier is given in the Appeal Procedure Regulations. Thus, the delay of fifty-four (54) days in filing the appeal before the NEPRA from

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the date of receipt of the impugned decision is not condonable as no sufficient reasons have been given by the Appellant to justify the condonation of the delay.

7. Foregoing in view, the appeal filed before NEPRA is time-barred and; hence dismissed.

Abid Hussain
Member

Naweed Illahi Sheikh
Convener

Muhammad Irfan-ul-Haq
Member

Dated: 19-09-2023

