



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

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No. NEPRA/AB/Appeal/032/2022/556

September 19, 2023

1. Muhammad Mumtaz,  
S/o. Shameer Khan,  
R/o. Chak No. 280/RB, Dijkot,  
District Faisalabad
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,  
Dijkot 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. Muhammad Mumtaz Against the Decision Dated 16.12.2021 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 (09 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.032/POI-2022

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Muhammad Mumtaz S/o. Shameer Khan, R/o. Chak No.280/RB,  
Dijkot, District Faisalabad

.....Respondent

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

For the Appellant:

Mr. Shahzad Ahmed Bajwa Advocate

For the Respondent:

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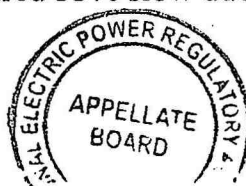
### DECISION

1. Through this decision, the appeal filed by the Faisalabad Electric Supply Company Limited (hereinafter referred to as the "Appellant") against the decision dated 16.12.2021 of the Provincial Office of Inspection, Faisalabad Region, Faisalabad (hereinafter referred to as the "POI") is being disposed of.
2. Briefly speaking, Mr. Muhammad Mumtaz (hereinafter referred to as the "Respondent") is an industrial consumer of the Appellant bearing Ref No.27-13246-6600591-U with sanctioned load of 10 kW and the applicable Tariff category is B-1(b). The Appellant has claimed that the billing meter of the Respondent was found defective and it was replaced with a new meter in May 2020. Subsequently, the removed meter was checked in the Metering & Testing ("M&T") laboratory and declared 33% slow due to the red dead phase as per M&T

Appeal No.032/POI-2022

Page 1 of 9

*M. Shahzad Ahmed Bajwa*





## National Electric Power Regulatory Authority

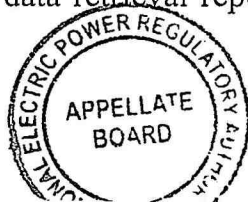
checking report dated 22.07.2020. During another checking dated 29.04.2021 of the M&T team of the Appellant, 1,872 units were found uncharged. Therefore the Appellant issued the following two detection bills to the Respondent:

- First detection bill of Rs.41,719/- for 1,645 units for six months for the period from October 2019 to March 2020 debited due to 33% slowness of the meter and added to the bill for May 2021.
- The second detection bill of Rs.78,270/- against 3,326 units for two months i.e. April 2020 and May 2020 debited on account of pending units retrieved vide data retrieval report dated 29.04.2021.

3. Being aggrieved, the Respondent filed a complaint before the POI and challenged the above detection bills. The complaint of the Respondent was disposed of by the POI vide the decision dated 10.12.2021, wherein the first detection bill of Rs.41,719/- for 1,645 units for six months for the period from October 2019 to March 2020 debited due to 33% slowness of the meter and second detection bill of Rs.78,270/- against 3,326 units for two months i.e. April 2020 and May 2020 debited on account of pending units as per data retrieval report dated 29.04.2021 were cancelled and the Appellant was allowed to the recovery of 1,036 units for two months i.e. April 2020 and May 2020 @ 33% slowness of the meter.

4. Through the instant appeal, the afore-referred decision dated 16.12.2021 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 grounds that three detection bills [first detection bill of Rs.41,719/- for 1,645 units for six months for the period from October 2019 to March 2020 debited due to 33% slowness of the meter and second detection bill of Rs.78,270/- against 3,326 units for two months i.e. April 2020 and May 2020 debited on account of pending units retrieved vide data retrieval report dated 29.04.2021] were charged

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## National Electric Power Regulatory Authority

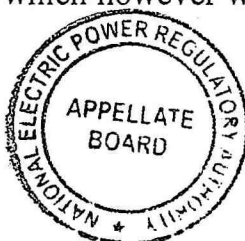
to the Respondent; that the impugned decision is against the facts and law of the case; that the Appellant has no personal grudge or grouse against the Respondent; that the POI did not consider the case in letter and spirit and misread and misinterpreted the material available on record and illegally 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.

### 5. Proceedings by the Appellate Board

Upon filing of the instant appeal, a notice dated 06.04.2022 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days, which were filed on 19.04.2022. In his reply, the Respondent rebutted the version of the Appellant regarding charging the first detection bill of Rs.41,719/- for 1,645 units for six months for the period from October 2019 to March 2020 due to 33% slowness of the meter and the second detection bill of Rs.78,270/- against 3,326 units for two months i.e. April 2020 and May 2020 on account of pending units retrieved vide data retrieval report dated 29.04.2021 and submitted that the above detection bills were debited by the Appellant illegally without any justification against which he approached the POI. As per Respondent, the POI vide impugned decision has rightly cancelled the above detection bills against which the Appellant filed instant appeal to lingering on the case. He prayed for the dismissal of the appeal in the best interest of justice.

### 6. Hearing

6.1 Hearings of the appeal were initially conducted at NEPRA Regional Office Lahore on 17.06.2022 and 30.09.2022, which however was adjourned till the next date due



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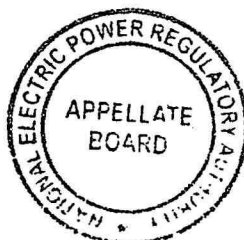
## National Electric Power Regulatory Authority

to non-availability of the Respondent. Hearing of the appeal was again conducted at NEPRA Regional Office Lahore on 03.06.2023, which was attended by a counsel for the Appellant, and again no one appeared for the Respondent. Learned counsel for the Appellant reiterated the same version as contained in the memo of the appeal and contended that the billing meter of the Respondent was found running 33% slow during checking dated 22.07.2020 and 1,872 units were found uncharged therefore three detection bills [first detection bill of Rs.41,719/- for 1,645 units for six months for the period from October 2019 to March 2020 debited due to 33% slowness of the meter and second detection bill of Rs.78,270/- against 3,326 units for two months i.e. April 2020 and May 2020 debited on account of pending units retrieved vide data retrieval report dated 29.04.2021] were debited to the Respondent to recover the revenue loss sustained by the Appellant. As per learned counsel for the Appellant, the first detection bill of Rs.41,719/- and second detection bill of Rs.78,270/- were cancelled by the POI without perusing the documented evidence, hence the impugned decision for cancellation of the above detection bills be set aside and the above-said detection bills be declared as justified and payable by the Respondent.

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

7.1 The Respondent filed a complaint before the POI and disputed the following detection bills debited by the Appellant

- First detection bill of Rs.41,719/- for 1,645 units for six months for the period from October 2019 to March 2020 debited due to 33% slowness of the meter.



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## National Electric Power Regulatory Authority

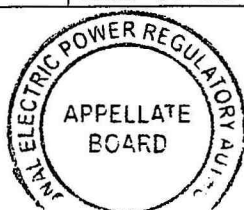
- The second detection bill of Rs.78,270/- against 3,326 units for two months i.e. April 2020 and May 2020 debited on account of pending units retrieved vide data retrieval report dated 29.04.2021.

7.2 It is observed that the defective meter of the Respondent was replaced with a new meter by the Appellant in May 2020 and checked in M&T lab, wherein one phase of the impugned meter of the Respondent was declared as dead stop vide report dated 22.07.2020. Resultantly, the Appellant charged the first detection bill of 1,645 units for six months i.e. October 2019 to March 2020 to the Respondent on account of 33% slowness of the impugned meter, which is contrary to Clause 4.4(e) of the CSM-2010. The said clause of the CSM-2010 being relevant in the instant case is reproduced below:

*(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 100% 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."*

Type of fault Defect	Cost of replacement of meter	Mode of determination of consumption	Competent Authority	Appellate Authority	Period of Loss	Remarks
Defective/ Damaged/ burnt meter not due to consumer fault	Cost to be borne by FESCO	As given above at 4.4(e)	The Competent Authority to determine the type of fault/defect shall be the	On meter being declared as defective- Next higher office, Review Committee, POI, NEPRA	Defective charging to a maximum of two billing cycles for regular bills.	Nil

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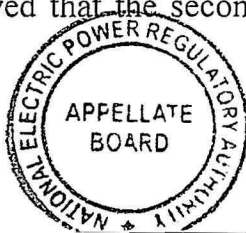


## National Electric Power Regulatory Authority

			respective load sanctioning authority	in the order of appearance	No previous charging on defective code	
Slowness owing to age/other reasons not related to illegal abstraction/ stealing	Cost to be borne by FESCO	Through previous consumption data. Check meter, Slowness through check/Rotary Substandard, Grid meter/ power analyzer	Do	Do	Do	Test check Proforma to be got signed by the consumer/ his authorized representative or POI at the time of inspection
Meter defective/ damaged burnt due to Consumer's fault including overloading, internal wiring defect	Consumer to pay	Verification of load, Check meter, Rotary Substandard, another meter in series, Or at Grid meter/power analyzer	Do	Do	Do	Do

7.3 The above-referred table of Clause 4.4(e) of the CSM-2010 restricts the Appellant to charge slowness maximum for two months to the Respondent. Under these circumstances, the contention of the Appellant for recovery of the first detection bill of Rs.41,719/- for 1,645 units for six months for the period from October 2019 to March 2020 due to 33% slowness of the meter is illegal, unjustified, contrary to the facts and violative of the foregoing clause of the CSM-2010. The impugned decision to the extent of cancellation of the first detection bill of Rs.41,719/- is correct and liable to be maintained to this extent.

7.4 As regards the charging of the second detection bill of Rs.78,270/- against 3,326 units on account of pending units retrieved vide data retrieval report dated 29.04.2021, it is observed that the second detection bill of 3,326 units



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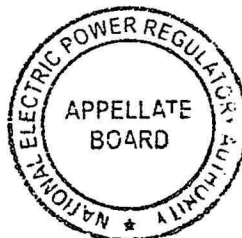


## National Electric Power Regulatory Authority

was debited to the Respondent being the difference between the final reading of the removed meter and units already charged till March 2020 after adding 33% slowness of the meter. The matter, therefore, needs to be examined in light of the applicable law to decide the fate of the detection bill of the Appellant. The services provided by the DISCOs to their Consumers are administered under the Consumer Service Manual 2010 (the "CSM-2010") approved by the NEPRA.

7.5 Facts given as above, the Appellant took readings of the Respondent from the installation of the impugned meter till its removal in May 2020 but no discrepancy of defectiveness/slowness of the impugned meter was pointed out by the meter reader of the Appellant before the alleged checking. This shows extreme negligence and carelessness on the part of the concerned officials of the Appellant. The Appellant is required to be vigilant and careful regarding the accuracy of the impugned meter of the Respondent to ensure full recovery against the consumed energy.

7.6 Notwithstanding the negligence of its relevant officers and their failure to point out the defectiveness in the impugned meter timely. The Appellant issued second detection bill of Rs.78,270/- for 3,326 units to the Respondent. Under the CSM-2010, the Appellant is responsible to take meter readings, following the prescribed manner for different consumer categories, issue the bill prepared in accordance with the applicable tariff, and deliver the same to the Consumer in timely manner. Whereas, the Consumer is responsible to pay the bill within the given time.



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## National Electric Power Regulatory Authority

7.7 On his part, the Respondent kept on fulfilling his responsibility under the contract to pay the bill, issued by the Appellant on monthly basis. As such the Respondent never defaulted to fulfill his duty under the supply contract, therefore, he cannot be made liable to pay the so-called detection bill for recovery of loss, if any, which incurred merely due to negligence of the Appellant and its failure to fulfill its duty under the contract.

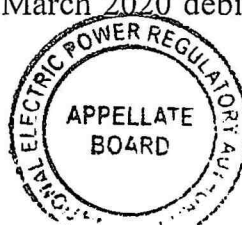
7.8 The Appellant has issued the second detection bill of 3,326 units to the Respondent due to the difference between the final reading of the removed meter and the reading already charged till March 2020. However, the Appellant neither submitted any document to justify their assertion with regard to the charging of the second detection bill nor could produce the impugned billing meter before the POI for verification of its reading and accuracy. Thus under these circumstances, we are of the firm view that the second detection bill of Rs.78,270/- for 3,326 units charged by the Appellant to the Respondent is unjustified, and the same is declared null and void.

7.9 Since the meter under dispute was replaced in May 2020, the Respondent is liable to be charged the bill of May 2020 with enhanced MF as per Clause 4.4(c) of the CSM-2010 and the detection bill for two previous months i.e. March 2020 and April 2020 as per Clause 4.4(e) of the CSM-2010. The impugned decision is liable to be modified to this extent.

8. In view of what has been stated above, it is concluded as under;

8.1 The first detection bill of Rs.41,719/- for 1,645 units for six months for the period from October 2019 to March 2020 debited due to 33% slowness of the

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## National Electric Power Regulatory Authority

meter and the second detection bill of Rs.78,270/- for 3,326 units charged on the basis of data retrieval report dated 29.04.2021 are illegal, unjustified and the same are declared as null and void.

8.2 The Respondent may be charged the bill of May 2020 with enhanced MF as per Clause 4.4(c) of the CSM-2010 and the detection bill for two previous months i.e. March 2020 and April 2020 as per Clause 4.4(e) of the CSM-2010.

8.3 The billing account of the Respondent be overhauled after adjusting payments made against the above detection bills.

9. Impugned decision is modified in the above terms.

Abid Hussain  
Member

Muhammad Irfan-ul-Haq  
Member

Naweed Illahi Sheikh  
Convener

Dated: 19-09-2023

