



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

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No. NEPRA/Appeal/035/2022/ 690


November 21, 2023

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| 1. Muhammad Nasir,
S/o. Baroo,
R/o. Chak No. 66/JB,
Jhang Road, Faisalabad | 2. Chief Executive Officer
FESCO Ltd,
West Canal Road, Abdullahpur,
Faisalabad |
| 3. Ch. Shahzad Ahmed Bajwa,
Advocate High Court,
12-Faisal Park, Imamia Colony,
Shahdara, Lahore | 4. Sub Divisional Officer (Operation),
FESCO Ltd,
Jhang Road 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 No.035/2022 (FESCO Vs. Muhammad Nasir) Against the Decision Dated 12.11.2021 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 21.11.2023 (04 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. 035/POI-2022

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Muhammad Nasir S/o Baroo,
R/o. Chak No. 66/JB, Jhang Road, Faisalabad

.....Respondent

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

For the Appellant:

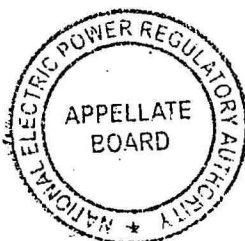
Mr. Shahzad Ahmed Bajwa Advocate
Mr. Anayatullah SDO

For the Respondent:

Mr. Nasir

DECISION

1. Briefly speaking, Mr. Muhammad Nasir (hereinafter referred to as the "Respondent") is an industrial consumer of Faisalabad Electric Supply Company Limited (hereinafter referred to as the "Appellant") bearing Ref No.27-13215-6523000 with sanctioned load of 34.92 kW under the B-2(b) tariff category. Reportedly, the billing meter of the Respondent was found defective with the washed display in August 2020, hence it was replaced with a new meter by the Appellant in September 2020 and sent to the Metering and Testing (M&T) laboratory for data retrieval. As per the M&T checking report dated 23.02.2021, the final reading was retrieved as 404633, whereas the Respondent was billed up to the reading index of 398264. Resultantly, the Appellant charged a detection bill of Rs.219,823/- for 9,554 units to the Respondent due to the difference of the final reading of the meter and the units already charged and added to the bill for May 2021.
2. Being aggrieved, the Respondent approached the Provincial Office of Inspection, Faisalabad Region, Faisalabad (hereinafter referred to as the "POI") and assailed the above-referred





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detection bill. The POI vide the decision dated 12.11.2021 declared the detection bill of Rs.219,823/- for 9,554 units debited due to the difference between the final reading of the impugned meter and the units already charged as null and void. As per the POI decision, the Appellant was allowed to debit net 366 units to the Respondent.

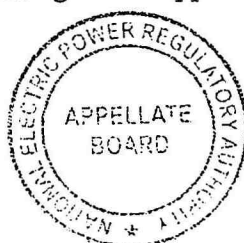
3. Being dissatisfied, the Appellant has filed the instant appeal before the NEPRA against the POI decision dated 12.11.2021 (hereinafter referred to as the "impugned decision"), wherein it is contended that the old meter of the Respondent became defective, hence it was replaced with a new meter and sent to M&T laboratory for downloading the data. The Appellant further contended that the detection bill of Rs.219,823/- for 9,554 units was worked out based on the M&T report dated 23.02.2021. The Appellant submitted that the above detection bill was fully proved through the submission of data retrieval report and other documents but the POI did not consider the documentary evidence. As per the Appellant, the POI failed to decide the matter within 90 days, which is inconsistent with Section 26(6) of the Electricity Act 1910. According to the Appellant, the POI has not thrashed out the consisting reasons in the matter and passed the illegal order. 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 26.04.2022 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 24.06.2023 and accordingly, the notices dated 16.06.2023 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 Faisalabad on 24.06.2023, which was attended by counsel along with official for the Appellant and the Respondent appeared in person. Therefore, hearing of the appeal was again conducted on 09.09.2023, which was attended by both the Appellant and the Respondent. 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.219,823/- for 9,554 units debited due to the difference of the final reading and total units already charged. He opposed the impugned decision for cancellation



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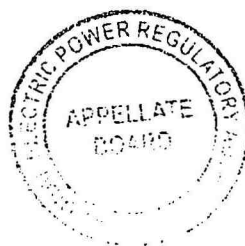
of the above detection bill and argued that the above detection bill was debited to the Respondent on the basis of uncharged units and the same is liable to be recovered from the Respondent being justified.

5.2 The Respondent rebutted the version of the Appellant regarding the charging of the above detection bill, supported the impugned decision, and prayed for upholding the same.

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

6.1 While addressing the preliminary objection of the Appellant regarding the time limit for the POI to decide the complaint, it is observed that the Respondent filed a complaint before the POI under Section 38 of the NEPRA Act. POI pronounced its decision on 12.11.2021 after 90 days of receipt of the complaint. The Appellant has objected that the POI was bound to decide the matter within 90 days under Section 26(6) of the Electricity Act, 1910. In this regard, it is observed that the forum of POI has been established under Section 38 of the NEPRA Act which does not put a restriction of 90 days on POI to decide complaints. Section 38 of the NEPRA Act overrides provisions of the Electricity Act, 1910. Reliance in this regard is placed on the judgments of the honorable Lahore High Court Lahore reported in *PLJ 2017 Lahore 627* and *PLJ 2017 Lahore 309*. Keeping in view the overriding effect of the NEPRA Act being later in time, and the above-referred decisions of the honorable High Court, the objection of the Appellant is rejected.

6.2 The record presented before us shows that till July 2020, no discrepancy of the vanished display was pointed out by the Appellant in the impugned meter of the Respondent and the bills were raised regularly which were paid by the Respondent. In August 2020, the impugned meter of the Respondent was found defective with the display washed out, whereupon the DEF-EST code was fed by the Appellant for the billing for August 2020. Thereafter, it was replaced with a new meter by the Appellant in September 2020 and sent to the M&T laboratory for downloading the data. Subsequently, the M&T team of the Appellant vide report dated 23.02.2021 declared the impugned meter defective with final reading retrieved as 404633, and based upon the said report, the Appellant charged a detection bill of Rs.219,823/- for 9,554 units to the Respondent due to the difference between claimed final reading retrieved and the units already charged and added to the bill for May 2021.



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6.3 Under Clause 4.4 of the CSM-2010, upon doubt about the accuracy of a meter, the same needs to be checked at the site under intimation to the consumer through the procedure laid down in Clause 4.4(a) and 4.4(b) of the CSM-2010. However, no such on-site checking of the meter was carried out by the Appellant.


6.4 The Appellant has raised the above detection bill based on the alleged data retrieval report and some M&T lab checking. Natural justice requires such checking and data retrieval to be carried out in the presence of the consumer or a neutral competent forum of POI. However, the Appellant neither associated the Respondent nor did they produce the impugned meter before the POI to confirm the authenticity of their claim. It is observed that 9,554 units were charged after adding 33% slowness in the retrieved units due to the make-and-break problem of the phases of the impugned meter. It is further observed that the Appellant debited the bill for August 2020 on DEF-EST code, hence there is no justification to overburden the Respondent by imposing a detection bill on the basis of alleged data retrieval report for the same period. In view of the foregoing discussion, the detection bill of Rs.219,823/- for 9,554 units charged by the Appellant to the Respondent is unjustified, and the same is declared null and void. Similarly, POI rightly determined the revised bill of 366 units after due analysis of the data retrieval report and we do not find any reason to interfere with the same.

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

7. Foregoing in view, the appeal is dismissed.


Abid Hussain
Member


Naweed Illahi Sheikh
Convener


Muhammad Irfan-ul-Haq
Member

Dated: 21/1/2023

