



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

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No. NEPRA/Appeal/036/2022/ 69/

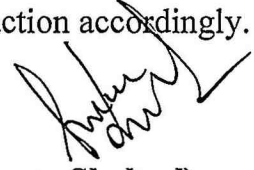
November 21, 2023

1. Muhammad Akhtar,
S/o. Abdul Majeed,
Prop: Power Loom Factory,
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.036/2022 (FESCO Vs. Muhammad Akhtar) Against the Decision Dated 12.01.2022 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.036/POI-2022

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Muhammad Akhtar S/o. Abdul Majeed, Prop: Power Loom Factory,
R/o. Chak No. 66/RB, 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
Mr. Anayatullah SDO

For the Respondent:

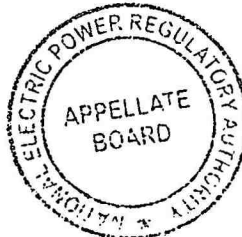
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DECISION

1. Through this decision, the appeal filed by the Faisalabad Electric Supply Company Limited (hereinafter referred to as the "Appellant") against the decision dated 12.01.2022 of the Provincial Office of Inspection, Faisalabad Region, Faisalabad (hereinafter referred to as the "POI") is being disposed of.
2. Briefly speaking, Mr. Muhammaed Akhtar (hereinafter referred to as the "Respondent") is an industrial consumer of the Appellant bearing Ref No.30-13215-5500077-R with sanctioned load of 55 kW and the applicable Tariff category is B-2(b). The Appellant has claimed that the metering equipment of the Respondent was checked by the Metering & Testing ("M&T") team on 09.06.2021, wherein the impugned billing and backup meters were running 66% and 33% slow respectively. Resultantly, the multiplication factor (the "MF") of the Respondent was raised from 40 to 58.82 by the Appellant w.e.f June 2021 and onwards, Thereafter, a detection bill amounting to Rs.925,802/- for 37,880 units + 34 kW MDI for three (03) months i.e. March 2021 to May 2021 was charged by the Appellant to the Respondent @ 66% slowness of the meter and added to the bill for August 2021.

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3. Being aggrieved, the Respondent filed a complaint before the POI on 07.03.2021 and challenged the above detection bill. During joint checking of POI on 30.09.2021, 66% slowness in the impugned billing meter of the Respondent was established. The complaint of the Respondent was disposed of by the POI vide the decision dated 12.01.2022, wherein the detection bill of Rs.925,802/- for 37,880 units+34 kW MDI for three (03) months i.e. March 2021 to May 2021 was cancelled and the Appellant was directed to charge the revised detection bill for 21,010 units + 34 kW MDI to the Respondent to account for 66% slowness.
4. Through the instant appeal, the afore-referred decision dated 12.01.2022 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, (1) the billing meter of the Respondent was found 66% slow by the M&T team, therefore, a detection bill of Rs.925,802/- for 37,880 units + 34 kW MDI for three (03) months i.e. March 2021 to May 2021 was debited to the Respondent; (2) the POI vide impugned decision illegally cancelled the above detection bill and revised the same for 21,010 units +34 kW MDI for two months only; (3) the impugned decision is against the law and facts of the case; (4) the POI announced the impugned decision after 90 days from the date of receipt of the complaint, which is against Section 26(6) of the Electricity Act, 1910; (5) the Appellant has no personal grudge or grouse against the Respondent and the POI did not consider the case of the Appellant in true perspective and illegally passed the impugned decision; and (6) the same is liable to be set aside.

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 however were not filed.

6. **Hearing**

Hearing was initially conducted on 24.06.2023, which however was adjourned in order to provide an opportunity to the Respondent. Finally, the hearing was conducted at NEPRA Regional Office Faisalabad on 09.09.2023, which was attended by the official of the Appellant along with a counsel and the Respondent again did not tender appearance. Learned counsel for the Appellant contended that the billing meter of the Respondent was found running 66% slow during joint checking dated 30.09.2021 of the POI, as such the

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recovery of detection bill of Rs.925,802/- for 37,880 units+34 kW MDI for three (03) months i.e. March 2021 to May 2021 @ 66% slowness be allowed in the best interest of justice. Learned counsel for the Appellant prayed for setting aside the impugned decision.

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

7.1 Objection regarding the time limit for POI to decide the complaint:

As per the record, the Respondent filed a complaint before the POI on 07.03.2021 under Section 38 of the NEPRA Act. POI pronounced its decision on 12.01.2022 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.

7.2 Detection bill amounting to Rs.925,802/- for 37,880 units+34 kW MDI for three (03) months i.e. March 2021 to May 2021

Reportedly, two phases of the impugned billing of the Respondent were found dead stop during checking dated 09.06.2021, therefore, a detection bill amounting to Rs.925,802/- for 37,880 units+34 kW MDI for three (03) months i.e. March 2021 to May 2021 was debited to the Respondent @ 66% slowness of the meter, which was challenged by him before the POI.

7.3 Since 66% slowness in the impugned billing meter was established during the joint checking of POI on 30.09.2021, the period of slowness needs to be determined. Clause 4.3.3c(ii) of the CSM-2021 restricts the Appellant to charge the detection bill maximum for two months to the Respondent in case of a slow meter. Hence, the detection bill of Rs.925,802/- for 37,880 units+34 kW MDI for three (03) months i.e. March 2021 to May 2021 debited @ 66% slowness of the meter is declared as unjustified being contrary to the ibid clause of the CSM-2021 and the same is liable to be cancelled as already determined by the POI.

7.4 Since 66% slowness of the impugned meter was observed by the Appellant, the Respondent is liable to be charged 66% slowness for two billing cycles prior to checking dated 09.06.2021 as per Clause 4.3.3c(ii) of the CSM-2021. 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 impugned decision for cancellation of the detection bill of Rs.925,802/- for 37,880 units + 34 kW MDI for three (03) months i.e. March 2021 to May 2021 is correct and maintained to this extent.

8.2 The Respondent may be charged 66% slowness of the impugned meter for two billing cycles prior to checking dated 09.06.2021 as per Clause 4.3.3c(ii) of the CSM-2021.

8.3 The billing account of the Respondent be overhauled accordingly.

9. The appeal is disposed of in the above terms.



Abid Hussain
Member



Muhammad Irfan-ul-Haq
Member



Naweed Illahi Sheikh
Convener

Dated: 21/11-2023

