



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

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No. NEPRA/AB/Appeal/041/2021/ 554

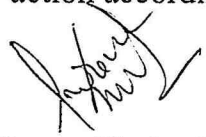
September 19, 2023

1. Abdul Wadood,
S/o. Abdul Wadood,
R/o. Street No. 04, Near Warsi Hotel,
Raza Abad, District Faisalabad
2. Chief Executive Officer
FESCO Ltd,
West Canal Road, Abdullahpur,
Faisalabad
3. Ch. Muhammad Shahid Iqbal,
Advocate High Court,
Office No. T-3, Third Floor,
Makkah Tower, 13-Fane Road,
Lahore
4. Sub Divisional Officer,
FESCO Ltd,
Raza Abad 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. Abdul Wadood Against the Decision Dated 22.01.2021 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 (06 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.041/POI-2021

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Abdul Wadood S/o Abdul Wadood, R/o. Street No.04,
Near Warsi Hotel, Raza Abad, District Faisalabad

.....Respondent

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

For the Appellant:

Ch. Muhammad Shahid Iqbal Advocate
Mr. Sajjad Ali SDO

For the Respondent:

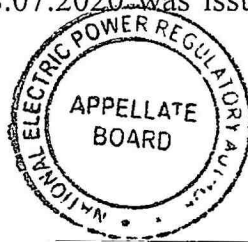
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DECISION

1. Through this decision, the appeal filed by the Faisalabad Electric Supply Company Limited (hereinafter referred to as the "Appellant") against the decision dated 22.01.2021 of the Provincial Office of Inspection, Faisalabad Region, Faisalabad (hereinafter referred to as the "POI") is being disposed of.
2. Briefly speaking, Mr. Abdul Wadood (hereinafter referred to as the "Respondent") is an industrial consumer of the Appellant bearing Ref No.21-13224-1265700-U with sanctioned load of 4 kW and the applicable Tariff category is B-1(b). The Appellant has claimed that one phase of the billing meter of the Respondent was found dead stop during the Metering & Testing ("M&T") team checking dated 01.07.2020. Notice dated 08.07.2020 was issued to the Respondent regarding the

Appeal No.041/POI-2021

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M. SDO



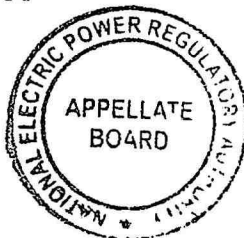
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above discrepancy. Thereafter, a detection bill of 5,784 units for six (06) months for the period from January 2020 to June 2020 was charged to the Respondent @ 33% slowness of the meter and added to the bill for September 2020.

3. Being aggrieved, the Respondent filed a complaint before the POI and challenged the above detection bill. The complaint of the Respondent was disposed of by the POI vide the decision dated 22.01.2021, wherein the detection bill of 5,784 units for six (06) months for the period from January 2020 to June 2020 was cancelled and the Appellant was allowed to charge the revise the bill of net 3,062 units for two months i.e. May 2020 and June 2020 to the Respondent @ 33% slowness of the meter.
4. Through the instant appeal, the afore-referred decision dated 22.01.2021 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 the impugned decision is against the facts and law of the case; that the impugned decision is ex-facie, coram non-judice, ab-initio, void and without jurisdiction as the POI failed to decide the matter within 90 days as envisaged in Section 26(6) of the Electricity Act, 1910; that the POI misconceived and misconstrued the facts of the case and failed to analyze the consumption data in true perspective and erred in declaring the detection bill of 5,784 units for six (06) months for the period from January 2020 to June 2020 as null and void; that the impugned decision is illegal, unlawful, arbitrary and the same is liable to be set aside.

5. **Proceedings by the Appellate Board**

Upon filing of the instant appeal, a notice dated 26.04.2021 was sent to the





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Respondent for filing reply/para-wise comments to the appeal within ten (10) days, which however were not filed.

6. Hearing

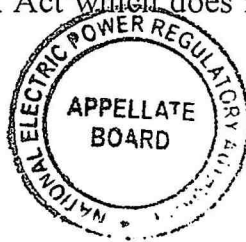
6.1 Hearing of the appeal was initially conducted at NEPRA Regional Office Lahore on 14.10.2022, which however was adjourned till the next date due to non-availability of the Respondent. Hearing of the appeal was again conducted at NEPRA Regional Office Lahore on 03.06.2023, which was attended by a counsel along with SDO 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 01.07.2020, which was also verified from the consumption data, as such the recovery of detection bill of 5,784 units for six (06) months for the period from January 2020 to June 2020 @ 33% 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 for deciding the complaint

As per the record, the Respondent filed his complaint before the POI on 19.10.2020 under Section 38 of the NEPRA Act. POI pronounced its decision on 22.01.2021 i.e. after 95 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

M. Q.





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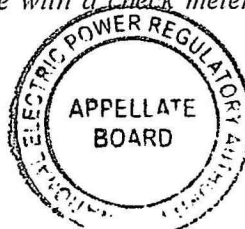
POI to decide complaints. Section 38 of the NEPRA Act overrides provisions of the Electricity Act, of 1910. Reliance in this regard is placed on the judgments of the honorable Lahore High Court Lahore reported in 2017 PLJ 627 Lahore and 2017 PLJ 309 Lahore. Keeping in view the overriding effect of the NEPRA Act on the Electricity Act, 1910, and the above-referred decisions of the honorable High Court, the objection of the Appellant is dismissed.

7.2 Detection bill of 5,784 units for six (06) months for the period from January 2020 to June 2020

Reportedly, one phase of the impugned meter of the Respondent was found dead stop during checking dated 08.07.2020, therefore, a detection bill of 5,784 units for six (06) months for the period from January 2020 to June 2020 was debited to the Respondent @ 33% slowness of the meter, which was challenged before the POI. The said forum vide impugned decision allowed the recovery of 33% slowness of the meter, hence only the period of slowness needs to be determined.

7.3 It is observed that the Appellant charged the detection bill for six months 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



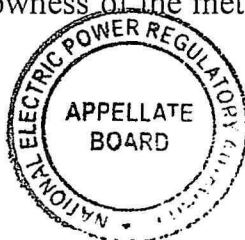


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power analyzer accompanied by an engineer of the metering and testing laboratory free of cost."

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 respective load sanctioning authority	On meter being declared as defective-Next higher office, Review Committee, POI, NEPRA in the order of appearance	Defective charging to a maximum of two billing cycles for regular bills. No previous charging on defective code	Nil
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

7.4 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 detection bill of 5,784 units for six (06) months for the period from January 2020 to June 2020 @ 33% slowness of the meter is not correct being contrary





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to the facts and violative of the foregoing clause of the CSM-2010 and the above detection bill is set aside. The impugned decision is liable to be maintained to this extent.

7.5 Since the meter under dispute was found 33% slow during the checking dated 01.07.2020, the impugned decision for revision of the detection bill against 3,062 units for two months i.e. May 2020 and June 2020 @ 33% slowness of the meter is correct being consistent with Clause 4.4(e) of the CSM-2010 and the same is upheld to this extent.

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

8. Foregoing in view, this appeal is dismissed.

Abid Hussain
Member

Muhammad Irfan-ul-Haq
Member

Naweed Hlali Sheikh
Convener

Dated: 19-09-2023

