



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

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No. NEPRA/Appeal/048/POI/2020/043

January 24, 2023

- | | |
|---|---|
| 1. Kashif Javed,
S/o. Muhammad Sharif,
R/o. Chak No. 217 RB,
Faisalabad
(connection in the name of Talib Hussain) | 2. Chief Executive Officer
FESCO Ltd,
West Canal Road, Abdullahpur,
Faisalabad |
| 3. Muhammad Nawaz Waseer,
Advocate Supreme Court,
Sargodha Khushab Law Chambers,
First Floor, Turner Tower,
9-Turner Road, Lahore | 4. Sub Divisional Officer,
FESCO Ltd,
Rehmat Town 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. Kashif Javed Against the Decision Dated 29.11.2019 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 19.01.2023, regarding the subject matter, for information and necessary action accordingly.

Encl: **As Above**

(Ikram Shakeel)
Deputy Director (M&E)/
Appellate Board

Forwarded for information please.

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



National Electric Power Regulatory Authority

Before The Appellate Board

In the matter of

Appeal No. 048/POI-2020

Faisalabad Electric Supply Company LimitedAppellant

Versus

Kashif Javed, S/o Muhammad Sharif,
R/o Chak No.217 RB, FaisalabadRespondent

APPEAL UNDER SECTION 38(3) OF THE REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 29.11.2019 PASSED BY THE PROVINCIAL OFFICE OF INSPECTION FAISALABAD REGION, FAISALABAD

For the Appellant:

Mr. Malik Asad Advocate

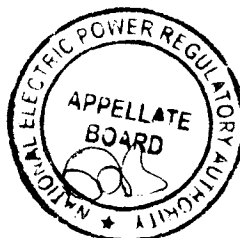
Mr. Muhammad Ibrahim SDO

For the Respondent:

Nemo

DECISION

1. Briefly speaking, Mr. Kashif Javed (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.27-13227-6200760-U with sanctioned load of 11 k W under the B-1(b) tariff category. Reportedly, the billing meter of the Respondent was found defective with the washed display in April 2017, hence it was replaced with a new meter vide the Meter Change Order (“MCO”) dated 31.05.2017 and sent to the Metering and Testing (M&T) laboratory for data retrieval. As per the M&T checking report dated 04.08.2017, the final reading was retrieved as 70,161, hence the Respondent

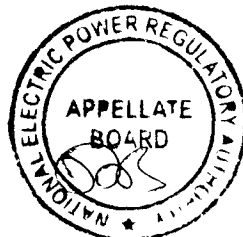




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was charged a detection bill of Rs.212,755/- for 11,644 units by the Appellant due to the difference of final reading of the meter and the units already charged and added to the bill for November 2017. The electric supply of the Respondent was disconnected by the Appellant in December 2017 due to non-payment of electricity dues.

2. Being aggrieved, the Respondent initially filed a civil suit before the Civil Court Faisalabad, which was subsequently returned by the honorable Civil Court due to the lack of jurisdiction. Thereafter, the Respondent approached the Provincial Office of Inspection, Faisalabad Region, Faisalabad (hereinafter referred to as the "POI") on 09.08.2019 and assailed the above-referred detection bill. The POI vide the decision dated 29.11.2019 declared the detection bill of Rs.212,755/- for 11644 units debited due to the difference of final reading of the impugned meter and the units already charged as null and void.
3. Being dissatisfied, the Appellant has filed the instant appeal before the NEPRA against the POI decision dated 29.11.2019 (hereinafter referred to as 'the impugned decision'), wherein it is contended that the old meter of the Respondent became defective, hence the defective meter was replaced with a new meter in May 2017 and sent to M&T laboratory for downloading the data. The Appellant further contended that the detection bill of Rs.212,755/- for 11,644 units was worked out based on the consumption data of the Respondent. The Appellant submitted that the above detection bill was fully proved through the submission of PITC data, data retrieval report and notice but the POI did not consider the documentary evidence. As per the Appellant, the impugned decision suffers





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from serious misreading and non-reading of the record and has been passed in mechanical and slipshod manner. According to the Appellant, the POI did not apply his independent and judicious mind while passing the impugned decision. The Appellant finally prayed that the impugned decision be set aside.

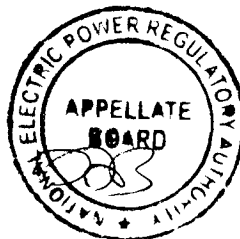
4. Proceedings by the Appellate Board

Upon filing of the instant appeal, a Notice dated 02.07.2020 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 11.03.2022 at Lahore and accordingly, the notices dated 03.03.2022 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 Lahore on 11.03.2022, in which the representative for the Appellant sought adjournment with the plea that the learned counsel for the Appellant could not attend the hearing as he proceeded to England. In view of the above, the hearing was adjourned.

5.2 The hearing of the subject matter was rescheduled for 03.06.2022 at NEPRA Head Office Islamabad for which notices dated 26.05.2022 were sent to both parties. On the given date no one could appear on behalf of the Respondent, whereas SDO represented the Appellant. In order to provide an opportunity of hearing to both parties, the case was





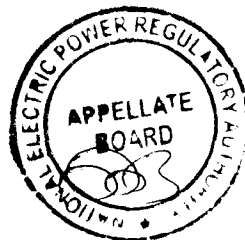
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adjourned.

5.3 After issuing notices dated 08.06.2020 to both parties, the hearing was conducted at NEPRA Regional Office Lahore on 17.06.2022, which was attended by the representatives of the Appellant and no one was present for the Respondent. The representatives for the Appellant informed that the counsel for the Appellant is suffering from severe illness and could not attend the hearing. In view of the above, the hearing was adjourned with the direction to the Appellant that the adjournment in the next hearing would only be allowed with special cost equivalent to the traveling expense of the Respondent to be borne by the Appellant.

5.4 Notices dated 15.08.2022 were issued to both parties i.e. the Appellant and the Respondent and a hearing of the Appeal was conducted at NEPRA Regional Office Lahore on 23.08.2022, which was attended by a counsel for the Appellant but no one appeared for the Respondent. Learned counsel for the Appellant sought adjournment on the ground that the concerned official of the Appellant is not present to assist him in the arguments. The hearing was adjourned with the direction to the Appellant to ensure the presence of the official of the Appellant in the next hearing.

5.5 Lastly, the hearing of the subject appeal was conducted at Lahore on 30.09.2022 for which notices dated 22.09.2022 were issued to both parties. On the given date of hearing, counsel along with SDO appeared for the Appellant and again no one represented the Respondent. During the hearing, learned counsel for the Appellant reiterated the same arguments as given in memo of the appeal and defended the charging of the detection bill





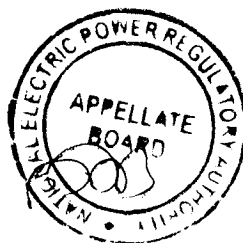
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of Rs.212,755/- for 11644 units due to the difference of final reading i.e.70,161 and the 58,517 units already charged and added to the bill for November 2017. He opposed the impugned decision for cancellation of the above detection bill and argued 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.

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

6.1 The record presented before us shows that till March 2017, no discrepancy 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 April 2017, the impugned meter of the Respondent was found defective with the display washed out, whereupon it was replaced with a new meter by the Appellant in May 2017. Subsequently, the M&T team of the Appellant vide report dated 04.08.2017 declared the impugned meter defective with erratic behavior and based upon the said report, the Appellant charged a detection bill of Rs.212,755/- for 11,644 units to the Respondent due to the difference between claimed final reading retrieved and the units already charged and added to the bill of November 2017.

6.2 Under Clause 4.4 of the CSM-2010, upon doubt about the accuracy of a meter, the same need 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.





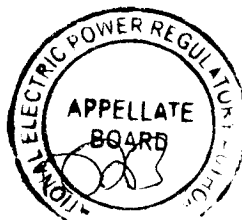
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6.3 The Appellant has raised the detection bill based on the alleged data retrieval report and some M&T lab checking. Natural justice requires such checking and data retrieval to be carried out in the presence of the consumer or a neutral competent 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. In view of the foregoing discussion, the detection bill of Rs.212,755/- for 11,644 units charged by the Appellant to the Respondent is unjustified and the same is declared null and void.

6.4 According to Clause 4.4(e) of the CSM-2010, the Respondent may be charged the revised bills maximum for two months i.e. April 2017 and May 2017, and the basis of charging the said bills be made on 100% consumption of the corresponding month of the previous year or average consumption of the last eleven months, whichever is higher. However, in the instant case, the Respondent was billed higher consumption in April 2017 as compared to the consumption of April 2016 or average consumption of the last eleven months i.e. May 2016 to March 2017, whereas less consumption was charged in May 2017 as compared to the corresponding consumption of the previous year or average consumption of the last eleven months. Thus, the Respondent is obligated to pay the revised bill for only one month i.e. May 2017 as per consumption of May 2016 or the average consumption of May 2016 to March 2017, whichever is higher. The impugned decision is liable to be modified to this extent.

7. Summing up the foregoing discussion, it is concluded as under:

7.1 The detection bill of Rs.212,755/- for 11,644 units charged by the Appellant to the





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Respondent in November 2017 is declared null and void.

7.2 The Respondent may be charged the revised bill of only one month i.e. May 2017 as per consumption of May 2016 or average consumption of the last eleven months i.e. May 2016 to March 2017, whichever is higher as per Clause 4.4(e) of the CSM-2010.

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

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

Syed Zawar Haider
Member

Muhammad Irfan-ul-Haq
Member

Abid Hussain
Convener

Dated: 19/01/2023

