



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

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No. NEPRA/Appeal/063/POI/2020/1044

January 24, 2023

- | | |
|---|---|
| 1. Manzoor-ul-Haq,
S/o. Muhammad Saleem Chaudhary,
R/o. Mongi Road, District Gojra | 2. Chief Executive Officer
FESCO Ltd,
West Canal Road, Abdullahpur,
Faisalabad |
| 3. Dr. Muhammad Irtiza Awan,
Advocate High Court,
Al-Majeed Centre, 1-Mozang Road,
38-Link Farid Kot Road, Lahore | 4. Sub Divisional Officer,
FESCO Ltd,
Samundri Road Sub Division,
Gojra |
| 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. Manzoor-ul-Haq Against the Decision Dated 28.01.2020 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.063/POI-2020

Faisalabad Electric Supply Company LimitedAppellant

Versus

Manzoor-ul-Haq, S/o Muhammad Saleem Chaudhary,
R/o. Mongi Road, District GojraRespondent

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

For the Appellant:

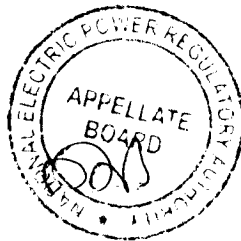
Dr. M. Irtiza Awan Advocate
Mr. Shakeel Ahmed MI

For the Respondent:

Mr. Manzoor-ul-Haq

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 28.01.2020 of the Provincial Office of Inspection, Faisalabad Region, Faisalabad (hereinafter referred to as the “POI”) is being disposed of.
2. Briefly speaking, Mr. Manzoor-ul-Haq (hereinafter referred to as the “Respondent”) is an industrial consumer of the Appellant bearing Ref No.24-13332-5205300 with sanctioned load of 69kW and the applicable Tariff category is B-2(b). The Appellant has claimed that one phase of both the billing and backup meters of the Respondent was found dead stop during the Metering & Testing (“M&T”) team





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checking dated 25.06.2019. Resultantly, the Multiplication Factor (MF) of the Respondent was enhanced from 40 to 59.7 due to 33.33% slowness of the impugned billing meter w.e.f July 2019 and onwards. Later on, a detection bill amounting to Rs.842,047/- against 40,211 units+76 kW MDI for four months for the period from March 2019 to June 2019 was debited to the Respondent @ 33.33% slowness of the meter and added to the bill for November 2019.

3. Being aggrieved with the above actions of the Appellant, the Respondent filed a complaint before the POI on 27.11.2019 and challenged the above detection bill. The complaint of the Respondent was disposed of by the POI vide the decision dated 28.01.2020, wherein the detection bill of 40,211 units+76 kW MDI for four months for the period from March 2019 to June 2019 was cancelled. The Appellant was directed to charge the revised detection bill of 17,121 units+36 kW MDI for May 2019 and June 2019. The Appellant was further directed to provide relief regarding adjustment of quarterly surcharges, PM relief, Income Tax, and GST for the period May 2019 to June 2019 and overhaul the billing account of the Respondent, accordingly.
4. Through the instant appeal, the afore-referred decision dated 28.01.2020 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) both the billing and backup meters of the Respondent were found running 33.33% slow due to one phase being defective on 25.06.2019, therefore MF was raised from 40 to 59.7 for onward billing; (2) a detection bill of 40,211 units +76 kW MDI for four months for the period from March 2019 to June 2019 was



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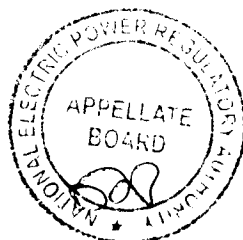
debited to the Respondent after approval of competent authority; (3) the POI failed to apply his independent and judicious mind while passing the impugned decision; (4) the POI has not adverted the real aspects of the case; and (5) the impugned decision is liable to be set aside.

5. Proceedings by the Appellate Board

5.1 Upon filing of the instant appeal, a notice dated 09.07.2020 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days. The Respondent however did not submit the reply to the Appeal.

6. Hearing

- 6.1 Hearing of the Appeal was conducted on 11.03.2022 and 03.06.2022, however adjourned on the request of the Appellant. Latsly, hearing of the appeal was held at Lahore on 30.09.2022, which was attended by counsel along with an official for the Appellant and the Respondent appeared in person. The representative for the Appellant reiterated the same version as contained in the memo of the appeal and contended that one phase of both the billing and backup meters of the Respondent was found dead stop on 25.06.2019, as such the detection bill of Rs.842,047/- against 40,211 units+76 kW MDI for four months for the period from March 2019 to June 2019 was debited to the Respondent. The representative for the Appellant averred that the impugned meter remained 33.33% slow during the disputed period from March 2019 to June 2019, as such the impugned decision for cancellation of the above detection bill is unjustified and the same is liable to be struck down.
- 6.2 The Respondent rebutted the version of the Appellant regarding charging the above





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detection, supported the impugned decision, and prayed for upholding the same.

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

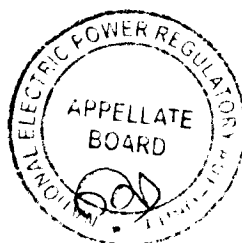
7.1 Detection bill of Rs.842,047/- against 40,211 units+76 kW MDI for four months for the period from March 2019 to June 2019 debited in November 2019

The Appellant claimed to have found both the billing and backup meters of the Respondent defective due to one dead stop during checking dated 25.06.2019, therefore it enhanced the MF=59.7 w.e.f July 2019 and onwards. Further, a detection bill of Rs.842,047/- against 40,211 units+76 kW MDI for four months for the period from March 2019 to June 2019 was issued to the Respondent in November 2019, which was assailed by him before the POI. The Appellant has filed this appeal defending the above detection bill charged to the Respondent and prayed for setting aside the impugned decision.

7.2 As such the billing dispute arose in November 2019, therefore, the matter will be dealt with under the provisions of the then applicable CSM-2010. Clause 4.4 of the CSM-2010 enumerates the procedure to confirm the defect in the metering equipment and charge the Consumer on the basis thereof. Sub-clauses (b), (c), and (e) of Clause 4.4 of the CSM-2010 being relevant in the instant are reproduced below:

"4.4 Meter Replacement

(b) Should the FESCO at any time, doubt the accuracy of any metering equipment, the FESCO may after information to the consumer, install another duly calibrated and tested metering equipment in series with the impugned metering equipment to determine the difference in consumption or maximum demand recorded by the check metering equipment and that recorded by the impugned metering equipment during a fixed period. If any such comparative test being made the impugned metering equipment should prove to be





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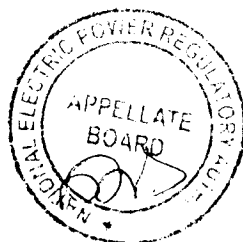
incorrect, the impugned metering equipment shall be removed from the premises with the written consent of the consumer, and the FESCO in the absence of any interference or alteration in the mechanism of the impugned metering equipment being detected by the FESCO shall install "correct meter" without any further delay.

(c) Where it is not possible for the FESCO to install check metering equipment of appropriate capacity in series with the impugned metering equipment, to check the accuracy of the impugned metering equipment as described above, the FESCO shall, after information (in writing) the consumer, test the accuracy of the impugned metering equipment at site by means of Rotary Sub-Standard or digital power analyzer. If incorrect, the impugned metering equipment shall be removed and immediately removed upon settlement/payment of assessed amount. In case if a correct meter is not available then the multiplying factor shall be charged accordingly till the replacement with correct meter.

(d)

(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 % 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.

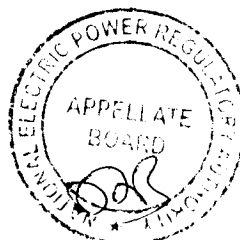
Under sub-clause 'b' above, upon doubt about the accuracy of the metering equipment of the Respondent, the Appellant was required to install a check metering equipment, after informing the Respondent, to determine the difference in consumption or maximum demand recorded by the check meter and the impugned meter during a fixed period. In case of confirmation of slowness in the impugned meter, the same was required to be removed with the written consent of the Consumer.





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- 7.3 Alternatively, the Appellant was required to follow the procedure given in sub-clause (c) of Clause 4.4 of the CSM-2010, which stipulates the checking of metering equipment after informing (in writing) the consumer, by means of a Rotary Sub-standard or digital power analyzer.
- 7.4 As per the record presented before us, there is no evidence that the Appellant followed the procedure either under sub-clause (b) or sub-clause (c) of the CSM-2010. The Appellant has claimed that the metering equipment was checked in presence of the Respondent, however, the Test check proforma dated 25.06.2019 as submitted by the Appellant is not signed by the Respondent. The essence of Clause 4.4 of the CSM-2010 is to ensure transparency by taking the consumer on board. However, the claim of the Appellant about the meter slowness without following the laid down procedure suffers from credibility deficit.
- 7.5 Moreover, Clause 4.4(e) of the CSM-2010 restricts the Distribution Company to charge its consumers on account of slowness/defectiveness, if confirmed maximum for two months. However, in the instant case, the Appellant charged the detection bill beyond two billing cycles, which is inconsistent with the foregoing clause of the CSM-2010. Under these circumstances, we hold that the detection bill of Rs.842,047/- against 40,211 units+76 kW MDI for four months for the period from March 2019 to June 2019 charged to the Respondent due to the 33.33% slowness of the meter is liable to be declared null and void.
- 7.6 According to clause 4.4(e) of the CSM, the Respondent may be charge the bills maximum for two months in case of slow meter. In this regard, consumption is





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analyzed in the below table:

Undisputed		Disputed		% increase/decrease
Month	Units	Month	Units	
May-18	30539	May-19	22160	-27%
Jun-18	25480	Jun-19	12600	-51%
Total	56019	Total	34760	-38%

The above consumption data shows considerable decrease in consumption of the Respondent during the disputed period vis-a-vis consumption of corresponding months of the previous year. This trend indicate slowness in the impugned meter during the disputed months i.e. May 2019 and June 2019. Therefore we are inclined to agree with the determination of POI for revision of the bill for the cost of 17,121 units+36 kW MDI for two months i.e. May 2019 and June 2019, which is consistent with the Clause 4.4(e) of the CSM-2010.

- 7.7 The billing account of the Respondent may be overhauled after adjustment of the payments made against the above detection bill.
8. Foregoing in view, the appeal is dismissed.

Syed Zavar Haider
Member

Muhammad Irfan-ul-Haq
Member

Abid Hussain
Convener

Dated: 19/01/2023.

