



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

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No. NEPRA/Appeal/076/POI/2020/ 645

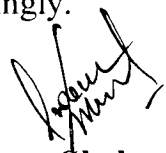
January 24, 2023

- | | |
|---|---|
| 1. Asim Maseeh,
S/o. Munshi Maseeh,
Manager Taj Mahal Hotel,
R/o. Main Gate Jinnah Colony,
Narrawala Road, Faisalabad | 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,
Sadar Bazar 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. Asim Maseeh Against the Decision Dated 27.02.2020 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. 076/POI-2020

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Asim Maseeh S/o Munshi Maseeh,
Manager Taj Mahal Hotel, R/o. Main Gate Jinnah Colony,
Narewal Road, Faisalabad

.....Respondent

APPEAL UNDER SECTION 38(3) OF THE REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997

For the Appellant:

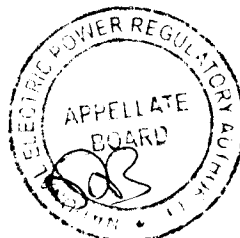
Dr. M. Irtiza Awan Advocate
Mr. Muhammad Ibrahim SDO

For the Respondent:

Nemo

DECISION

1. Briefly speaking, Mr. Asim Maseeh (hereinafter referred to as the “Respondent”) is a commercial consumer of Faisalabad Electric Supply Company Limited (hereinafter referred to as ‘the Appellant’) bearing Ref No.24-13223-5309084 having sanctioned load of 72kW under the A-2(c) tariff category. Reportedly, the billing meter of the Respondent was found defective with the washed display and the backup meter was found working ok during the Metering and Testing (M&T) team checking dated 24.12.2012. The Appellant charged the kWh part of the billing on the basis of the reading of the backup meter and the MDI part of the billing on DEF-EST code w.e.f January 2013 and onwards. During another checking dated 04.04.2014 of the M&T team of the Appellant, the discrepancy of vanished display of the billing meter of the

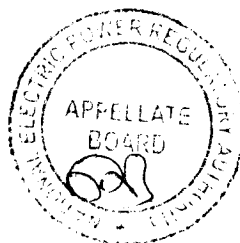




National Electric Power Regulatory Authority

Respondent was witnessed, whereas the backup meter was again found functioning correctly.

2. Being aggrieved, the Respondent initially filed a civil suit before the Civil Court Faisalabad on 26.06.2014 against the billing of the Appellant. The impugned billing meter of the Respondent was replaced with a new meter by the Appellant in November 2014. The honorable Civil Court vide order dated 03.07.2018 returned the civil suit 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 07.05.2019 and assailed the bills for the period January 2013 to November 2014. The POI vide the decision dated 27.02.2020 declared the kWh part of the billing for the period January 2013 to November 2014 as justified and payable by the Respondent. As per the POI decision dated 27.02.2020, 871 kW MDI charged for the period January 2013 to November 2014 is excessive, illegal, and unjustified and the same is withdrawn. The POI further directed the Appellant to charge the revised bill of total 365 kW MDI for the period January 2013 to November 2014 and to recover the arrears in three installments.
3. Being dissatisfied, the Appellant has filed the instant appeal before the NEPRA against the POI decision dated 27.02.2020 (hereinafter referred to as the "impugned decision"), wherein it is contended that the billing meter of the Respondent became defective in January 2013, hence the defective code was fed for the billing w.e.f January 2013 and onwards for the recovery of MDI part, whereas the kWh part of the bills for the said period was charged on the basis of consumption of backup meter.





National Electric Power Regulatory Authority

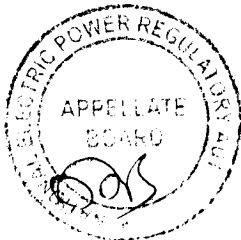
The Appellant further contended that the defective meter was replaced with a new meter in November 2014 and the bills for the period January 2013 to November 2014 were debited as per checking and the ground realities of the case. As per the Appellant, the POI has not thrashed out the consisting reasons and passed the illegal impugned decision. According to the Appellant, the bills charged to the Respondent are quite legal, justified and the Respondent is responsible to pay the same. 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 15.07.2020 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 of the Appeal was conducted on 11.03.2022 and 03.06.2022 but adjourned on the request of either the Appellant or the Respondent. Lastly, hearing of the Appeal was conducted at Lahore on 30.09.2022, which was attended by a counsel along with SDO for the Appellant but no one appeared for the Respondent. During the hearing, learned counsel for the Appellant reiterated the same arguments as given in memo of the appeal and contended that the impugned billing meter was found defective with vanished display and the backup meter was found working within BSS limits, therefore the kWh part of the bills for the period January 2013 to November 2014 was recovered on the basis of backup meter and the MDI part of the said bills was charged on DEF-EST code due to defective billing meter. Learned counsel for the Appellant defended



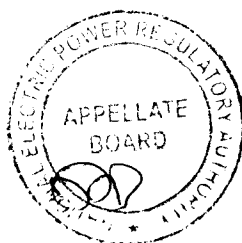


National Electric Power Regulatory Authority

the charging of the above-said bills with the grounds that the recovery of the MDI part was done on the DEF-EST code to recover the revenue loss sustained due to the defective meter. He opposed the impugned decision for revision of the MDI part of the above bills @ 15.9 kW as per average consumption for the period from December 2014 to December 2015 and prayed to withdraw the impugned decision to this extent.

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

- 6.1 The record presented before us shows that the Appellant conducted the first checking of the metering equipment of the Respondent on 24.12.2012, wherein, the display of the impugned meter was found vanished, whereas the CT-operated backup meter was functioning within BSS limits. Therefore, the Appellant raised the bills [kWh part debited based on the reading of the CT operated backup meter and MDI part debited on DEF-EST code] w.e.f January 2013 and onwards.
- 6.2 The second checking of the metering equipment of the Respondent was carried out by the M&T team of the Appellant on 04.04.2014 i.e. after 15 months of the first checking, whereby the discrepancy of the vanished display of the impugned billing meter was again observed, whereas, the backup meter was found working within BSS limits. In the instant case, allegedly, the Appellant failed to replace the defective meter immediately as required under CSM-2010, however billing during the disputed period January 2013 to November 2014 has been done on the backup meter, which was working within BSS limits and recording the correct consumption. Therefore the bills charged to the Respondent from January 2013 to November 2014 based on the reading of the CT-operated backup meter are justified and the Respondent is liable to pay the

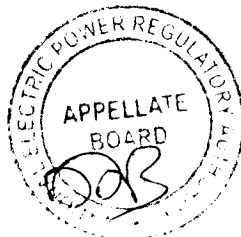




National Electric Power Regulatory Authority

same.

- 6.3 As regards the MDI part, the same has been charged by the Appellant based on the DEF-EST code for 23 months i.e. January 2013 to November 2014. In this regard, it is clear that under Clause 4.4(e) of the CSM-2010, a distribution company can charge its consumers on the basis of the DEF-EST code for the next two billing cycles.
- 6.4 In view of all the above facts and the applicable provisions of CSM-2010, the recovery of the MDI part of the bills @ 40 kW MDI per month for the period from January 2013 to November 2014 from the Respondent is unjustified and the same is declared null and void. However, the bills in terms of variable charges (kWh part) debited by the Appellant during the period January 2013 to November 2014 based on the reading of the CT-operated backup meter are justified and payable by the Respondent.
- 6.5 Similarly, the determination of the POI for revision of the MDI part of the bills @ 15.9 kW MDI per month for the period January 2013 to November 2014 on the basis of average MDI recorded during the period after the dispute i.e. January 2015 to December 2015 is not in line with provisions of the CSM-2010, hence the same is liable to be withdrawn to this extent.
- 6.6 Since, the Appellant observed the discrepancy of vanished display in the impugned billing meter during the checking dated 24.12.2012, therefore, the Respondent is liable to be debited the revised bills in terms of fixed charges (MDI part) @ 24 kW MDI per month for two months only i.e. January 2013 and February 2013 as per average



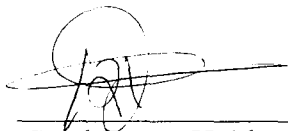



National Electric Power Regulatory Authority


consumption of the period July 2012 to December 2012 as calculated below:

Month	Jul-12	Aug-12	Sep-12	Oct-12	Nov-12	Dec-12	Average
MDI	34	28	24	20	19	18	24

7. Summing up the foregoing discussion, it is concluded that:
- 7.1 The recovery of the fixed charges (MDI part) of the bills @ 40 kW MDI per month for the period from January 2013 to November 2014 from the Respondent is unjustified and the same is cancelled. However, the variable charges (kWh part) debited by the Appellant during the period from January 2013 to November 2014 based on the consumption of CT-operated backup meter are justified and the Respondent is responsible to pay the same.
- 7.2 The Appellant may charge the fixed charges (MDI part) @ 24 kW MDI per month for two months i.e. January 2013 and February 2013 as per average consumption of July 2012 to December 2012 as per Clause 4.4(e) of the CSM-2010.
- 7.3 The billing account of the Respondent be overhauled after adjusting payments made against the above bills.
8. The appeal is disposed of in the above terms.


Syed Zavar Haider
Member


Muhammad Irfan-ul-Haq
Member


Abid Hussain
Convener

Dated: 19/01/2023

