



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

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No. NEPRA/Appeal/086/2021/ 683

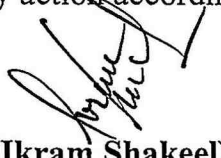
November 21, 2023

- | | |
|--|---|
| 1. Farman Ali,
S/o. Muhammad Ramzan,
D. M. Classis Fashion Industries,
P-136-137, Small Industrial Estate,
Faisalabad | 2. Chief Executive Officer
FESCO Ltd,
West Canal Road, Abdullahpur,
Faisalabad |
| 3. Malik Asad Akram Awan,
Advocate High Court,
Sargodha Khushab Law Chambers,
First Floor, Turner Tower,
9-Turner Road, Lahore | Khalil ur Rehman,
4. Advocate High Court,
SKB Law Associates,
3 rd Floor, Hameed Law Chambers,
Near Al-Taj Hotel, 1-Turner Road,
Lahore |
| 5. Sub Divisional Officer (Operation),
FESCO Ltd,
Sargodha Road Sub Division,
Faisalabad | 6. POI/Electric Inspector,
Energy Department, Govt. of Punjab,
Opposite Commissioner Office,
D.C.G Road, Civil Lines,
Faisalabad Region, Faisalabad |

Subject: **Appeal No.086/2021 (FESCO Vs. Farman Ali) Against the Decision Dated 02.04.2021 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 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.086/POI-2021

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Farman Ali S/o. Muhammad Ramzan, D.M. Classic Fashion
Industries, P-136-137, Smal Industries Estate, Faisalabad

.....Respondent

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

For the Appellant:

Malik Asad Akram Advocate

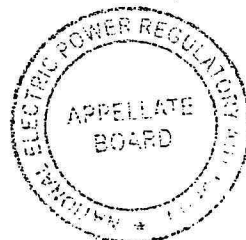
For the Respondent:

Mr. Khalil-ur-Rehman Advocate

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 02.04.2021 of the Provincial Office of Inspection, Faisalabad Region, Faisalabad (hereinafter referred to as the "POI") is being disposed of.
2. Briefly speaking, Mr. Farman Ali (hereinafter referred to as the "Respondent") is an industrial consumer of the Appellant bearing Ref No.24-13125-5509235 with sanctioned load of 59 kW and the applicable Tariff category is B-2(b). The metering equipment of the Respondent was checked by the Metering & Testing ("M&T") team on 08.04.2020, wherein the impugned billing meter was found defective with washed display, whereas the backup meter was found running 33% slow due to blue phase being dead. Billing of the Respondent was shifted by the Appellant on the backup meter w.e.f April 2020 and onwards till the replacement of the impugned meter on 28.09.2020. Thereafter, the detection bill of Rs.1,553,656/- for 68,340 units was raised by the Appellant in September 2020, which was challenged by the Respondent before the POI on 13.11.2020. In his complaint, the Respondent prayed to revise the bill for September 2020 for 48,280 units as recorded in

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July 2020. The complaint of the Respondent was disposed of by the POI vide the decision dated 02.04.2021, wherein the detection bill of Rs.1,553,656/- against 68,340 units for September 2020 was cancelled and the Appellant was directed to charge the revised detection bill for 48,280 units for September 2020.

3. Through the instant appeal, the afore-referred decision dated 02.04.2021 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, (1) the detection bill of Rs.1,553,656/- against 68,340 units was debited to the Respondent in September 2020 to account for 33% slowness of the meter; (2) the POI vide impugned decision illegally cancelled the above detection bill and revised the same for 48,280 units; (3) the impugned decision suffers from serious misreading and non-reading of record and has been passed in mechanical and slipshod manner; (4) the POI failed to apply his independent and judicious mind while passing the impugned decision; (5) the POI did not decide the case within mandatory period of 90 days as provided under Section 26(6) of Electricity Act, 1910; and (6) the impugned decision is liable to be set aside.

4. **Proceedings by the Appellate Board**

Upon filing of the instant appeal, a notice dated 17.08.2021 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days, which however were not filed.

5. **Hearing**

- 5.1 Hearing was initially conducted on 24.06.2023, which however was adjourned to provide an opportunity to the Appellant. Finally, the hearing was conducted at NEPRA Regional Office Faisalabad on 09.09.2023, which was attended by the counsels for both the Appellant and the Respondent. Learned counsel for the Appellant contended that the billing meter of the Respondent was found running 33% slow during checking dated 08.04.2020, therefore the billing was carried out after adding 33% slowness of the meter w.e.f April 2020 and onwards. Learned counsel for the Appellant further contended that the detection bill of Rs.1,553,656/- against 68,340 units charged in September 2020 is justified and payable by the Respondent. Learned counsel for the Appellant was directed to submit the documents i.e. detection proforma and PITC within one week.
- 5.2 On the contrary, learned counsel for the Respondent rebutted the version of the Appellant, supported the impugned decision, and prayed for upholding the same.

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

6.1 Objection of the Appellant regarding the time limit for POI to decide the complaint:

As per the record, the Respondent filed a complaint before the POI on 13.11.2020 under Section 38 of the NEPRA Act. POI pronounced its decision on 02.04.2021 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.

6.2 Detection bill of Rs.1,553,656/- against 68,340 units debited in September 2020

Reportedly, one phase of the backup meter of the Respondent was found dead stop and the billing meter was found defective with vanished display during checking dated 08.04.2020 of the Appellant, therefore, the bills w.e.f April 2020 and onwards were debited to the Respondent after adding 33% slowness of the backup meter. Thereafter, the Respondent received a detection bill of Rs.1,553,656/- for 68,340 units in September 2020, which was assailed before the POI.

6.3 To verify the contention of the Appellant regarding charging the above detection bill, the Appellant was directed to provide copy of the detection proforma and PITC data within one week, which however were not submitted by them. Under these circumstances, we have to rely upon the consumption data replicated in the impugned decision:

Year	2018	2019	2020
Month	Units	Units	Units
January	0	30480	40000
February	0	26960	38600
March	0	19680	40280
April	0	32420	9040
May	0	31240	27520
June	27560	26680	47320
July	20400	38080	48280
August	26760	30520	41640
September	24920	21920	68340
October	30160	33120	38540

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November	29960	39680	22740
December	30120	35160	43040

The above table shows that such high consumption of 68,340 units debited to the Respondent in September 2020 has never been recorded in the billing history of the last three years. Moreover, the Appellant could not justify their claim regarding the above detection bill through verifiable evidences. Hence the POI has rightly cancelled the detection bill of Rs.1,553,656/- against 68,340 units debited to the Respondent in September 2020 being excessive, unjustified, and inconsistent with the provisions of the CSM-2010.

6.4 Since the Respondent agreed to pay the revised detection bill of 48,280 units for September 2020 as recommended by XEN (Opr.) FESCO Civil Lines vide letter No.5569-70 dated 14.10.2020, hence the Appellant may debit 48,280 units for September 2020 and adjust the payment made against the impugned detection bill. Impugned decision is liable to be maintained to this extent.

7. Foregoing in view, this appeal is dismissed.



Abid Hussain
Member



Muhammad Irfan-ul-Haq
Member



Naweed Illahi Sheikh
Convener

Dated: 21/11/2023

