



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

NEPRA Office , Ata Turk Avenue (East), G5/1, Islamabad
Tel. No.+92 051 2013200 Fax No. +92 051 2600030
Website: www.nepra.org.pk E-mail: office@nepra.org.pk

No. NEPRA/Appeal/089/POI/2020/ 047


January 24, 2023

- | | |
|--|---|
| 1. Muhammad Abbas,
S/o. Munir Ahmad Khan,
Branch Manager Life Pharmacy,
Madina Town, Susan Road,
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 | 4. Mirza Muhammad Ijaz,
Advocate High Court,
Chamber No. 08, Ground Floor,
Abu Anees Sufi Muhammad Barkat Ali Law Chambers,
District Courts, Faisalabad |
| 5. Sub Divisional Officer,
FESCO Ltd,
Madina Town 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 Titled FESCO Vs. Muhammad Abbas Against the Decision Dated 29.06.2020 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.089/POI-2020

Faisalabad Electric Supply Company LimitedAppellant

Versus

Muhammad Abbas S/o Munir Ahmed Khan, Branch Manager
Life Pharmacy, Madina Town, Susan Road, FaisalabadRespondent

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

For the Appellant:

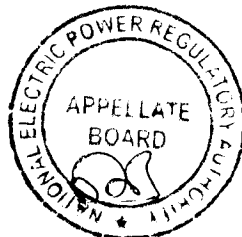
Malik Asad Akram Awan Advocate
Mr. Amir Shafique SDO

For the Respondent:

Mirza Muhammad Ijaz 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 29.06.2020 of the Provincial Office of Inspection, Faisalabad Region, Faisalabad (hereinafter referred to as the “POI”) is being disposed of.
2. Briefly speaking, Mr. Muhammad Abbas (hereinafter referred to as the “Respondent”) is a domestic consumer of the Appellant bearing Ref No.22-13131-2143000 U with sanctioned load of 3 kW and the applicable Tariff category is A-1. The Appellant has

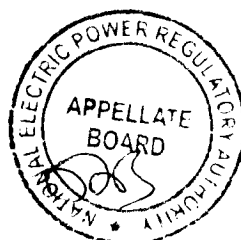




National Electric Power Regulatory Authority

claimed that one phase of the billing meter of the Respondent was found dead stop during the Metering & Testing ("M&T") team checking dated 23.07.2018 therefore, the impugned billing meter of the Respondent was replaced with a new meter by the Appellant in July 2018. Subsequently, a detection bill amounting to Rs.118,010/- for the cost of 7,665 units for five months for the period from February 2018 to June 2018 was debited to the Respondent @ 33% slowness of the meter and added to the bill for December 2018.

3. Being aggrieved with the above actions of the Appellant, the Respondent filed a complaint before the POI on 19.01.2020 and challenged the above detection bill. The complaint of the Respondent was disposed of by the POI vide the decision dated 29.06.2020, wherein the detection bill of Rs.118,010/- for 7,665 units for five months for the period from February 2018 to June 2018 was cancelled. The Appellant was directed to charge the revised bill of net 3,270 units for two months only i.e. May 2018 and June 2018. The Appellant was further directed to overhaul the billing account of the Respondent.
4. Through the instant appeal, the afore-referred decision dated 29.06.2020 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) the POI illegally and unlawfully declared the detection bill of Rs.118,010/- for 7,665 units for five months for the period from February 2018 to June 2018 as null and void (2) the impugned decision suffers from serious misreading and non-reading of





National Electric Power Regulatory Authority

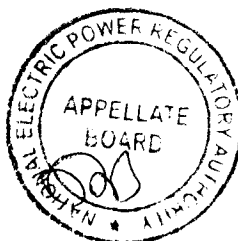
record and has been passed in mechanical and slipshod manner; (3) the POI failed to apply his independent and judicious mind while passing the impugned decision; (4) the POI, on one hand, agreed that the impugned meter was slow, whereas on the other hand declared the above detection bill as void; and (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 23.09.2020 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days. The Respondent submitted his reply to the Appeal on 06.10.2020, wherein he prayed for dismissal of the appeal on the grounds that the Appeal filed before the NEPRA is barred by time; that the detection bill amounting to Rs.118,011/- was debited by the Appellant in violation of Clause 4.4 of the CSM-2010; that the impugned decision was passed after perusal of record and the same is liable to be maintained in the best interest of justice.

6. Hearing

6.1 Hearing of the Appeal was initially conducted at Islamabad on 03.06.2022 in which no one appeared for both parties, therefore the hearing was rescheduled for 30.09.2022. On the given date of hearing, a counsel along with an official represented the Appellant and a counsel appeared for the Respondent. In the beginning, Learned counsel for the Respondent repeated the preliminary objection regarding limitation and prayed for dismissal of the appeal being filed after a delay of four days. In response, learned





National Electric Power Regulatory Authority

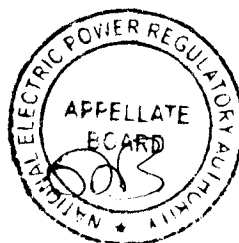
counsel for the Appellant explained that the copy of the impugned decision dated 29.06.2020 was obtained by the Appellant on 08.07.2020, and the Appeal was sent to the NEPRA via courier on 07.08.2020 within 30 days, which was received on 10.08.2020. On merits, learned counsel for the Appellant reiterated the same version as contained in the memo of the appeal and contended that one phase of the billing meter of the Respondent was found dead stop on 23.07.2018, as such the detection bill of Rs.118,010/- for 7,665 units for five months for the period from February 2018 to June 2018 was debited to the Respondent. Learned counsel for the Appellant averred that the impugned meter remained 33% slow during the disputed period from February 2018 to June 2018, as such the impugned decision for cancellation of the above detection bill and revision of the same for two months is unjustified and the same is liable to be struck down.

6.2 Learned counsel for the Respondent rebutted the version of the Appellant regarding charging the above detection bill and argued that the said detection bill was charged in violation of provisions of the CSM-2010, which restricts the Appellant to charge the bills maximum for two months in case of a slow meter. He supported the impugned decision and prayed for upholding the same.

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

7.1 Limitation for filing appeal:

[Mention section 38(3) time limit as well] Under Regulation 4 of the NEPRA (Procedure for filing Appeals) Regulations, 2012, the Appeal is required to be filed within 30 days





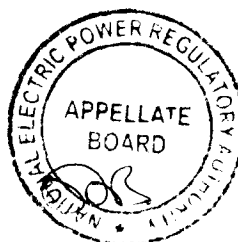
National Electric Power Regulatory Authority

of the receipt of the impugned decision of POI by the Appellant. Further, a margin of 7 days is provided in case of submission through registered post, and 3 days in case of submission of appeal through courier is given in the NEPRA (Procedure for filing Appeals) Regulations, 2012. The Appellant produced a copy of the impugned decision dated 29.06.2020 received from the office of POI on 08.07.2020. Counting 30 days from the date of said receiving, the appeal filed on 10.08.2020 before the NEPRA is within the time limit as prescribed in the above-referred Regulation of NEPRA (Procedure for filing Appeals) Regulations, 2012. Hence the objection of the Respondent in this regard has no force and is rejected.

7.2 Detection bill of Rs.118,010/- for 7,665 units for five months for the period from February 2018 to June 2018 debited in December 2018

The facts submitted before us transpire that the Appellant found the billing meter of the Respondent defective due to one dead stop during checking dated 23.07.2018, therefore a detection bill of Rs.118,010/- for 7,665 units for five months for the period from February 2018 to June 2018 was issued to the Respondent @33% slowness of the meter in December 2018, 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.

7.1 One phase of the billing meter of the Respondent was allegedly discovered as dead stop by the Appellant on 23.06.2018 and the disputed detection bill was issued in December 2018. Therefore, the matter will be dealt with under the provisions of the CSM-2010.





National Electric Power Regulatory Authority

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 of thereof. Sub-clauses (b), (c), and (e) of Clause 4.4 of the CSM-2010 being relevant in the instant are reproduced below:

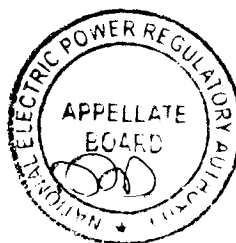
"4.4 Meter Replacement

(b) Should the FESCO at any time, doubt the accuracy of any metering equipment, the FESCO may after informing 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 one such comparative test being made the impugned metering equipment should prove to be 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 informing (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 replaced 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





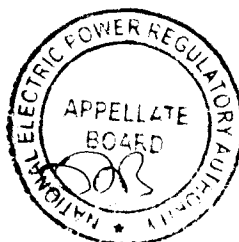
National Electric Power Regulatory Authority

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.

7.2 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.

7.3 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 23.07.2018 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. The claim of the Appellant about the meter without following the laid down procedure suffers from credibility





National Electric Power Regulatory Authority

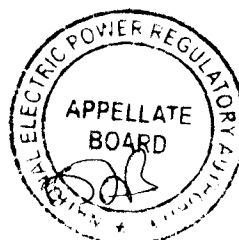
insufficiency.

7.4 To further verify the contention of the Appellant regarding the 33% slowness of the meter, consumption data is analyzed below:

Undisputed		Disputed		% increase/ decrease units
Month	Units	Month	Units	
Feb-17	1614	Feb-18	78	-95%
Mar-17	1589	Mar-18	88	-94%
Apr-17	1514	Apr-18	156	-90%
May-17	1507	May-18	236	-84%
Jun-17	2425	Jun-18	426	-82%

7.5 The above consumption data shows a drop in consumption of the Respondent during the disputed period vis-a-vis consumption of corresponding months of the previous year. In this situation, the Respondent is liable to be charged by the Appellant under Clause 4.4(e) of the CSM-2010, which allows the Appellant to recover the bills maximum of two months in case of a slow meter. Therefore, the detection bill of Rs.118,010/- for 7,665 units for five months for the period from February 2018 to June 2018 charged to the Respondent due to the 33% slowness of the meter is liable to be declared null and void.

7.6 Since the discrepancy of 33% slowness in the meter was observed on 23.07.2018, hence the Respondent is liable to be charged the revised bills for two months after adding 33% slowness of the meter as per Clause 4.4(e) of the CSM-2010. As such the determination of POI for revision of the bill for the cost of 3,270 units for two months i.e. May 2018 and June 2018 is consistent with the ibid clause of the CSM-2010 and the same is liable





National Electric Power Regulatory Authority

to be maintained to this extent.

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

