



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

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No. NEPRA/Appeal/104/2022/ 692


November 21, 2023

- |   |  |
|---|--|
| 1. Ashraf Ali,<br>S/o. Falak Sher,<br>R/o. Taja Berwala, Tehsil Bhawana,<br>District Chiniot  | 2. Chief Executive Officer<br>FESCO Ltd,<br>West Canal Road, Abdullahpur,<br>Faisalabad      |
| 3. Saeed Ahmed Bhatti,<br>Advocate High Court,<br>66-Khyber Block, Allama Iqbal Town,<br>Lahore   | 4. Sub Divisional Officer (Operation),<br>FESCO Ltd,<br>Bukharian Sub Division,<br>Bukharian |
| 5. POI/Electric Inspector,<br>Energy Department, Govt. of Punjab,<br>Opposite Commissioner Office,<br>D.C.G Road, Civil Lines,<br>Faisalabad Region, Faisalabad |  |

Subject: **Appeal No.104/2022 (FESCO Vs. Ashraf Ali) Against the Decision Dated 25.02.2022 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.104/POI-2022

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Ashraf Ali S/o. Falak Sher, R/o. Taja Berwala,  
Tehsil Bhawana, District Chiniot

.....Respondent

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

#### For the Appellant:

Mr. Saeed Ahmed Bhatti Advocate

Mr. Muhammad Naeem Shehzad SDO

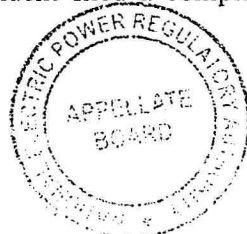
#### For the Respondent:

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### 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 25.02.2022 of the Provincial Office of Inspection, Faisalabad Region, Faisalabad (hereinafter referred to as the "POI") is being disposed of.
2. Briefly speaking, Mr. Ashraf Ali (hereinafter referred to as the "Respondent") is an agricultural consumer of the Appellant bearing Ref No.29-13168-3061902-R with sanctioned load of 7.46 kW and the applicable Tariff category is D-2(b). The Appellant has claimed that the billing meter of the Respondent became defective, hence it was replaced with a new meter by the Appellant on 16.04.2021 and sent to the Metering & Testing ("M&T") laboratory for data retrieval. As per the M&T report dated 10.08.2021, the impugned meter was found running 66% slow due to two phases being dead stop. Resultantly, a detection bill amounting to Rs.82,959/- for 6,811 units for the period from March 2021 and 16 days of April 2021 was charged by the Appellant to the Respondent @ 66% slowness of the meter and added to the bill for September 2021.
3. Being aggrieved, the Respondent filed a complaint before the POI on 22.10.2021 and Appeal No.104/POI-2022

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challenged the above detection bill. The complaint of the Respondent was disposed of by the POI vide the decision dated 25.02.2022, wherein the detection bill of Rs.82,959/- for 6,811 units for the period from March 2021 and 16 days of April 2021 was cancelled.

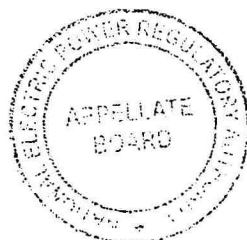
4. Through the instant appeal, the afore-referred decision dated 25.02.2022 of the POI has been impugned by the Appellant before the NEPRA. In its appeal, the Appellant objected to the maintainability of the impugned decision, *inter alia*, on the main grounds, (1) the billing meter of the Respondent was found 66% slow by the M&T team on 10.08.2021, therefore, a detection bill of Rs.82,959/- for 6,811 units for the period from March 2021 and 16 days of April 2021 was debited to the Respondent; (2) the POI vide impugned decision illegally cancelled the above detection bill; (3) the POI failed to analyze the consumption data in true perspective and erred in declaring the above detection bill as null and void; (4) the impugned decision is a result of misreading and non-reading of the documents placed on record; (5) the POI announced the impugned decision after 90 days from the date of receipt of the complaint, which is against Section 26(6) of the Electricity Act 1910; and (6) the same is liable to be set aside.

5. **Proceedings by the Appellate Board:**

Upon filing of the instant appeal, a notice dated 26.09.2022 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days, which however were not filed.

6. **Hearing**

Hearing was initially conducted on 24.06.2023, which however was adjourned in order to provide an opportunity to the Respondent. Finally, the hearing was conducted at NEPRA Regional Office Faisalabad on 09.09.2023, which was attended by the official of the Appellant along with a counsel and the Respondent again did not tender appearance. Learned counsel for the Appellant contended that the impugned billing meter of the Respondent became defective with vanished display and it was replaced with a new meter by the Appellant on 16.04.2021 and sent to M&T laboratory for data retrieval. Learned counsel for the Appellant further contended that the impugned meter was found running 66% slow during M&T checking dated 10.08.2021, as such the recovery of detection bill of Rs.82,959/- for 6,811 units for the period from March 2021 and 16 days of April 2021 @ 66% slowness be allowed in the best interest of justice. Learned counsel for the Appellant prayed for setting aside the impugned decision.



*Ad. Don*

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

7.1 Objection regarding the time limit for POI to decide the complaint:

As per the record, the Respondent filed a complaint before the POI on 22.10.2021 under Section 38 of the NEPRA Act. POI pronounced its decision on 25.02.2022 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.

7.2 Detection bill amounting to Rs.82,959/- for 6,811 units for the period from March 2021 and 16 days of April 2021

Reportedly, two phases of the impugned billing of the Respondent were found dead stop during checking dated 10.08.2021, therefore, a detection bill amounting to Rs.82,959/- for 6,811 units for the period from March 2021 and 16 days of April 2021 was debited to the Respondent @ 66% slowness of the meter, which was challenged by him before the POI.

7.3 The data retrieval procedure for the defective meters is provided under Clause 4.3 of the CSM-2021, which prescribes two distinct procedures for the replacement of defective meters and charging the bills. Clause 4.3.1 of the CSM 2021 prescribes the procedure for defective/burnt meters while Clause 4.3.2 of CSM-2021 deals with the replacement of meters due to the display being washed. The data retrieval is provided only under Clause 4.3.2(c) of the CSM-2021, where the meter is defective due to the display being washed. However, for defective meters for reasons other than display wash, there is no provision for data retrieval under Clause 4.3.1 of the CSM-2021.


7.4 The referred clause of the CSM-2021 empowers the Appellant to retrieve the data within three months in case of washed display, however, in the instant case, the Appellant waited so long i.e. 16.04.2021 to 10.08.2021 almost four months to download the consumption data of the impugned meter. Moreover, the Appellant neither associated the Respondent during meter checking nor the impugned meter was produced before the POI for verification of the alleged 66% slowness of the meter. To further ascertain the stance of the Appellant regarding 66% slowness of the impugned meter, consumption data is analyzed in the below table:


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| Period before dispute |       | Disputed period |       |
|-----------------------|-------|-----------------|-------|
| Month                 | Units | Month           | Units |
| Mar-20                | 484   | Mar-21          | 1859  |
| Apr-20                | 3302  | Apr-21          | 3621  |
| Total                 | 3786  | Total           | 5480  |

7.5 The above analysis of consumption data does not support the contention of the Appellant that the impugned meter of the Respondent remained 66% slow during the disputed period March 2021 and April 2021. In view of the foregoing discussion, we are of the considered view that the detection bill of Rs.82,959/- for 6,811 units for the period from March 2021 and 16 days of April 2021 charged by the Appellant to the Respondent based on the data retrieval report dated 10.08.2021 is unjustified, and the same is declared null and void.

8. Foregoing in view, the appeal is dismissed.

  
Abid Hussain  
Member

  
Muhammad Irfan-ul-Haq  
Member

  
Naweed Illahi Sheikh  
Convener

Dated: 21-11-2023

