



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

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No. NEPRA/Appeal/112/POI/2020/048

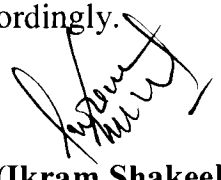
January 24, 2023

- | | |
|---|--|
| 1. Munir Ahmad,
S/o. Muhammad Shameer,
R/o. House No. 8-P, Street No. 1,
Ghulam Muhammad Abad No. 1,
Near Lateef Chowk, 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,
Ghulam Muhammad Abad 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. Munir Ahmad Against the Decision Dated 19.03.2020 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.112/POI-2020

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Munir Ahmed S/o Muhammad Shahmeer,
R/o. House No.8-P, Street No.1, Ghulam Muhammad
Abad No.1, Near Lateef Chowk, Faisalabad

.....Respondent

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

For the Appellant:

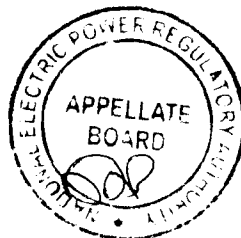
Dr. Irtiza Awan Advocate
Mr. Faisal Najam SDO

For the Respondent:

Rana Munir Ahmed

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 19.03.2020 of the Provincial Office of Inspection, Faisalabad Region, Faisalabad (hereinafter referred to as the "POI") is being disposed of.
2. Briefly speaking, Mr. Munir Ahmed (hereinafter referred to as the "Respondent") is a domestic consumer of the Appellant bearing Ref No.20-13221-1242100-U with sanctioned load of 3 kW and the applicable Tariff category is A-1. The Appellant has claimed that the billing meter of the Respondent was found running slow by 22%





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during the Metering & Testing ("M&T") team checking dated 21.05.2016. Subsequently, The Respondent received a bill of Rs.33,842/- in the month of July 2016, which contained the detection bill of Rs.15,298/- against 782 units for six months for the period from January 2016 to June 2016, and the bill of July 2016 with enhanced MF=1.28 for 1,712 units debited by the Appellant. The impugned meter of the Respondent was replaced with a new meter by the Appellant on 19.08.2016 and nil consumption was charged to the Respondent in August 2016. Thereafter, the Appellant charged 811 units to the Respondent in September 2016.

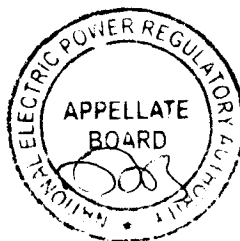
3. Being aggrieved with the above actions of the Appellant, the Respondent initially filed the civil suit before the Civil Court, Faisalabad. The honorable Civil Court returned the suit with the direction to the Respondent to approach the POI being a competent forum. Accordingly, the Respondent filed a complaint dated 16.12.2019 before the POI and challenged the above detection bill and the bills of July 2016 to September 2016. The complaint of the Respondent was disposed of by the POI vide the decision dated 19.03.2020 with the following conclusion:

"Summing up all the above observations/discussion and keeping in view all the facts of the case this Forum decides the instant complaint/petition in the following term

I. The charging of the detection bill of Rs. 15298/- for the cost of 782 units in the month of 07/2016 as null and void and without any legal effect. The petitioner is not liable to pay the same and the Respondents are directed to withdraw the same and charge a revised detection bill for the cost of 328 units.

II. The Respondents are directed to charge the bill for the month of 06/2016 with enhanced MF i.e. 1.28.

III. The Respondents are directed to segregate 811 units charged in the





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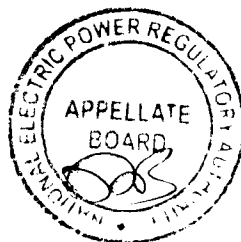
month of 09/2016 for the period 08/2016 and 09/2016 and afford due credit to the petitioner after segregation as discussed above.

IV. The Respondents are also directed to afford a credit of Rs. 18549 as excessive units were charged to the consumer in the month of 07/2016. The Respondents are also directed to overhaul the complainant's account by adjusting all Credits, Debits, Deferred Amounts & Payments already made by the consumer. Disposed of in above terms."

4. Through the instant appeal, the afore-referred decision dated 19.03.2020 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 billing meter of the Respondent was found running 22% slow on 21.05.2016, therefore a detection bill of Rs.15,298/- against 782 units for six months for the period from January 2016 to June 2016 was debited to the Respondent after analysis of consumption data and after approval of competent authority; (3) the impugned detection bill was charged as per checking and according to the ground realities; (4) the Appellant has no personal grudge or grouse against the Respondent; (5) the POI failed to apply his independent and judicious mind while passing the impugned decision; (6) the POI has not adverted the real aspects of the case, and (7) 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 11.11.2020 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days. The Respondent submitted the reply to the Appeal on 30.11.2020, wherein he rebutted the version of the Appellant and submitted that neither notice was served by the Appellant nor alleged checking was carried out during his presence. He further



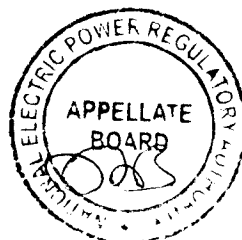


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submitted that the Appellant did not install the check meter in series with the impugned meter to verify the discrepancy and debited the detection bill for six months with malafide intentions, which is against the facts and law. The Respondent defended the impugned decision and prayed for upholding the same.

6. Hearing

- 6.1 After issuing notices dated 22.09.2022 to both parties, hearing of the subject appeal was conducted at Lahore on 30.09.2022 in which a counsel along with an official appeared for the Appellant and no one represented the Respondent. In order to provide an opportunity for hearing to the Respondent, the case was adjourned till the next date.
- 6.2 The hearing of the Appeal was rescheduled at Lahore on 14.10.2022 for which notices dated 08.10.2022 were issued to both the Appellant and the Respondent. On the given date of the hearing, both parties were present. The representative for the Appellant reiterated the same version as contained in the memo of the appeal and contended that the billing meter of the Respondent was found running slow by 22% during the M&T team checking dated 21.05.2016. therefore MF was enhanced from 1 to 1.28 w.e.f July 2016 and a detection bill of Rs.15,298/- against 782 units for six months for the period from January 2016 to June 2016 was debited by the Appellant. Learned counsel for the Appellant further contended that the impugned meter of the Respondent was replaced with a new meter by the Appellant on 19.08.2016 and the Appellant charged accumulated 811 units to the Respondent in September 2016, which were subsequently segregated as per the impugned decision. As per learned





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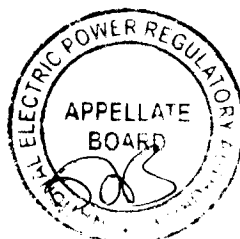
counsel for the Appellant, the impugned decision for cancellation of the above detection bill is unjustified and the same is liable to be set aside.

6.3 The Respondent appearing in person repudiated the version of the Appellant and argued that the meter under dispute was installed outside the premises and no intimation was given by the Appellant before the alleged checking, therefore the impugned decision for cancellation of the above detection bill is correct and the same is liable to be maintained.

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

7.1 The Appellant has claimed to have found the billing meter of the Respondent was found running slow by 22% during the M&T team checking dated 21.05.2016, therefore MF was raised to 1.28 w.e.f July 2016 and onwards. Thereafter, the detection bill of Rs.15,298/- against 782 units for six months for the period from January 2016 to June 2016 was debited to the Respondent due to the 22% slowness of the meter. The impugned billing meter of the Respondent was replaced with a new meter by the Appellant on 19.08.2016 and 811 accumulated units were debited to the Respondent in September 2016. The above bills were assailed by him before the POI. The Appellant has filed this appeal defending the above bills charged to the Respondent and prayed for setting aside the impugned decision.

7.2 As such the billing dispute arose in July 2016, 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/slowness in the metering equipment and charge the Consumer on the basis of thereof. Sub-clauses (b), (c), and (e) of





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Clause 4.4 of the CSM-2010 being relevant in the instant are reproduced below:

"4.4 Meter Replacement

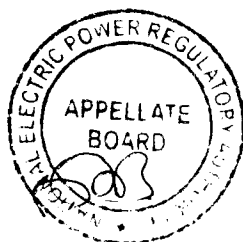
(b) Should the FESCO at any time, doubt the accuracy of any metering equipment, the FESCO may after information the consumer, install another duly calibrated and tested metering equipment in series with the impugned metering equipment to determine the difference in consumption or maximum demand recorded 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 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





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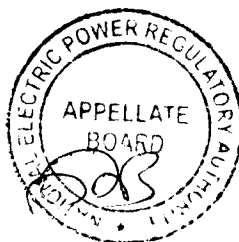
metering equipment, after informing the Respondent, to determine the difference in consumption or maximum demand recorded by the check meter and the impugned meter during a fixed period. In case of confirmation of slowness in the impugned meter, the same was required to be removed with the written consent of the Consumer.

7.3 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 the meter 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 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 slowness without following the laid down procedure suffers from credibility insufficiency.

7.5 Notwithstanding the above, in order to further verify the contention of the Appellant regarding the 22% slowness of the impugned meter, consumption data is analyzed below:

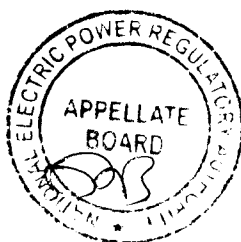
Undisputed		Disputed		% increase/ decrease units
Month	Units	Month	Units	
Jan-15	296	Jan-16	356	20%
Feb-15	277	Feb-16	212	-23%
Mar-15	337	Mar-16	487	45%
Apr-15	467	Apr-16	554	19%
May-15	528	May-16	608	15%
Jun-15	539	Jun-16	562	4%
Total	2,444	Total	2,779	14%





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- 7.6 The above consumption data shows an increase in consumption of the Respondent during the disputed period vis-a-vis consumption of corresponding months of the previous year. This trend does not indicate any slowness in the impugned meter during the disputed period from January 2016 to June 2016. Therefore, we hold that the detection bill of Rs.15,298/- against 782 units for six months for the period from January 2016 to June 2016 charged to the Respondent due to the 22% slowness of the meter is liable to be declared null and void.
- 7.7 Similarly, the determination of POI for revision of the bill for net 328 units for two months i.e. April 2016 and May 2016 after adding 22% slowness of the meter is not consistent with the consumption analysis and the same is liable to be withdrawn.
- 7.8 Moreover, the findings of the POI for revision of the bill for July 2016 with enhanced MF=1.28 is not based on merits as neither the impugned meter was got checked by the POI for verification of 22% slowness nor the consumption data supports the stance of the Appellant. Hence the finding of the POI to the extent of revision of the bill for July 2016 with enhanced MF=1.28 is liable to be set aside.
8. In view of what has been stated above, it is concluded that
- 8.1 The detection bill of Rs.15,298/- against 782 units for six months for the period from January 2016 to June 2016 is unjustified and the same is cancelled.
- 8.2 The impugned decision for revision of the detection bill for 328 units for two months i.e. April 2016 and May 2016 is declared null and void.
- 8.3 Similarly, the bill of July 2016 with enhanced MF=1.28 allowed by the POI is incorrect and the impugned decision to this extent is set aside.





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8.4 However, the determination of the POI for the segregation of 811 units charged in September 2016 into two months i.e. August 2016 and September 2016 is correct and maintained to this extent.

8.5 The billing account of the Respondent may be overhauled after adjustment of the payments made against the above bills.

9. The appeal is disposed of in the above terms.

Syed Zavar Haider
Member

Abid Hussain
Convener

Muhammad Irfan-ul-Haq
Member

Dated: 19/01/2023

