



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/113/POI/2020/028

January 11, 2023

- | | |
|---|---|
| 1. Ghulam Abbas, S/o. Muhammad Yousaf, R/o. Chak No. 67/JB, Sadhar, 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, Jhang Road 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. Ghulam Abbas Against the Decision Dated 18.08.2020 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 09.01.2023, 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 Appellate Board

In the matter of

Appeal No.113/POI-2020

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Ghulam Abbas S/o Muhammad Yousaf,
R/o. Chak No.67/JB, Faisalabad

.....Respondent

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

For the Appellant:

Dr. M. Irtiza Awan Advocate
Mr. Javed Iqbal MS-II

For the Respondent:

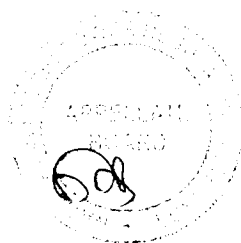
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DECISION

1. Brief facts leading to the filing of instant appeal are that Mr. Ghulam Abbas (hereinafter referred to as the "Respondent") is an industrial consumer of the Faisalabad Electric Supply Company Limited (hereinafter referred to as the "Appellant") bearing Ref No.27-13215-6502496 R with sanctioned load of 36 kW and the applicable Tariff category is B-2(b). The burnt meter of the Respondent was replaced with a new meter by the Appellant on 03.11.2019 and checked by the Metering and Testing (M&T) team on 15.11.2019 and it was declared as tampered for

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the dishonest abstraction of electricity vide report dated 08.01.2020. Therefore, a detection bill of Rs.238,139/- containing two parts [(i) 9,185 units calculated for two (02) months i.e. October 2019 and November 2019 as per average consumption of last eleven months and (ii) 86 kW MDI part assessed for four (04) months i.e. August 2019 to November 2019 as per MDI recorded in July 2019] was charged by the Appellant to the Respondent and added to the bill for April 2020.

2. Being aggrieved, Respondent approached the Provincial Office of Inspection, Faisalabad Region, Faisalabad (hereinafter referred to as the "POI") vide an application on 10.06.2020 and challenged the above detection bill. The matter was disposed of by the POI vide the decision dated 18.08.2020, wherein the detection bill of Rs.238,139/- was cancelled. As per the decision of POI, the Appellant was directed to charge the revised bill for the cost of 2,777 units and MDI as recorded by the new meter in November 2019. The Appellant was further directed to overhaul the billing account of the Respondent and for adjustment of payments made against the above detection bill.
3. Subject appeal has been filed against the afore-referred decision dated 18.08.2020 of the POI (hereinafter referred to as the "impugned decision") by the Appellant before the NEPRA, wherein it is contended that the billing meter of the Respondent was found tampered during the M&T checking dated 08.01.2020 for the dishonest abstraction of electricity. The Appellant further contended that a detection bill of Rs.238,139/-





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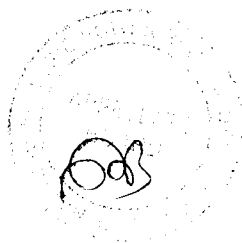
containing two parts [(i) 9,185 units calculated for two (02) months i.e. October 2019 and November 2019 as per average consumption of last eleven months and (ii) 86 kW MDI part assessed for four (04) months i.e. August 2019 to November 2019 as per MDI recorded in July 2019] was charged to the Respondent. As per the Appellant, the POI did not apply his independent and judicious mind while passing the impugned decision and has not thrashed out the consistent reasons in the matter. According to the Appellant, the Government Exchequer is suffering an immense loss and injury due to the baseless and illegal impugned decision. The Appellant prayed that the impugned decision is liable to be set aside.

4. Proceedings by the Appellate Board

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, which however were not filed.

5. Hearing

- 5.1 Hearing in the matter of the subject Appeal was initially fixed for 14.10.2022 at Lahore and accordingly, the notices dated 08.10.2022 were sent to the parties (i.e. the Appellant and the Respondent) to attend the hearing. As per schedule, the hearing of the appeal was conducted at the NEPRA Regional Office Lahore on 14.10.2022 in which the Appellant was present but there was no representation for the Respondent.





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In order to provide an opportunity for hearing, the case was adjourned till the next date.

5.2 The hearing in the subject matter was again fixed for 25.11.2022 at NEPRA Regional Office Lahore and accordingly, the notices dated 16.11.2022 were sent to the parties (i.e. the Appellant and the Respondents) to attend the hearing. On the given date of the hearing, learned counsel along with an official was present on behalf of the Appellant and no one appeared for the Respondent. During the hearing, learned counsel for the Appellant reiterated the same version as contained in memo of the appeal and contended that the billing meter of the Respondent was removed by the Appellant and got checked in M&T laboratory on 15.11.2019, wherein it was declared tampered vide report dated 08.01.2020. Learned counsel for the Appellant stated that a detection bill of Rs.238,139/- containing two parts [(i) 9,185 units calculated for two (02) months i.e. October 2019 and November 2019 as per average consumption of last eleven months and (ii) 86 kW MDI part assessed for four (04) months i.e. August 2019 to November 2019 as per MDI recorded in July 2019] was debited to the Respondent. As per learned counsel for the Appellant, the POI neither checked the disputed meter nor verified the consumption data of the Respondent and revised the bill only for one month i.e. November 2019. Learned counsel for the Appellant defended the charging of the impugned detection bill and prayed that the same be declared as justified and payable by the Respondent.

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





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6.1 In its appeal, the Appellant has claimed that the Respondent was involved in the dishonest abstraction of electricity through tampering with the meter. Clause 9.1(b) specifies the indications of illegal abstraction, while Clause 9.1(c) of the CSM-2010 lays down the procedure to confirm the same and charging the consumer on this account stating *inter alia* as below:

9.1(c): Procedure for establishing illegal abstraction shall be as under:

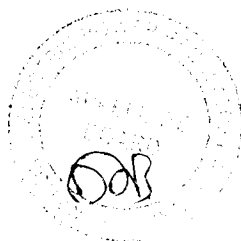
1) "Upon knowledge of any of the items in 9.1(b), the concerned office of the DISCO will act as follows:

(i) Secure the meter without removing it in the presence of the owner /occupier or his Authorized representative/respectable person of the locality.

(ii) Install a check meter and declare it as billing meter

(iii) Shall constitute a raiding team including Magistrate, Local representative(s) of the area (Councilor/Police officer), Officer of the DISCO (in case of residential/commercial consumers, not below the rank of SDO and in case of other consumers not below the rank of XEN) and an officer of the metering and testing division of the DISCO (who should be an Electrical Engineer) inspect the meter secured at site and declare that illegal abstraction of electricity has, and/or is being carried out. However, for industrial consumers (B-2 and above), a representative of the POI/Electric Inspector is mandatory.

6.2 In the instant case, the Appellant claimed that M&T on 08.01.2020 detected that the impugned meter was intentionally tampered. Having found the above discrepancies, the Appellant was required to follow the procedure stipulated in Clause 9.1(c) of the CSM-2010 to confirm the illegal abstraction of electricity by the Respondent and thereafter charge the Respondent accordingly.





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6.3 However, in the instant case, the Appellant has not followed the procedure as stipulated under the ibid clause of the CSM-2010. From the submissions of the Appellant, it appears that the billing meter of the Respondent was checked and removed by the Appellant in the absence of the Respondent. The Appellant even failed to produce the disputed meter before the POI for confirmation of the alleged tampering in the disputed meter. This whole scenario manifests that the claim of the Appellant regarding the illegal abstraction of electricity by the Respondent through tampering with the meter is unjustified as neither the Appellant adhered to the procedure to confirm the illegal abstraction of electricity as envisaged in Chapter 9 of the CSM-2010 nor could produce substantial documentary evidence before us to prove the illegal abstraction through tampering the meter.

6.4 Furthermore, the Appellant adopted two different scenarios for calculation of the detection bill of Rs.238,139/- i.e. kWh part of the detection bill was assessed as per average consumption of last eleven months, whereas MDI part was charged for four months i.e. August 2019 to November 2019 as per MDI recorded in July 2019, which is contrary to the provisions of the Clause 4.4(e) of the CSM. Said clause of CSM-2010 allows the Appellant to charge the bill maximum for two months in case of defective meter and the basis of charging the detection bill be made on 100% consumption of corresponding month of the previous year or average consumption of last eleven months, whichever is higher.





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6.5 Under these circumstances, we hold that the detection bill of Rs.238,139/- containing two parts [(i) 9,185 units calculated for two (02) months i.e. October 2019 and November 2019 as per average consumption of last eleven months and (ii) 86 kW MDI part assessed for four (04) months i.e. August 2019 to November 2019 as per MDI recorded in July 2019] charged to the Respondent is illegal, and unjustified being contrary to Clause 9.1(c) of the CSM-2010, and the same is declared null and void.

6.6 Similarly, the determination of POI for revision of the bill for ten days against 2,777 units is neither rationale nor in line with the facts of the case, hence the same is liable to be set aside to this extent.

6.7 According to Clause 4.4(e) of the CSM-2010, the Respondent is liable to be charged the bills for two months i.e. October 2019 and November 2019 due to defective meter and the basis of charging the said bills be made as per average consumption of the last eleven months i.e. November 2018 to September 2019 being higher, calculation in this regard is done below:

Period: October 2019 and November 2019 (two months)

- A. Total Units to be charged = average consumption of eleven months x No. of months
= 8,149 x 2 = 16,258 units
- B. Total units already charged = 5,113 + 2,000 = 7,113 units
- C. Net chargeable = A-B = 16,258 - 7,113 = 9,145 units
- D. Total MDI to be charged = average MDI of eleven months x No. of months
= 18 x 2 = 36 kW MDI
- E. Total units already charged = 15 + 0 = 15 kW MDI
- F. Net chargeable = D-E = 36 - 15 = 21 kW MDI





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The Respondent is liable to be charged for the net 9,145 units+21 kW MDI for two months i.e. October 2019 and November 2019. The impugned decision is liable to be modified to this extent.

7. In view of what has been stated above, we have concluded that:

7.1 The detection bill of Rs.238,139/- containing two parts [(i) 9,185 units calculated for two (02) months i.e. October 2019 and November 2019 as per average consumption of last eleven months and (ii) 86 kW MDI part assessed for four (04) months i.e. August 2019 to November 2019 as per MDI recorded in July 2019] is declared null and void.

7.2 The Respondent may be charged the revised bill for net 9,145 units+21 kW MDI for two months i.e. October 2019 and November 2019.

7.3 The billing account of the Respondent may be overhauled after adjustment of the payments made against the above detection bill.

8. The impugned decision is modified in the above terms.

Muhammad Irfan-ul-Haq
Member

Abid Hussain
Convener

Dated: 09/01/2022.

