



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

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No. NEPRA/Appeal/114/2020/ 093

February 09, 2023

- |  |   |
|--|---|
| 1. Hafeez Ahmed Tahir,<br>Rasheed Sons Ice & Rice Factory,<br>Chenab Nagar   | 2. Chief Executive Officer<br>FESCO Ltd,<br>West Canal Road, Abdullahpur,<br>Faisalabad   |
| 3. Dr. Muhammad Irtiza Awan,<br>Advocate High Court,<br>Al-Majeed Centre, 1-Mozang Road,<br>38-Link Farid Kot Road, Lahore | 4. Ch. Muhammad Imran Bhatti,<br>Advocate High Court,<br>44-District Courts, Faisalabad   |
| 5. Sub Divisional Officer,<br>FESCO Ltd,<br>Chenab Nagar Sub Division,<br>Chenab Nagar                                     | 6. 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 Titled FESCO Vs. Hafeez Ahmed Tahir Against the Decision Dated 28.02.2019 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 06.02.2023, 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.114/POI-2020

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Hafeez Ahmed Tahir, Sons Ice & Rice Factory,  
Chanab Nagar

.....Respondent

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

#### For the Appellant:

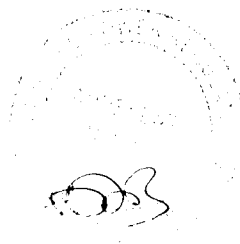
Dr. M. Irtiza Awan Advocate  
Mr. Imdad Ali SDO

#### For the Respondent:

Ch. M. Imran Bhatti 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 28.02.2019 of the Provincial Office of Inspection, Faisalabad Region, Faisalabad (hereinafter referred to as the "POI") is being disposed of.
2. Briefly speaking, Mr. Hafeez Ahmed Tahir (hereinafter referred to as the "Respondent") is an industrial consumer of the Appellant bearing Ref No.24-13173 -5401200-R with sanctioned load of 143 kW and the applicable Tariff category is B-2(b). The Appellant has claimed that the display of the TOU billing meter of





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the Respondent was found washed out and the backup meter was found working within specified limits during the checking dated 26.02.2018. Subsequently, the impugned meter of the Respondent was replaced with a new meter by the Appellant on 17.03.2018 and a bill of Rs.363,329/- against 21,049 units was debited to the Respondent in March 2018 as per the corresponding consumption of the previous year.

3. Being aggrieved, the Respondent initially approached the Appellant and requested to charge the revised bill of March 2018 as per consumption recorded by the backup meter. Subsequently, the Respondent filed a complaint before the POI against the charging of the above bill. In his complaint, the Respondent prayed for a refund of 22,575 units being charged excessively due to the difference between the readings of the billing and backup meters as recommended by the XEN of the Appellant vide letter dated 13.07.2018. The complaint of the Respondent was disposed of vide the POI decision dated 28.02.2019, wherein the Appellant was directed to refund the credit of 22,575 units to the Respondent as recommended by the XEN vide letter No.237 dated 13.07.2018 and overhaul the billing account of the Respondent, accordingly.
4. Through the instant appeal, the afore-referred decision dated 28.02.2019 of the POI has been impugned by the Appellant before the NEPRA along with an application for the condonation of delay. In the appeal, the Appellant opposed the impugned decision, *inter alia*, on the following grounds that the impugned billing meter of the Respondent was found defective with vanished display and the backup meter was running ok during checking dated 26.02.2018, therefore a bill of 21,049 units was



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debited to the Respondent in March 2018 as per consumption of corresponding month of the previous year; that the bill was charged as per prevailing policy; that the POI did not apply his independent and judicious mind while passing the impugned decision; that the POI has not thrashed out the consisting reasons of the Appellant in the matter and passed the illegal order; that the POI has not adverted the real aspects of the case; and that the impugned decision is liable to be set aside. In the application for condonation of delay, the Appellant submitted that the POI did not give any intimation for the announcement of the impugned decision and the Appellant came to know through the application submitted by the Respondent on 06.02.2020 for implementation of the same. The Appellant further submitted that the delay in filing the appeal is not intentional but it was due to insurmountable circumstances i.e.COVID-19. The Appellant pleaded that the delay if any in filing the appeal be condoned in the best interest of justice.

### 5. Proceedings by the Appellate Board

- 5.1 Upon filing of the instant appeal, a notice dated 05.01.2021 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days. The Respondent submitted reply to the Appeal on 28.01.2021, wherein he objected to the maintainability of the appeal with the grounds that the Appellant obtained the copy of the impugned decision twice i.e. firstly on 25.03.2019 and secondly on 03.06.2020; that the instant appeal was filed after a delay of one year two months and 21 days from the date of receipt of the first copy of the impugned decision; that the plea of the Appellant with regard to COVID-19 pandemic is absurd; that the appeal along with application for condonation of the delay is not maintainable being





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incompetent and liable to be dismissed being time barred; that the Appellant came before this forum with uncleaned hands by concealing the facts of the case that the representatives of the Appellant are not authorized to plead the case without fresh BoD resolution; that the impugned checking dated 26.02.2018 as well as all the actions and proceedings so taken by the Appellant are without notice, ex-parte, and in utter violation of Chapter 4, 6, 14 of the CSM-2010; that the Appellant debited the bill of March 2018 as per consumption of corresponding month of the previous year against which the Appellant was approached; that XEN vide letter dated 13.07.2018 requested the SE 1<sup>st</sup> Circle to refund 22,575 units being excessively charged as compared to the reading of the backup meter; that the detection bill of Rs.363,329/- against 21,049 units was raised by the Appellant under coercive measures against which payment of Rs.250,000/- was done on 29.03.2018 under protest in order to avoid disconnection of electricity of the premises; that the impugned decision is liable to be maintained and appeal is liable to be dismissed being barred by time. Reliance in this regard is placed on the various judgments of superior courts reported as 1988 CLC 514, 2001 YLR 725, 2005 SCMR 931, 2012 SCMR 1004, 2011 SCMR 676, 1987 SCMR 92, PLJ 2019 Lahore (Note) 42 DB, PLJ 2017 Lahore 824 and PLJ 2017 Lahore 835 and PLJ 2011 SC 297.

### 6. **Hearing**

- 6.1 Hearing in the matter of the subject Appeal was conducted at NEPRA Regional Office Lahore on 14.10.2022, which was attended by both parties. At the outset of the hearing, the counsel for the Respondent raised the preliminary objection



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regarding limitation and stated that the Appellant initially received the first copy of the impugned decision on 25.03.2019 and the second copy of the impugned decision on 03.06.2020, hence the Appeal filed before the NEPRA is badly time barred being filed after 30 days from the date of receipt of the first copy of the impugned decision. Counsel for the Respondent prayed that the point of limitation be addressed first before going into the merits of the case. In response, counsel for the Appellant refuted the version of the counsel for the Respondent and submitted that the information was received from the Respondent on 06.02.2020 regarding the pronouncement of the impugned decision, hence the attested copy of the impugned decision was received by the Appellant on 03.06.2020 and the appeal was filed before the NEPRA on 16.06.2020 within 30 days from the date of receipt of the impugned decision. He prayed that the delay in filing the appeal be condoned and the appeal be decided on merits instead of limitation.

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

7.1 **Limitation for filing Appeal:**

Before going into the merits of the case, the preliminary objection of the Respondent regarding limitation needs to be addressed. The Respondent claimed that the first copy of the impugned decision was obtained by the Appellant on 25.03.2019 and the appeal was filed before the NEPRA on 16.06.2020 after the prescribed time limit of 30 days. In support of his contention, the Respondent submitted copies of the applications dated 25.03.2019 and 03.06.2020 submitted by Mr. Ahmed Ali the representative for the Appellant before the POI to obtain the attested copies of the impugned decision, which were received on the date of application i.e. 25.03.2019



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and 03.06.2020. This shows that the Appellant filed the instant appeal on 16.06.2020 after a lapse of 437 days from the date of receipt of the first copy of the impugned decision. As per sub-section (3) of Section 38 of the NEPRA Act 1997, any person aggrieved by the decision of the POI may prefer an appeal to NEPRA within thirty days of receipt of the order. Further, it is supplemented with Regulation 4 of the NEPRA (Procedure for filing Appeals) Regulations, 2012 (the "Appeal Procedure Regulations") which also states that the Appeal is required to be filed within 30 days of the receipt of the impugned decision of POI by the Appellant, however, 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 Appeal Procedure Regulations. Thus, the delay of 437 days in filing the appeal before the NEPRA from the date of receipt of the first copy of the impugned decision is not condonable as no sufficient reasons have been given by the Appellant to justify the condonation of the delay. The application for the condonation of the delay filed by the Appellant is rejected being devoid of force.

8. Foregoing in view, it is concluded that the appeal filed before NEPRA is time-barred and dismissed.

Syed Zavar Haider  
Member

Muhammad Irfan-ul-Haq  
Member

Abid Hussain  
Convener

Dated: 06/02/2023