



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/116/POI/2020/050

January 25, 2023

- | | |
|---|---|
| 1. Mazhar Iqbal,
S/o. Muhammad Iqbal,
R/o. Data Ganj Baksh Manzil,
Shamah Street, Maqbool Road,
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 (Operation),
FESCO Ltd,
Samundri 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. Mazhar Iqbal Against the Decision Dated 12.12.2019 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 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.116/POI-2020

Faisalabad Electric Supply Company LimitedAppellant

Versus

Mazhar Iqbal S/o Muhammad Iqbal, R/o Data Ganj Baksh
Manzil, Shamah Street, Maqbool Road, FaisalabadRespondent

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

For the Appellant:

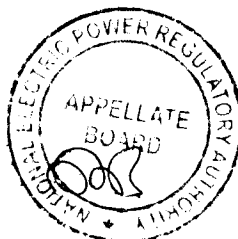
Dr. M. Irtiza Awan Advocate
Mr. Shoaib Rehman SDO

For the Respondent:

Mr. Mazhar Iqbal

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 12.12.2019 of the Provincial Office of Inspection, Faisalabad Region, Faisalabad (hereinafter referred to as the "POI") is being disposed of.
2. Briefly speaking, Mr. Mazhar Iqbal (hereinafter referred to as the "Respondent") is an industrial consumer of the Appellant bearing Ref No.27-13242-6200400 with sanctioned load of 31kW and the applicable Tariff category is B-2(b). The Appellant has claimed that the display of the billing meter of the Respondent was found dead stop during the Metering & Testing ("M&T") team checking dated

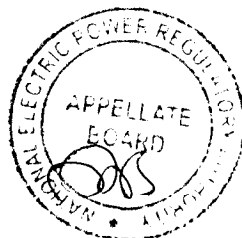




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23.02.2016. Therefore, a detection bill amounting to Rs.84,630/- against 4,968 units for six months for the period from September 2015 to February 2016 was debited to the Respondent and added to the bill for June 2016.

3. Being aggrieved, the Respondent initially assailed the above detection bill before the Civil Court. Pursuant to the direction of the civil court, the Respondent approached the POI vide a complaint on 18.07.2019 and challenged the above detection bill. The complaint of the Respondent was disposed of by the POI vide the decision dated 12.12.2019, wherein the detection bill of Rs.84,630/- against 4,968 units for six months for the period from September 2015 to February 2016 was cancelled. The POI directed the Appellant to debit the revised bill for a total of 1,896 units for the period from September 2015 to February 2016 as per the average consumption of the period from March 2015 to August 2015. The POI further directed the Appellant to overhaul the billing account of the Respondent, accordingly
4. Through the instant appeal, the afore-referred decision dated 12.12.2019 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 display of the billing meter of the Respondent was found defective on 23.02.2016, therefore a detection bill of Rs.84,630/- against 4,968 units for six months for the period from September 2015 to February 2016 was debited to the Respondent; (2) the nil consumption was charged during the disputed period i.e. September 2015 to February 2016 despite the running load of 30 HP motor and light load was found at site, hence the above detection was debited after analysis of consumption data and approval of the competent authority; (3) the impugned





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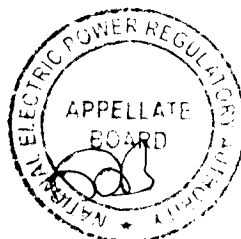
detection bill was charged as per checking and according to the ground realities; (4) the Appellant has no personal grudge or grouse against the Respondent; (5) the POI failed to apply his independent and judicious mind while passing the impugned decision; (6) the POI has not adverted the real aspects 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 24.11.2020, wherein he raised the preliminary objection regarding limitation and submitted that the appeal filed before the NEPRA is barred by time as the POI vide letter dated 13.12.2019 conveyed the copy of the impugned decision dated 12.12.2019 to both parties. He further submitted that the attested copy of the impugned decision was obtained from the office of POI on 20.12.2019 and submitted the same in the revenue office of the Appellant on 30.12.2019, hence the appeal was filed before the NEPRA after a lapse of the prescribed time limit.

6. Hearing

6.1 Notices dated 22.09.2022 were served to the parties and hearing of the appeal was conducted at Lahore on 30.09.2022, which was attended by both parties. The representative for the Appellant reiterated the same version as contained in the memo of the appeal and contended that the display of the billing meter of the Respondent was found dead stop on 23.02.2016, as such the detection bill of Rs.84,630/- against





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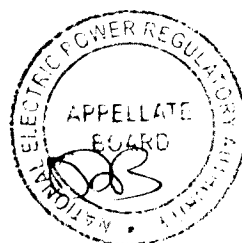
4,968 units for six months for the period from September 2015 to February 2016 was debited to the Respondent on the basis of the average consumption of March 2015 to August 2015. The representative for the Appellant averred that the nil consumption debited during the disputed period confirms the defectiveness in the impugned billing meter, hence the above detection bill is justified and payable by the Respondent. As per the representative for the Appellant, the impugned decision for cancellation of the above detection bill is unjustified and the same is liable to be struck down.

6.2 The Respondent appearing in person repudiated the contentions of the Appellant for charging the above detection bill, supported the impugned decision, and prayed for dismissal of the appeal being barred by time.

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

7.1 Limitation for filing appeal:

[mention section 38(3) time limitation as well] Under Regulation 4 of the NEPRA (Procedure for filing Appeals) Regulations, 2012, the Appeal is required to be filed within 30 days 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 received from the office of POI on 29.06.2020. Counting 30 days from the date of said receiving, the appeal filed on 06.07.2020 before the NEPRA is within the time limit as prescribed in the above-referred Regulation of





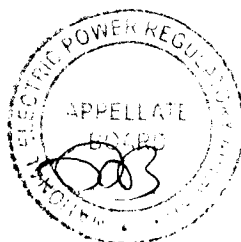
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NEPRA (Procedure for filing Appeals) Regulations, 2012. However, the Respondent claimed that the impugned decision of POI was received on 20.12.2019, and in this regard, a copy of the same was presented to the Appellant on 30.12.2019 but the Respondent did not produce any document which could establish that the same was received by the representative of the Appellant. Therefore considering that the impugned decision was received by the Appellant on 29.06.2020, the appeal filed on 06.07.2020 is within the time limit of 30 days, hence the objection of the Respondent in this regard has no force and is rejected.

7.2 Detection bill of Rs.84,630/- against 4,968 units debited in June 2016

The Appellant claimed to have found the display of the billing meter of the Respondent dead stop during checking dated 23.02.2016, therefore a detection bill of Rs.84,630/- against 4,968 units for six months for the period from September 2015 to February 2016 was issued to the Respondent in June 2016 on the pretext that nil consumption was charged during the period September 2015 to February 2016. The above detection bill 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.

7.3 The Appellant admitted to have found the display of the billing meter of the Respondent dead stop in February 2016. The dead stop display can easily be noticed with bare eyes and cannot go unnoticed during the monthly meter readings by the concerned staff. We agree with the observation of the POI in this decision that if the meter of the Respondent washed out in September 2015, then why the meter reader





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failed to notice the same till February 2016. Therefore, the Appellant's action to raise the detection bill for previous months based on the display washed out noticed in February 2016 is completely unjustified.

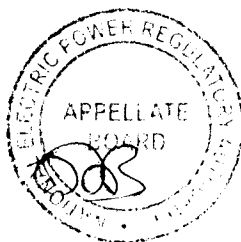
7.4 After having found the defect in the impugned meter, the Appellant was required to replace the same with the correct one immediately. As regards charging on account of meter defect/slowness, the Clause 4.4(e) of the CSM-2010 allows the Distribution Companies to charge for maximum of two billing cycles, and the basis of charging the said bills be made as per 100% consumption of the corresponding month of the previous year or average consumption of last eleven months, whichever is higher

7.5 Under these circumstances, we hold that the detection bill of Rs.84,630/- against 4,968 units for six months for the period from September 2015 to February 2016 is unjustified and the same is liable to be declared null and void.

7.6 Similarly, the determination of POI for revision of the bills @ 316 units/month for the period September 2015 to February 2016 as per average consumption of the period from March 2015 to August 2015 is not consistent with Clause 4.4(e) of the CSM-2010. Said clause of the CSM-2010 allows the Appellant to debit the bills maximum of two months in case of a defective meter. Hence the impugned decision to this extent is liable to be withdrawn.

7.7 Since the display of the impugned meter of the Respondent was found washed out during checking dated 23.02.2016, the Respondent is liable to be charged the revised bills for two months as per Clause 4.4(e) of the CSM-2010.

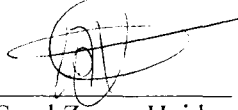
8. In view of what has been stated above, we have concluded that:





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- 8.1 The detection bill of Rs.84,630/- against 4,968 units for six months for the period from September 2015 to February 2016 is declared null and void.
- 8.2 The Respondent may be charged the revised bills for two months as per Clause 4.4(e) of the CSM-2010.
- 8.3 The billing account of the Respondent may be overhauled after adjustment of the payments made against the above detection bill.
9. The impugned decision is modified in the above terms.



Syed Zawar Haider
Member



Abid Hussain
Convener



Muhammad Irfan-ul-Haq
Member

Dated: 19/01/2023.

