



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

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No. NEPRA/Appeal/139/2021/ 766

December 13, 2023

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

Subject: **Appeal No.139/2021 (FESCO Vs. Muhammad Jahangir) Against the Decision Dated 30.07.2021 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 13.12.2023 (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.139/POI-2021

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Muhammad Jahangir S/o. Noor Muhammad, R/o. Mouza Mangini,
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:

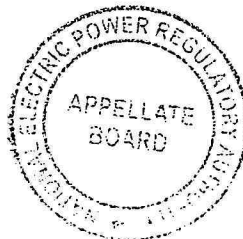
Mr. Saeed Ahmed Bhatti Advocate
Mr. Naeem Shahzad SDO

For the Respondent:

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DECISION

1. Brief facts leading to the filing of instant appeal are that Mr. Muhammad Jahangir (hereinafter referred to as the "Respondent") is an agricultural consumer of Faisalabad Electric Supply Company Limited (hereinafter referred to as the "the Appellant") bearing Ref No.29-13164-3230606 with sanctioned load of 7.46 kW and the applicable tariff category is D-1b. As per the Appellant, the Respondent was found using electricity from the agricultural connection for domestic purpose during the checking dated 31.10.2019. Therefore, notice dated 16.01.2020 was sent to the Respondent by the Appellant regarding misuse of tariff, and a detection bill of Rs.217,239/- for 6,987 units was debited for three months i.e. October 2019 to December 2019 to the Respondent and added to the bill for May 2020.
2. Being aggrieved, the Respondent filed an application before the Provincial Office of Inspection, Faisalabad Region, Faisalabad (hereinafter referred to as the "POI") and challenged the abovementioned detection bill. The complaint of the Respondent was



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disposed of by the POI vide the decision dated 30.07.2021, wherein the detection bill of Rs.217,239/- for 6,987 units debited for three months i.e. October 2019 to December 2019 was cancelled and the Appellant was directed to revise the detection bill for net 876 units due to misuse of tariff.

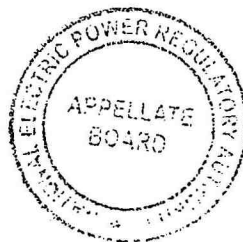
3. Subject appeal has been filed against the afore-referred decision dated 30.07.2021 of the POI by the Appellant before the NEPRA. In its appeal, the Appellant opposed the impugned decision *inter alia*, on the following grounds that the premises of the Respondent was checked on 31.10.2019 and the Respondent was found using electricity of the agricultural connection for domestic purpose; that the detection bill of Rs.217,239/- for 6,987 units for three months i.e. October 2019 to December 2019 was debited to the Respondent, which is quite legal and justified; that the POI has given relief to the Respondent unlawfully and illegally; that the impugned decision is the result of misreading and non-reading of documents placed on record; that the impugned decision became ex-facie, coram non-judice, void ab-initio as the POI failed to decide the matter within 90 days from the date of receipt of the complaint, which is violative of Section 26(6) of Electricity Act 1910; and that the impugned decision is liable to be set aside.

4. **Proceedings by the Appellate Board**

- 4.1 Upon filing of the instant appeal, a notice dated 30.12.2021 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**

Hearing conducted at Faisalabad on 24.06.2023 was adjourned in order to provide an opportunity of hearing to the Respondent. Finally, the hearing was held at NEPRA Regional Office Faisalabad on 09.09.2023, which was attended by the SDO along with counsel for the Appellant, whereas the Respondent again did not tender appearance. Learned counsel for the Appellant contended that the Respondent was found using the electricity of agricultural connection for domestic purpose during checking dated 31.10.2019, therefore the detection bill of Rs.217,239/- for 6,987 units was debited for three months i.e. October 2019 to December 2019 to him on account of misuse of tariff. As per learned counsel for the Appellant, the impugned decision for cancellation of the above detection bill is without any justification, or merits of the case and the same is liable to be set aside.





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

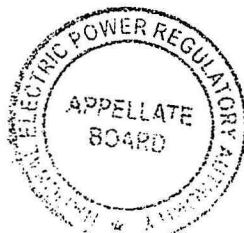
6.1 While addressing the preliminary objection of the Appellant regarding the time limit for the POI to decide the complaint, it is observed that the Respondent filed a complaint before the POI on 02.12.2020 under Section 38 of the NEPRA Act. POI pronounced its decision on 30.07.2021 after 90 days of 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.

6.2 The discrepancy of misuse of the tariff was noticed by the Appellant on 31.10.2019, the Appellant initially prepared a detection bill of 876 units for three months based on 20% load factor of the connected load i.e. 2 kW, which was subsequently revised for the cost of 6,987 units as recorded during the period from October 2019 to December 2019. This shows malafide intention on the part of the Appellant while charging the impugned detection bill. Instead of adhering to the procedure as laid down in Chapter 7 of the CSM-2010 for charging the impugned detection bill on account of misuse of tariff, the Appellant adopted their own methodology for recovery of the illegal, unjustified detection bill.

6.3 In view of the foregoing discussion, we are of the considered view that the POI has rightly cancelled the detection bill of Rs.217,239/- for 6,987 units for three months i.e. October 2019 to December 2019 debited by the Appellant and the Respondent is not responsible to pay the same.

6.4 Since the discrepancy of misuse of the tariff was observed by the Appellant on 31.10.2019, the Respondent is liable to be debited the difference bill maximum for two retrospective billing cycles prior checking dated 31.10.2019 on account of misuse of tariff i.e. A-1 instead of D-1b as per Clause 7.5(b) of the CSM-2010.

6.5 Further, the Appellant is liable to charge the difference bills w.e.f 31.10.2019 and onwards till the removal of discrepancy of misuse of tariff i.e. December 2019 and recovery of difference of tariff rates be made @ 292 units/month assessed on the basis of 20% load





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factor of the connected load i.e. 2 kW of the domestic connection. The impugned decision is liable to be modified to this extent.

7. Summing up the foregoing discussion, it is concluded as under:

7.1 The detection bill of Rs.217,239/- for 6,987 units debited for three months i.e. October 2019 to December 2019 is unjustified and the same is cancelled.

7.2 The Respondent may be charged the difference bill for two months prior checking dated 31.10.2019 as per Clause 7.5(b) of the CSM-2010. In addition, the Respondent may be debited the difference bills w.e.f 31.10.2019 and onwards till the removal of discrepancy of misuse of tariff i.e. December 2019 and recovery of difference of tariff rates be made @ 292 units/month calculated @ 20% load factor of the connected load i.e. 2 kW of the domestic connection.

7.3 The billing account of the Respondent be overhauled after adjustment payment made against the impugned detection bill.

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

Abid Hussain
Member

Naweed Illahi Sheikh
Convener

Muhammad Irfan-ul-Haq
Member

Dated: 13-12-2023

