



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

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No. NEPRA/Appeal/028/2020 & 071/2020/675

February 02, 2023

- |  |   |
|--|---|
| 1. Muhammad Zia-ur-Rehman,<br>S/o. Haji Muhammad Rafique,<br>R/o. House No. 24/13, Block-W,<br>Mohallah Satellite Town, District Jhang | 2. Chief Executive Officer,<br>FESCO Ltd,<br>West Canal Road, Abdullahpur,<br>Faisalabad        |
| 3. Ch. Muhammad Imran Bhatti,<br>Advocate High Court,<br>44-District Courts, Faisalabad  | 4. Saeed Ahmed Bhatti,<br>Advocate High Court,<br>66-Khyber Block, Allama Iqbal Town,<br>Lahore |
| 5. Sub Divisional Officer (Operation),<br>FESCO Ltd,<br>Rural Sub Division,<br>Jhang   |   |

**Subject: Decision of the Appellate Board Regarding Review Petition Filed By Zia-ur-Rehman Against the Decision dated 25.11.2020 of the Appellate Board In the Matter Titled "Muhammad Zia-ur-Rehman Vs. FESCO"**

Please find enclosed herewith the decision of the Appellate Board dated 30.01.2023, 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

**REVIEW PETITION FILED BY MR. ZIA-UR-REHMAN UR REHMAN**  
**UNDER THE NEPRA (REVIEW PROCEDURE) REGULATIONS, 2009 AGAINST**  
**THE DECISION DATED 25.11.2020 OF NEPRA IN THE CROSS-APPEALS**  
**BEARING NO.028/POI-2020 & 071/POI-2020**

Muhammad Zia-ur-Rehman S/o Haji Muhammad Rafique,  
R/o House No.24/13, Block-W,  
Mohallah Satellite Town District Jhang .....Petitioner

Versus

Faisalabad Electric Supply Company Limited .....Respondent

For the Petitioner:

Ch. M. Imran Bhatti Advocate

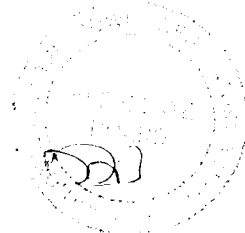
For Respondent:

Mr. Saeed Ahmed Bhatti Advocate

Mr. Ali Adnan Anjum SDO

## **DECISION**

1. Through this decision, the review petition filed by Mr. Muhammad Zia-ur-Rehman (hereinafter referred to as the “Petitioner”) against the decision dated 25.11.2020 of the National Electric Power Regulatory Authority (hereinafter referred to as the “NEPRA”) is being disposed of.
2. As per the facts of the case, the Petitioner is an industrial consumer of the FESCO (hereinafter referred to as the “Respondent”) having an industrial connection bearing Ref. No.24-13319-5902309 U with sanctioned load of 144 kW under the tariff category B-2(b). Metering and Testing (M&T) team of the Respondent

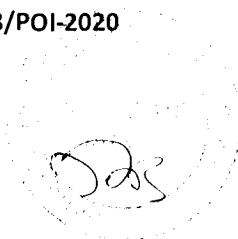




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checked the metering equipment of the Petitioner on 04.01.2019 and reportedly, both the TOU billing and backup meters were found 33% slow due to one phase being dead, therefore, the Multiplication Factor (MF) of the Petitioner was raised from 60 to 89.4 w.e.f January 2019 and onwards till the replacement of the slow TOU billing meter by the Respondent vide meter change order (MCO) dated 13.03.2019. Afterward, a detection bill amounting to Rs.2,098,661/- for 1,19,007 units+149 kW MDI for the period August 2018 to December 2018 (5 months) was charged by the Respondent to the Petitioner as per the data retrieval report dated 25.01.2019 and added to the bill for October 2019. The above detection bill was revised for the cost of Rs.1,817,789/- by the Respondent after the adjustment of PM relief and Fuel Price Adjustment (FPA).

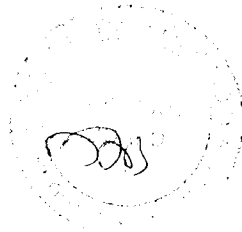
3. Being aggrieved with the actions of Respondent, the Petitioner filed a complaint before the Provincial Office of Inspection, Faisalabad Region, Faisalabad (the "POI") on 28.10.2019 and challenged the above detection bill and the bills with enhanced MF-89.4 w.e.f January 2019 and onwards. The complaint of the Petitioner was disposed of by POI vide decision dated 30.12.2019 wherein the detection bill of Rs.1,817,789/- for 119,007 units+149 kW MDI for the period August 2018 to December 2018 along with late payment surcharges (LPS) was declared as illegal, unjustified and not payable by the Petitioner. As per the POI decision, the Respondent was directed to issue a revised bill for the cost of 92,203 units+149 kW MDI, and the recovery of the revised bill be made in three equal installments from the Petitioner.



4. Being dissatisfied with the afore-referred decision of the POI, both parties filed cross-appeals i.e. Appeal No.028/POI-2020 and Appeal No.071/POI-2020. As the facts and subject matter of the appeals were same, both had been clubbed and disposed of by the NEPRA through a consolidated decision dated 25.11.2020, the operative portion of which is reproduced below:

*“Upshot of the above discussion, the impugned decision to the extent of cancellation of the detection bill of Rs.1,817,789/- for the cost of 1,19,007 units+149 kW MDI for the period August 2018 to December 2018 (5 months) charged to the Consumer @ 33% slowness of the TOU billing meter along with LPS is correct and maintained. FESCO may debit the detection bill for 92,203 units for the period September 2018 to December 2018 and the onward bills with enhanced MF=89.4 from January 2019 and onwards till MCO dated 13.03.2019 and the arrears may be recovered in three equal installments from the Consumer. The billing account of the Consumer may be overhauled in accordance with the above findings and the payment made (if any) against the disputed bills be adjusted, accordingly. The impugned decision is modified in the above terms.”*

5. The Petitioner filed a review petition before the NEPRA against the above-referred decision dated 25.11.2020 of the Appellate Board (hereinafter referred to as the “impugned decision”) under Sub-Regulation (3) of Regulation 3 of the NEPRA (Review Procedure) Regulations, 2009. In its review petition, the Petitioner opposed the impugned decision *inter alia*, on the main grounds that the NEPRA Appellate Board while deciding the fate of disputed bills did not consider clause 4.4 of the Consumer Service Manual 2010 (the “CSM-2010”) being relevant in case of defective/slow meter; that said clause of the CSM-2010 restricts the Respondent to charge the bills maximum for two months in case of defective/ slow meter; that the impugned decision is a result of the miscarriage of justice and wrong interpretation of the law on the subject which is an error and mistake in law and it is a well-settled principle of law that no one should be suffered by the act of the



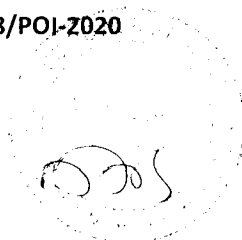


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tribunal/authority/court; that the instant review petition be allowed and the impugned decision be rectified as per Clause 4.4(e) of the CSM-2010. Reliance in this regard is placed on the judgment of the honorable Lahore High Court Lahore reported in PLJ 2019 Lahore (Note) 52.

### 6. Hearing

- 6.1 Hearing in the subject review petition was scheduled for 30.09.2022 at NEPRA Regional Office Lahore for which notices dated 22.09.2022 were issued to both parties . On the said date of the hearing, the representatives of the Petitioner and the Respondent were present. During the hearing, the counsel for the Respondent pointed out that the impugned decision was assailed before the Lahore High Court, Lahore vide Writ Petition No.6692/2021, which is under adjudication, hence review petition of the Petitioner is not maintainable at this forum. In response, learned counsel for the Petitioner submitted that the honorable High Court did not restrain the NEPRA to hear the review petition. Learned counsel for the Petitioner further submitted that the Article 191 of the Constitution of Pakistan allows the aggrieved party to avail remedy at the same forum by filing a review petition instead of challenging the same at High Court. Learned counsel for the Petitioner repeated the contentions same as given in the review petition and prayed to modify the impugned decision and revise the period of detection bill from four months to two months as per Clause 4.4(e) of the CSM-2010.
- 6.2 Learned counsel for the Respondent repudiated the version of counsel for the Respondent, supported the impugned decision, and prayed for upholding the same.



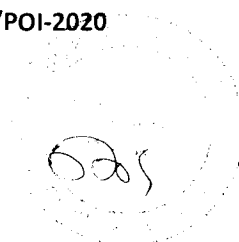


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7. Arguments heard, the record perused, following are our observations:

7.1 The Respondent raised the preliminary objection regarding the maintainability of the review petition and informed that the impugned decision is agitated before the High Court, hence the instant review petition is not maintainable. In this regard, it is clarified that any party aggrieved with the decision of NEPRA can avail the remedy by instituting the review petition under NEPRA Review Procedure Regulations, 2009. Moreover, the honorable High Court has not issued any restraining order to NEPRA in the subject review petition, therefore the argument of counsel for the Respondent has no force and the same is rejected.

7.2 The Petitioner has assailed the impugned decision to the extent of revision of the detection bill against 92,203 units for four months i.e. September 2018 to December 2018 and prayed to modify the same for two months as per Clause 4.4(e) of CSM. In this regard, the record was examined, which reflects the considerable drop in consumption of the Petitioner witnessed during the disputed period i.e. September 2018 to December 2018 viz-a-viz comparison with the consumption of corresponding months of the previous year i.e. 2017, which indicates that the TOU billing meter did not record actual consumption due to malfunctioning. In such case, Clause 4.4 of the CSM-2010 is clear that the DISCO is responsible to replace the defective/slow meter within two months and charge the revised bills after adding quantum of slowness maximum for two months. Given this stated position, the impugned decision of the Appellate Board need to be reviewed to make it consistent with the relevant provisions of the CSM-2010.





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7.3 Since the impugned meter of the Petitioner was found by 33% slow on 04.01.2019, the Petitioner is liable to be charged the revised bills after adding 33% slowness of the meter maximum for two months as per Clause 4.4(e) of the CSM-2010.

8. In view of what has been stated above, it is concluded as under:

8.1 The review petition of the Petitioner is accepted and the impugned decision of the Appellate Board dated 25.11.2020 is modified to the extent that the Petitioner shall be debited the revised bills for two months in case of a slow meter as per Clause 4.4(e) of the CSM-2010.

8.2 The billing account of the Respondent may be overhauled accordingly.

9. The review petition is disposed of in the above terms.

Syed Zawar Haider  
Member

Muhammad Irfan-ul-Haq  
Member

Abid Hussain  
Convener

Dated: 30/01/2023

