



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

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No. NEPRA/Appeal/048/2022/ 6/2

July 25, 2024

1. Muhammad Rizwan,
S/o. Faqeer Muhammad Faiz,
R/o. Mujahid Abad, Samanabad,
Faisalabad
2. Chief Executive Officer,
FESCO Ltd,
West Canal Road, Abdullah Pur,
Faisalabad
3. Mian Muhammad Javed,
Advocate Supreme Court,
4-Link Farid Kot Road,
Lahore
Cell No. 0300-4208513
4. Sub Divisional Officer (Operation),
FESCO Ltd,
Samanabad 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 No.048/2022 (FESCO Vs. Muhammad Rizwan) Against the Decision Dated 11.02.2022 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 25.07.2024 (04 pages), regarding the subject matter, for information and necessary action accordingly.

Encl: As Above


(Ikram Shakeel)
Deputy Director
Appellate Board

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.048/POI-2022

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Muhammad Rizwan S/o. Faqeer Muhammad Faiz,
R/o. Mujahid Abad, Samanabad, Faisalabad

.....Respondent

APPEAL UNDER SECTION 38(3) OF THE REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997

For the Appellant:

Mian Muhammad Javed Advocate

For the Respondent:

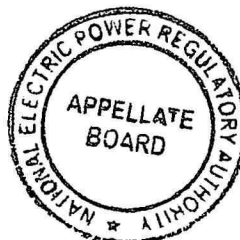
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DECISION

1. As per the facts of the case, Muhammad Rizwan (hereinafter referred to as the "Respondent") is an industrial consumer of Faisalabad Electric Supply Company Limited (hereinafter referred to as the "Appellant") bearing Ref No.27-13211-6140000-U having sanctioned load of 35 kW and the applicable tariff category is B-2(b). Reportedly, the display of the billing meter of the Respondent became vanished in August 2020, hence it was replaced with a new meter by the Appellant in August 2020. During subsequent M&T checking dated 11.08.2021 of the Appellant, the billing meter was found 66% slow due to two phases being dead, therefore, a detection bill of Rs.255,049/- for 11,044 units was charged to the Respondent for August 2020 @ 66% slowness of the meter and added to the bill for August 2021.
2. Being aggrieved, the Respondent filed a complaint before the Provincial Office of Inspection, Faisalabad Region, Faisalabad (hereinafter referred to as the "POI") and challenged the above detection bill. The complaint of the Respondent was disposed of by the POI vide

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M. Javed



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decision dated 11.02.2022, wherein the detection bill of Rs.255,049/- for 11,044 units charged for August 2020 was cancelled.

3. Being dissatisfied, the Appellant has filed the instant appeal before NEPRA and assailed the decision dated 11.02.2022 of the POI (hereinafter referred to as the "impugned decision"). In its appeal, the Appellant opposed the maintainability of the impugned decision, *inter-alia*, on the following grounds that the impugned decision is against the law and facts of the case; that the POI did not apply his judicious mind and passed the impugned decision based on illegal assumption and presumption; that the POI has not thrashed out the consisting reasons in the matter; that the impugned decision was passed after expiry of 90 days from the date of receipt of the complaint, hence the impugned decision is liable to be set aside.
4. Notice dated 11.04.2022 of the appeal was issued to the Respondent for filing reply/para-wise comment, which however were not filed.

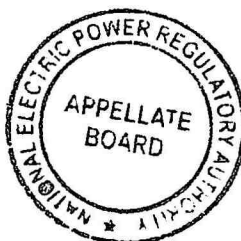
5. **Hearing**

Hearing of the appeal was conducted at NEPRA Regional Office Lahore on 02.03.2024, wherein learned counsel appeared for the Appellant, whereas no one entered an appearance for the Respondent. Learned counsel for the Appellant contended that two phases of the billing meter of the Respondent were found defective in August 2020, therefore, the detection bill of Rs.255,049/- for 11,044 units was debited to the Respondent for August 2020 to account for 66% slowness of the meter. Learned counsel for the Appellant further contended that the POI did not consider the real aspects of the case and erroneously declared the above detection bill as null and void. Learned counsel for the Appellant prayed that the impugned decision is unjustified and the same is liable to be struck down.

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

6.1 **Objection regarding the time limit for POI to decide the complaint:**

As per the record, the Respondent filed his complaint before the POI on 22.09.2021 under Section 38 of the NEPRA Act. POI pronounced its decision on 11.02.2022 i.e. 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 NEPRA 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 on the



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Electricity Act, 1910, and the above-referred decisions of the honorable High Court, the objection of the Respondent is dismissed.

6.2 Detection bill of Rs.255,049/- for 11,044 units charged for August 2020:

As per the available record, two phases of the billing meter of the Respondent were found defective in August 2020, therefore, a detection bill amounting to Rs.255,049/- for 11,044 units was debited to the Respondent for August 2020, which was challenged by him before the POI.

6.3 It is observed that the display of the impugned meter became defective in August 2020 and it was replaced in the same month, however, M&T after a lapse of one year declared the impugned meter 66% slow due to two dead phases. According to Clause 4.3.2 of the CSM-2021, data of the impugned meter be retrieved within three months from the date of replacement of the impugned meter and within six months from the manufacturer, however, the Appellant violated the foregoing clause of the CSM-2021. To further verify the contention of the Appellant regarding the 66% slowness of the meter, consumption data is compared in the below table:

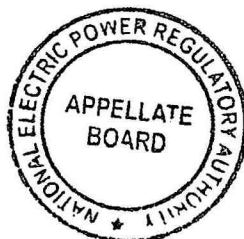
| Corresponding month before dispute | | Disputed month | | Corresponding month after dispute | |
|------------------------------------|-------|----------------|-------|-----------------------------------|-------|
| Month | Units | Month | Units | Month | Units |
| Aug-2019 | 5,179 | Aug-2020 | 6,444 | Aug-2021 | 8,250 |
| Detection bill of 16,737 units | | | | | |

6.4 The above consumption data shows that considerably less consumption was recorded during the disputed month by the Appellant as compared to the consumption recorded by the new meter in August 2021 but this does not warrant the Appellant to debit the detection bill of such high consumption of 16,737 units. Therefore, we are inclined to agree with the determination of POI for the cancellation of the detection bill of Rs.255,049/- for 11,044 units debited for August 2020.

6.5 The Respondent may be charged the revised bill for 8,250 units for August 2020 as per consumption recorded by the new meter in August 2021. The impugned decision to this extent is liable to be modified to this extent.

7. In view of what has been stated above, we reached the conclusion that:

7.1 the detection bill of Rs.255,049/- for 11,044 units debited for August 2020 is cancelled, which is also the determination of the POI.



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7.2 The Respondent may be charged the revised bill of 8,250 units for August 2020 as per consumption recorded by the new meter in August 2021, however, the already charged units in August 2020 be adjusted in the revised detection bill.

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

Abid Hussain
Member/Advisor (CAD)

Naweed Illahi Sheikh
Convener/DG (CAD)

Muhammad Irfan-ul-Haq
Member/ALA (Lic.)

Dated: 25-07-2024

