



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

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No. NEPRA/Appeal/072/2023/809

October 10, 2024

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|---|--|
| 1. Hasan Raza,
S/o. Altaf Hussain,
R/o. Mauza Korala,
District Chiniot | 2. Chief Executive Officer,
FESCO Ltd,
West Canal Road, Abdullah Pur,
Faisalabad |
| 3. Saeed Ahmed Bhatti,
Advocate High Court,
66-Khyber Block, Allama Iqbal Town,
Lahore
Cell No. 0300-4350899 | 4. Sub Divisional Officer (Operation),
FESCO Ltd,
Chiniot-I Sub Division,
Chiniot |
| 5. POI/Electric Inspector,
Energy Department, Govt. of Punjab,
Opposite Commissioner Office,
D.C.G Road, Civil Lines,
Faisalabad Region, Faisalabad | |

Subject: **Appeal No.072/2023 (FESCO Vs. Hasan Raza) Against the Decision Dated 11.04.2023 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 10.10.2024 (06 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 Nos.072/POI-2023

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Hassan Raza S/o. Altaf Hussain,
R/o. Mauza Korala, 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. Adnan Maseeh SDO
Mr. Wajid Ali Tabassum

For the Respondent:

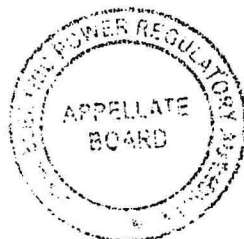
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DECISION

1. Through this decision, the appeal filed by Faisalabad Electric Supply Company Limited (hereinafter referred to as the "Appellant") against the decision dated 11.04.2023 of the Provincial Office of Inspection, Faisalabad Region, Faisalabad (hereinafter referred to as the "POI") is being disposed of.
2. Briefly speaking, Hassan Raza (hereinafter referred to as the "Respondent") is a commercial consumer of the Appellant bearing Ref No.27-13161-3022302-U with a sanctioned load of 33 kW, and the applicable Tariff category is A-2(C). As per the billing record, the display of the billing meter of the Respondent became vanished, hence it was replaced with a new meter by the Appellant in February 2022. Subsequently, the removed meter of the Respondent was checked by the Metering & Testing ("M&T") team of the Appellant on 17.06.2022, wherein, 5,095 units were found uncharged. Resultantly, a detection bill of

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Rs.224,679/- against 5,095 units was debited to the Respondent due to the difference of readings between the units already charged and the final reading of the impugned meter and added to the bill for December 2022.

3. Being aggrieved, the Respondent filed a complaint before the POI on 16.01.2023 and challenged the above detection bill. The complaint of the Respondent was disposed of by the POI vide the decision dated 11.04.2023, wherein the detection bill of Rs.224,679/- against 5,095 units was cancelled.
4. The Appellant filed instant appeal before the NEPRA against the afore-referred decision of the POI, which was registered as Appeal No.072/POI-2023. In its appeal, the Appellant objected to the maintainability of the impugned decision, *inter alia*, on the main grounds that the impugned decision is against the facts and law of the case; that the POI misconstrued the real facts of the case and erred in declaring the detection bill of Rs.224,679/- as null and void; that the aforesaid detection bill was fully proved through authentic documents and consumption data; that the POI decided the matter after expiry of 90 days, which is violative of Section 26(6) of the Electricity Act, 1910; that the POI failed to appreciate that the complaint could not be entertained as no notice as required under Section 26(6) of the Electricity Act, 1910 was ever served upon the Appellant before filing the same; and that the impugned decision is liable to be set aside.

5. **Proceedings by the Appellate Board**

Upon the filing of the instant appeal, a notice dated 18.08.2023 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days, which however were not filed.

6. **Hearing**

- 6.1 Hearing of the subject appeals was conducted at NEPRA Regional Office Lahore on 01.03.2024, which was attended by a counsel for the Appellant, whereas no one tendered appearance for the Respondent. Learned counsel for the Appellant contended that the display of the impugned billing meter of the Respondent was found defective, therefore it was replaced with a new meter in February 2022 and sent for data retrieval. Learned counsel for the Appellant further contended that 5,095 units were found uncharged in the impugned meter, therefore a detection bill amounting to Rs.224,679/- against 5,095 units was debited to the Respondent due to the difference of units already charged and the final retrieved





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reading of the impugned meter to recover the revenue loss sustained by the Appellant. As per learned counsel for the Appellant, the above detection bill was cancelled by the POI without perusing the documentary evidence. Learned counsel for the Appellant finally prayed that the impugned decision is liable to be set aside. Since the Respondent failed to attend the hearing, hence the case was adjourned for the next date for the arguments of the Respondent only.

6.2 In this regard, notice dated 27.05.2024 was sent to the Respondent for the hearing scheduled on 08.06.2024, however on the given date, the Respondent did not tendered appearance.

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

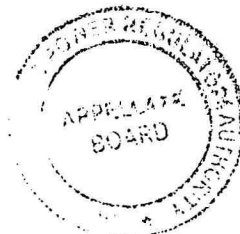
7.1 Objection regarding the time limit for POI to decide the complaint:

As per the record, the Respondent filed his complaint before the POI on 16.01.2023 under Section 38 of the NEPRA Act. POI pronounced its decision on 11.04.2023 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, of 1910. Reliance in this regard is placed on the judgments of the honorable Lahore High Court reported in *PLJ 2017-Lahore-627* and *PLJ-2017-Lahore-309*. The relevant excerpt of the above judgments is reproduced below:

"PLJ 2017-Lahore-627:

Regulation of Generation Transmission and Distribution of Electric Power Act, 1997-

-838(3)--Electricity Act, 1910, S. 26(6)--Constitution of Pakistan, 1973. Art. 199--Constitutional petition--Consumer of LESCO.. The sanctioned load was differed with the connected load--Determine the difference of charges of the previous period of misuse to be recovered from the consumer--Validity--No disconnection or penal action was taken against petitioner rather only difference of charges between sanctioned load and load actually used by petitioner was charged, hence Clause 7.5 of Consumer Service Manual has not been violated-Issuance of detection bill itself amounts to notice and petitioner had also availed remedy before POI against determination--Order passed by POI was beyond 90 days--Order was not passed by the respondent under Section 26(6) of the Act as Electric Inspector rather the order was passed by him in the capacity of POI under Section 38(3) of Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (NEPRA Act), therefore, argument has no substance.



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PLJ-2017-Lahore-309:

The learned counsel for the petitioner submitted that there was an outer time limit of 90 days for a decision by the Electric Inspector which has not been observed and which rendered the decision of the Electric Inspector a nullity. This submission of the learned counsel has been dealt with by the Appellate Board and in any case, is fallacious- The short and simple answer rendered by the Appellate Board was that the decision was made under Section 38 of the Act, 1997 and not in terms of Section 26 of the Electricity Act, 1910. Therefore, the outer time limit of 90 days was inapplicable."

Keeping in view the overriding effect of the NEPRA Act on the Electricity Act, 1910, and the above-referred decisions of the honorable High Court, the objection of the Respondent is dismissed.

7.2 Objection regarding prior notice before filing the complaint before the POI:

As regards another objection of the Appellant for not issuing notice as per the Electricity Act, 1910 by the Respondent before filing a complaint to the POI, it is elucidated that the matter was adjudicated by the POI under Section 38 of the NEPRA Act, 1997 and as per procedure laid down in Punjab (Establishment and Powers of Office of Inspection) Order, 2005, which do not require for service of any notice before approaching the POI. The above objection of the Appellant is not valid and, therefore overruled.

7.3 Detection bill of Rs.224,679/- for 5,095 units:

In the instant case, the Appellant claimed that the impugned meter was replaced with a new meter in February 2022, and during subsequent M&T checking dated 17.06.2022, the display of the impugned meter of the Respondent was found vanished and 5,095 units were found pending due to the difference of already charged units and the final reading retrieved. Thereafter, the Appellant debited a detection bill of Rs.224,679/- against 5,095 units to the Respondent in December 2022, which was challenged by him before the POI.

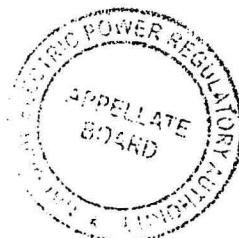
7.4 It is observed that the Appellant charged the above detection bill based on the data retrieval report but the said checking was neither carried out in the presence of the Respondent nor said impugned meter was checked by the POI being competent forum. It is further observed that the data was downloaded after the lapse of four months and the impugned detection bill was charged after the lapse of more than ten months.

7.5 To further verify the contention of the Appellant regarding the above detection bill, consumption data is reproduced below:

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Old meter		New meter	
Month	Units	Month	Units
Feb-21	261	Feb-22	275
Mar-21	382	Mar-22	890
Apr-21	224	Apr-22	302
May-21	86	May-22	847
Jun-21	290	Jun-22	354
Jul-21	500	Jul-22	410
Aug-21	500	Aug-22	247
Sep-21	500	Sep-22	334
Oct-21	765	Oct-22	417
Nov-21	231	Nov-22	847
Dec-21	360	Dec-22	252
Jan-22	345	Jan-23	187
Total	4444	Total	5362
Difference=918			

It is revealed that the impugned meter recorded 918 less units as compared to the consumption recorded by the new meter in the corresponding months of the succeeding year. However, there is no justification to debit a detection bill of 5,095 units on account of alleged defectiveness and pending units. Therefore, we are inclined to agree with the determination of the POI for the cancellation of the above detection bill.

7.6 As evident from the above table, actual consumption could not be charged by the Appellant due to the vanished display of the impugned meter, hence it would be fair and appropriate to debit the revised bills for the period from February 2021 to January 2022 as per consumption of the new meter recorded during the undisputed period after the dispute i.e. February 2022 to January 2023. The impugned decision is liable to be modified to this extent.

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

8.1 the detection bill of Rs.224,679/- against 5,095 units charged to the Respondent is unjustified and the same is cancelled.

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8.2 the Respondent may be charged the revised bills for the period from February 2021 to January 2022 as per consumption of the new meter recorded during the undisputed period after the dispute i.e. February 2022 to January 2023.


8.3 The billing account of the Respondent be overhauled, accordingly.

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

On leave
Abid Hussain
Member/Advisor (CAD)

Dated: 10-10-2024


Naweed Illahi Sheikh
Convener/DG (CAD)


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

