



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

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No. NEPRA/Appeals/109/2023/ & 116/2023/ *Sp*


October 10, 2024

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Asim Ishaq,
S/o. Muhammad Ishaq,
Madina Floor Mill, Jhang Road,
Toba Tek Singh | 2. Chief Executive Officer,
FESCO Ltd,
West Canal Road, Abdullah Pur,
Faisalabad |
| 3. Ch. Shahzad Ahmed Bajwa,
Advocate High Court,
12-Faisal Park, Imamia Colony,
Shahdara, Lahore
Cell No. 0301-4174291 | 4. Ch. Muhammad Imran Bhatti,
Advocate High Court,
44-District Courts, Faisalabad
Cell No. 0300-9102120 |
| 5. Sub Divisional Officer (Operation),
FESCO Ltd,
Toba Tek Singh City Sub Division,
WAPDA Complex, Near Underpass,
Gojra Road, Toba Tek Singh | 6. POI/Electric Inspector,
Energy Department, Govt. of Punjab,
Opposite Commissioner Office,
D.C.G Road, Civil Lines,
Faisalabad Region, Faisalabad |

Subject: **Appeal No.109/2023 (Asim Ishaq Vs. FESCO) & Appeal No.116/2023 (FESCO Vs. Asim Ishaq) Against the Decision Dated 28.08.2023 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 (05 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 Appellate Board

In the matter of

Appeal No.109/POI-2023

Asim Ishaq S/o. Muhammad Ishaq, Madina Floor Mills,
Jhang Road, TobaTek Singh

.....Appellant

Versus

Faisalabad Electric Supply Company Limited

.....Respondent

Appeal No. 116/POI-2023

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Asim Ishaq S/o. Muhammad Ishaq, Madina Floor Mills,
Jhang Road, Toba Tek Singh

.....Respondent

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

For FESCO:

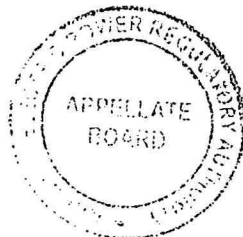
Mr. Shahzad Ahmed Bajwa Advocate
Syed Aqeel Haider SDO

For Consumer:

Ch. Muhammad Imran Bhatti Advocate

DECISION

1. As per the facts of the case, Faisalabad Electric Supply Company Limited (hereinafter referred to as the "FESCO") is a licensee of the National Electric Power Regulatory Authority (hereinafter referred to as the "NEPRA") for the distribution of electricity in the territory specified as per the terms and conditions of the license and Asim Ishaq is its industrial consumer bearing Ref No.24-13321-5304500-U with sanctioned load of 325 kW under the tariff category B-2(b) (hereinafter referred to as the "Consumer"). FESCO claims that the metering equipment of the Consumer was checked by the Metering and Testing (M&T) team of the FESCO on 02.09.2022, wherein both the TOU billing and backup meters were found 33% slow due to one phase being dead. Multiplication Factor (the "MF") of the Consumer was raised from 120 to 178.8 w.e.f September 2022 and onwards. Later on, FESCO debited a detection bill of Rs.2,223,612/- for 28,606 units+1,820 kW MDI for four months for the





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period from May 2022 to August 2022 to the Consumer @ 33% slowness of the TOU billing meter and added to the bill for April 2023.

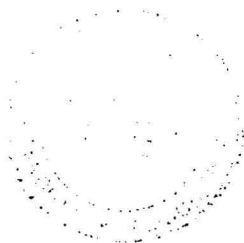
4. Being aggrieved with the actions of FESCO, the Consumer filed a complaint before the Provincial Office of Inspection, Faisalabad Region, Faisalabad (hereinafter referred to as the "POI") on 22.05.2023 and challenged the above detection bill, the bills with enhanced MF=178.8 from September 2022 to May 2023 and the excessive 1,187 kW MDI. The metering equipment of the Consumer was checked by the POI on 17.07.2023 in the presence of both parties, wherein both the billing and backup meters were found 33% slow due to the blue phase being dead, the joint checking report was signed by both parties without raising any objection. The complaint of the Consumer was disposed of by POI vide decision dated 28.08.2023 wherein the detection bill amounting to Rs.2,223,612/- for 28,606 units+1,820 kW MDI for four months for the period from May 2022 to August 2022 was declared as null, void, and not payable by the Consumer. The POI directed FESCO to issue the revised bill of 14,244 units+266 kW MDI for two months to the Consumer.
5. Being dissatisfied with the above-referred decision of POI (the "impugned decision"), both parties filed cross-appeals (Appeal No.109/POI-2023 & 116/POI-2023) before the NEPRA. As the facts and subject matter of the appeals is same, therefore both are being clubbed and disposed of through a single/consolidated decision.
6. In its appeal, the Consumer opposed the impugned decision *inter alia*, on the grounds that the impugned decision is against the facts and law of the case; that the POI did not pass the order for change of replacement of the CT as per Rule 8(2) of the POI Order 2005; that FESCO raised the impugned detection bill in violation of the provision of the CSM-2021; that the POI also not consider this aspect of the matter that FESCO did not adhere the procedure as laid down in Chapter 4 and 6 of the CSM-2021; that the POI did not apply its legal and technical mind and passed the impugned decision; that the 1,187 kW MDI was excessively charged by FESCO as compared to the data retrieval report, which was not considered by the POI; that the impugned decision is the result of misreading and nonreading of the available record as well as the law on the subject; that the impugned decision is liable to be set aside and the impugned detection bill, as well as recovery of excessive MDI, be declared as null and void. In its appeal, FESCO opposed the maintainability of the impugned decision on the pretext that the impugned decision is against the facts and law of the case; that the POI erroneously declared the impugned detection bill as unjustified and illegal; that the POI did

NA



not consider the fact that the impugned detection bill was debited based on previous consumption due to defective meter; that the impugned decision is sketchy and patchy and the same is liable to be set aside.

7. Notices of the appeals were sent to both parties for filing reply/para-wise comments, however, both parties failed to submit reply. Hearing of both the appeals was conducted at NEPRA Regional Office Lahore on 08.06.2024, which was attended by both parties. Learned counsel for the Consumer reiterated the same contentions as given in memo of Appeal No.109/2023 and contended that FESCO charged the detection bill of Rs.2,223,612/- for 28,606 units+1,820 kW MDI for four months for the period from May 2022 to August 2022 on account of 33% slowness of the meter. As per learned counsel for the Consumer, the above detection bill was charged without prior notice and the Consumer was also not associated during FESCO checking dated 02.09.2022, hence the Consumer is not bound to pay the above detection bill. According to the learned counsel for the Consumer, the impugned decision for allowing the detection bill of 14,244 units+266 kW MDI is illegal and liable to be set aside. Learned Counsel for the Consumer argued that the bills with enhanced MF=178.8 from September 2022 to May 2023 are unjustified and the same are liable to be withdrawn. On the contrary, learned counsel for FESCO rebutted the version of learned counsel for the Consumer and argued that 33% slowness was observed in the TOU billing meter of the Consumer during M&T checking dated 02.09.2022, hence the detection bill amounting to Rs.2,223,612/- for 28,606 units+1,820 kW MDI for four months for the period from May 2022 to August 2022 and the onward bills with enhanced MF=178.8 due to 33% slowness are correct and payable by the Consumer. As per learned counsel for FESCO, an increase in consumption after the replacement of the slow TOU billing meter supports the version of FESCO for charging the above detection bill and the bills with enhanced MF=178.8 to the Consumer. Learned counsel for FESCO finally prayed that the entire period of the above detection bill be allowed as already charged by FESCO @ 33% slowness of the TOU billing meter.
8. Arguments were heard and the record was examined. Following has been observed:
- 8.1 The Consumer in his complaint before POI challenged (i) the bills with enhanced MF=178.8 for the period from September 2022 to May 2023 and (ii) the detection bill of Rs.2,223,612/- for 28,606 units+1,820 kW MDI for four months for the period May 2022 to August 2022 charged @ 33% slowness of the TOU billing meter.





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8.2 33% slowness in the TOU billing meter of the Consumer was observed during M&T FESCO checking dated 02.09.2022, which was established during the joint checking dated 17.07.2023 of the POI, hence only the period of slowness needs to be determined in the below paras.

8.3 FESCO may charge the detection bill maximum for two months in case of a slow billing meter, under Clause 4.3.3c(ii) of the CSM-2021. However, FESCO charged the detection bill for four months i.e. May 2022 to August 2022 due to 33% slowness of the meter, which is violative of the ibid clause of CSM-2021. Therefore we are inclined to agree with the findings of POI that the detection bill amounting to Rs.2,223,612/- for 28,606 units + 1,820 kW MDI for four months for the period from May 2022 to August 2022 is unjustified being violative of the foregoing clause of the CSM-2021 and the same is liable to be cancelled along with LPS.

8.4 According to Clause 4.3.3c(ii) of CSM-2021, the Consumer may be charged the detection bill maximum for two months i.e. July 2022 and August 2022 @ 33% slowness of the TOU billing meter, if actual consumption was not recorded by the billing meter during the said months. In this regard, an analysis of the consumption data is done below:

Undisputed period			Disputed period		
Month	Units	MDI	Month	Units	MDI
Jul-21	16410	265	Jul-22	13200	149
Aug-21	14280	230	Aug-22	15720	145
Total	30690	495	Total	28920	294

Examination of the above consumption data shows that the MDI recorded in the disputed months is much lesser than the MDI of the corresponding undisputed months of the previous year i.e. 2021. This indicates that the TOU billing meter of the Consumer remained 33% slow during the disputed months i.e. July 2022 and August 2022, hence the determination of POI for allowing net 14,244 units+266 kW MDI is correct and be maintained to this extent.

8.5 Similarly, the bills already debited with enhanced MF=178.8 due to 33% slowness of the meter for the period from September 2022 to May 2023 are recoverable from the Consumer being consistent with Clause 4.3.3c(i) of the CSM-2021.

8.6 The Consumer raised the dispute of excessive billing in terms of MDI part till September 2022 as compared to the checking report dated 02.09.2022 of FESCO before the POI, who however remained silent while rendering the impugned decision. To redress the grievance of the Consumer, the M&T report, and bill of August 2022 are reproduced below:





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Reading	Bill of August 2022	Checking dated 02.09.2022	Difference	MF	MDI (kW)
Accumulative MDI	29.7	21.5872	8.1128	120	973.536

As evident from the above table, it is evident that FESCO debited excessive MDI to the Consumer till August 2022 as compared to the accumulative MDI recorded during subsequent checking dated 02.09.2022. Thus we are of the considered view that the Consumer is liable to be afforded credit of 973 kW MDI in future bills. The impugned decision is liable to be modified to this extent.

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

9.1 The detection bill of Rs.2,223,612/- for 28,606 units+1,820 kW MDI for four months for the period May 2022 to August 2022 charged to the Consumer along with LPS is unjustified and cancelled.

9.2 Similarly, the determination of POI for allowing FESCO to debit net 14,244 units+266 kW MDI is correct and be maintained to this extent. Moreover, the bills already debited with enhanced MF=178.8 due to 33% slowness of the meter for the period from September 2022 to May 2023 are recoverable from the Consumer being consistent with Clause 4.3.3c(i) of the CSM-2021.


9.3 In furtherance, the Consumer may be afforded credit of 973 kW MDI in the future bills as worked out in para 8.6 above.


9.4 The billing account of the Consumer may be revised accordingly after adjusting payments made against the above bills.

10. 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.)