



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

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No. NEPRA/Appeals/110/2023/ & 039/2024/ *SH*


October 10, 2024

- | | |
|---|--|
| 1. Muhammad Ejaz,
S/o. Abdul Ghafoor,
R/o. Chak No. 120/RB,
Sargodha Road, Faisalabad | 2. Chief Executive Officer,
FESCO Ltd,
West Canal Road, Abdullah Pur,
Faisalabad |
| 3. Dr. Muhammad Irtiza Awan,
Advocate High Court,
Awan Law Associates,
Al-Majeed Centre, 1-Mozang Road,
38-Link Farid Kot Road, Lahore
Cell No. 0300-4211934 | 4. Mehar Muhammad Walait Khan Sahmal,
Advocate High Court,
Chamber No. 86, Lyallpur Law Building,
District Courts, Faisalabad
Cell No. 0346/0315-6243424 |
| 5. Sub Divisional Officer (Operation),
FESCO Ltd,
Muslim Town Sub Division,
Faisalabad | 6. POI/Electric Inspector,
Energy Department, Govt. of Punjab,
Opposite Commissioner Office,
D.C.G Road, Civil Lines,
Faisalabad Region, Faisalabad |

Subject: **Appeal No.110/2023 (FESCO Vs. Muhammad Ejaz) & Appeal No.039/2024 (Muhammad Ejaz Vs. FESCO) Against the Decision Dated 21.09.2023 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 The Appellate Board

In the matter of

Appeal No.110/POI-2023

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Muhammad Ejaz S/o. Abdul Ghafoor,
R/o. Chak No.120/RB, Sargodha Road, Faisalabad

.....Respondent

&

Appeal No.039/POI-2024

Muhammad Ejaz S/o. Abdul Ghafoor,
R/o. Chak No.120/RB, Sargodha Road, Faisalabad

.....Appellant

Versus

Faisalabad Electric Supply Company Limited

.....Respondent

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

Hearing dated 08.06.2024

Hearing dated 14.09.2024

For FESCO:

Dr. M. Irtiza Awan Advocate
Mr. Sohail Akhter Court Clerk

For Consumer:

Mehar Muhammad Walait Khan Sahmal 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 Muhammad Ejaz is its commercial consumer of FESCO bearing Ref No.06-13128-0615000-U having sanctioned load of 01 kW and the applicable tariff category is A-2(a) (hereinafter referred to as the "Consumer"). The old billing meter bearing No.555969 (the "first meter") of the Respondent was found defective with vanished display, hence it was replaced with a new meter bearing No.4039528 (the

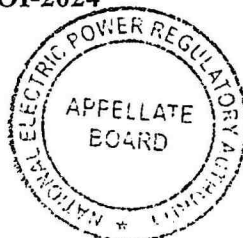




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“second meter”) by the FESCO on 27.08.2015. Subsequently, a detection bill of 6,596 units was debited by the FESCO to the Consumer in December 2015 with the plea that MCO was fed late due to which accumulative units were charged. Later on, the second meter of the Consumer became defective and the bills for the period from August 2016 to October 2016 were debited on the DEF-EST code. Electricity of the premises was disconnected by FESCO in July 2017 due to non-payment of arrears of Rs.263,019/-.

2. Being aggrieved, the Consumer initially approached FESCO against the charging of the bills for the period from August 2016 to October 2016. In response, the review committee of FESCO vide report dated 21.05.2022 recommended to withdraw total 3,345 units for the period from August 2016 to October 2016. Subsequently, the Consumer filed a complaint before the Provincial Office of Inspection, Faisalabad Region, Faisalabad (hereinafter referred to as the “POI”) on 05.05.2023 and challenged the above detection bill along with the bills for the period from August 2016 to October 2016. The complaint of the Consumer was disposed of by the POI vide decision dated 21.09.2023, wherein FESCO was directed to withdraw total 3,345 units excessively charged for the period from August 2016 to October 2016. FESCO further directed to overhaul the billing account of the Consumer, accordingly.
3. Being dissatisfied with the above-referred decision of POI (the “impugned decision”), both parties filed cross-appeals (Appeal No.110/POI-2023 & 039/POI-2024) before the NEPRA. As the facts and subject matter of the appeals are the same, therefore both are being clubbed and disposed of through a single/consolidated decision.
4. In its appeal, the FESCO opposed the maintainability of 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 apply his independent and judicious mind while passing the impugned decision; that the POI has not thrashed out the consisting reasons in the matter; that the impugned meter was found dead stop with vanished display, which was replaced by the FESCO in August 2015 but MCO was fed in December 2015; that the detection bill of 6,596 units charged on account of accumulated units is justified and payable by the Consumer; that the POI has not adverted the real aspects of the case and that the impugned decision is liable to be set aside. In his appeal, the Consumer contended that FESCO debited 6,596 units in December 2015 and 4,325 units during the billing months of August 2016 to October 2016 without adhering to the procedure as laid down in CSM-2021. The Consumer further contended that the impugned decision is against the facts and law and the same is liable to be set aside in the best interest of justice.





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5. Notices of the appeals were sent to both parties for filing reply/para-wise comments, however, both parties failed to submit reply/para-wise comments against the Appeal Nos.110/POI-2023 and 039/POI-2024.

6. Hearing

6.1 Hearing of appeal No.110/POI-2023 was conducted at NEPRA Regional Office Lahore on 08.06.2024, wherein learned counsel appeared for the FESCO and the Consumer did not tender attendance. Learned counsel for the FESCO contended that the billing meter of the Consumer was found defective, hence a detection bill of 6,596 units was debited to the Consumer. Learned counsel for the FESCO argued that the POI did not consider the real aspects of the case and remained silent in this regard. Learned counsel for the FESCO prayed that the impugned decision to this extent is liable to be struck down.

6.2 Subsequently, a hearing of Appeal No.039/POI-2024 was held at NEPRA Regional Office Lahore on 14.09.2024 in which the Consumer was represented by a counsel, and no one tendered appearance on behalf of FESCO. Learned counsel for the Consumer opposed the charging of detection bill of 6,596 units in December 2015 and argued that FESCO without adopting the procedure as laid down in CSM-2021 debited the illegal, unjustified detection bill, however, the said bill was assailed before the POI, who neither discussed the same nor given its determination vide the impugned decision. Learned counsel for the Consumer prayed that the impugned decision is liable to be struck down and the dispute of the impugned detection bill be decided in the best interest of justice.

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

7.1 As per the available record, the first meter of the Consumer was found defective with vanished display during the checking of FESCO, therefore it was replaced with a new meter by the FESCO in August 2015. Thereafter, a detection bill of 6,596 units was debited by the FESCO to the Consumer in December 2015. Later on, the second meter was also became defective, therefore the bills for the period from August 2016 to October 2016 were charged on DEF-EST code to the Consumer. The Consumer initially approached FESCO against the bills of the period from August 2016 to October 2016, in response, review committee of FESCO vide report dated 21.05.2022 recommended to withdraw 3,345 units charged during the disputed months as the premises was closed during these months.





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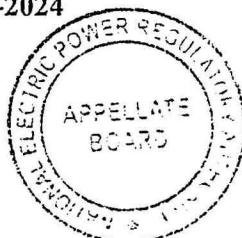
7.2 The Consumer approached the POI and challenged the above detection bill and the bills for the period from August 2016 to October 2016. POI vide the impugned decision directed FESCO to withdraw 3,345 units as recommended by the review committee vide report dated 21.05.2022 with regard to the bills for the period from August 2016 to October 2016, however, the POI remained silent with regard to the detection bill of 6,596 units debited by the FESCO in December 2015. Hence, in the below paras, the fate of the above detection bill will be determined on the basis of available record.

7.3 It is evident from the facts that the first meter with the vanished display was replaced by the FESCO on 27.08.2015. FESCO kept the first meter in their custody for four months and debited the impugned detection bill of 6,596 units on account of balance units. In this regard, FESCO was directed to submit the detection proforma, M&T checking report, and the billing statement of the Consumer for the years 2015-2024. However, the FESCO did not submit the detection proforma and the billing statement for the years 2015-2024 and took the ground that the official record of the said connection was misplaced due to the merger of the subdivision in another subdivision. This shows the lack of interest on the part of the FESCO to defend the charging of the impugned detection bill of 6,596 units. Even otherwise, the discrepancy of the vanished display of the first meter can be witnessed with bare eyes during the monthly readings but FESCO never pointed out such discrepancy in the metering equipment before MCO dated 27.08.2015. How it could be possible that such a high consumption of 6,596 units remained uncharged in the first meter of the Consumer, which is neither compatible with the sanctioned load of 1 kW nor FESCO could produce material evidence in support of their contention. In view of the foregoing discussion, we are of the considered view that the detection bill of 6,596 units charged to the Consumer in December 2015 is unjustified and the same is liable to be cancelled.

7.4 Since the first meter of the Consumer was found defective with vanished display in August 2015, hence the Consumer is liable to be charged the detection bill for two billing cycles before date of M&T checking of FESCO till MCO dated 27.08.2015 as per Clause 4.4(e) of the CSM-2010. The impugned decision is liable to be modified to this extent.

8. In view of what has been stated above, we have concluded that:

8.1 The detection bill of 6,596 units charged to the Consumer is unjustified and the same is





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cancelled.


8.2 The Consumer may be charged the detection bill for two billing cycles before date of M&T checking of FESCO till MCO dated 27.08.2015 as per Clause 4.4(e) of the CSM-2010.


8.3 The Consumer may be afforded credit of 3,345 units in the light of the Review Committee report dated 21.05.2022 of FESCO against the bills for the period from August 2016 to October 2016 charged on the second meter bearing No.4039528.

8.4 The billing account of the Consumer may be overhauled accordingly.

9. Both appeals are disposed of in the above terms.

On leave
Abid Hussain
Member/Advisor (CAD)


Naweed Illahi Sheikh
Convener/DG (CAD)


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

Dated: 10-10-2024

