



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

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No. NEPRA/Appeal/074/2022/8/6

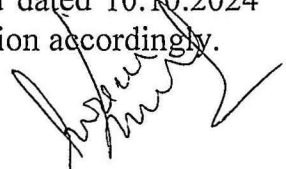
October 10, 2024

1. Muhammad Zafar Iqbal Goriya,
S/o. Ch. Muhammad Siddique Goriya,
Prop: Mr. Winggz, Akbarabad, Jail Road,
Faisalabad
Cell No. 0321-6000115
2. Chief Executive Officer,
FESCO Ltd,
West Canal Road, Abdullah Pur,
Faisalabad
3. Hafiz Faisal Raheem,
Advocate High Court,
33-District Courts, Faisalabad
Phone No. 041-2641435
Cell No. 0321-6661306
4. Ch. Muhammad Imran Bhatti,
Advocate High Court,
44-District Courts, Faisalabad
Cell No. 0300-9102120
5. Sub Divisional Officer (Operation),
FESCO Ltd,
Islampura Sub Division,
Faisalabad
6. POI/Electric Inspector
Lahore Region, Energy Department,
Govt. of Punjab, Block No. 1,
Irrigation Complex, Canal Bank,
Dharampura, Lahore

Subject: **Decision of the Appellate Board Regarding Review Petition Filed by FESCO Against the Decision Dated 25.10.2023 of the Appellate Board in the Matter Titled "FESCO Vs. Muhammad Zafar Iqbal Goriya"**

Please find enclosed herewith the decision of the Appellate Board dated 10.10.2024 (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

Before The Appellate Board

In the matter of

REVIEW PETITION FILED BY FESCO UNDER THE NEPRA REVIEW
(PROCEDURE) REGULATIONS, 2009 AGAINST THE DECISION DATED
25.10.2023 OF NEPRA IN THE APPEAL NO.074/POI-2022

Faisalabad Electric Supply Company Limited

.....Petitioner

Versus

Muhammad Zafar Iqbal Goriya S/o. Muhammad Siddique Goriya,
Prop: Mr. Winggz Akbarabad, Jail Road, Faisalabad

..... Respondent

For the Petitioner:

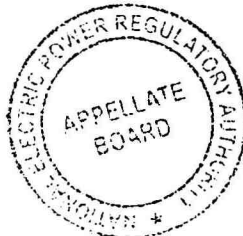
Hafiz Faisal Raheem Advocate
Mr. Shabir Ahmed Babar MI

For the Respondent:

Ch. M. Imran Bhatti Advocate

DECISION

1. Through this decision, the review petition filed by Faisalabad Electric Supply Company Limited (hereinafter referred to as the "Petitioner") against the decision dated 25.10.2023 of the National Electric Power Regulatory Authority (hereinafter referred to as the "NEPRA") in Appeal No.074/POI-2022 titled "FESCO Vs. Zafar Iqbal" is being disposed of.
2. Briefly speaking, Mr. Zafar Iqbal (hereinafter referred to as the "Respondent") is a commercial consumer of the Petitioner bearing Ref No.24-13123-5313265 with a sanctioned load of 63.38 kW, and the applicable Tariff category is A-2(c). The Respondent filed two complaints before the POI on 16.07.2021 and 06.08.2021 and challenged the following bills:
 - i. Charging of excessive units in peak hours in June 2021.
 - ii. Charging of excessive MDI from June 2021 to November 2021.
 - iii. Charging of low power factor penalty.
 - iv. Charging of MF=60 instead of 40
 - v. Charging of late payment surcharges (the "LPS") of Rs.45,147/- against the bill of July 2021.



3. Both the complaints of the Respondent were clubbed and disposed of by the POI vide the single consolidated decision dated 28.02.2022, wherein the POI held that (i) the bills of June 2021 and July 2021 be cancelled and the revised bills of OP=11,150+P=2,230 units for June 2021 and OP=11,100+P=2,220 units for July 2021 are allowed, (ii) the Petitioner may revise the MDI component for the period from June 2021 to November 2021 @ 28 kW MDI as noted during the joint checking; (iii) Contention of the Petitioner for charging low power factor penalty is correct; (iv) the stance of the Petitioner for recovery of the bills @ MF=40 is justified; and (v) the inclusion of LPS of Rs.45,147/- in the bill for July 2021 is illegal, unjustified.
4. The Petitioner filed appeal No.074/POI-2022 before the NEPRA against the above-referred decision of the POI. The NEPRA Appellate Board vide the decision dated 25.10.2023 (hereinafter referred to as the "impugned decision") disposed of the said appeal with the following conclusion:

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

- 8.1 *The bills for June 2021 and July 2021 along with LPS charged by the Petitioner to the Respondent are cancelled. The bills for June 2021 and July 2021 be revised as detailed below:*

Month	Units to be charged		(kW) MDI to be charged
	Off-peak	Peak	
Jun-21	7433	1487	28
Jul-21	7400	1480	28

- 8.2 *The MDI part of the bills for the period from August 2021 to December 2021 be revised @ 28 kW MDI per month.*
- 8.3 *Similarly, the variable part of the bills from August 2021 to November 2021 be revised as per the reading of the backup meter, and the applicable MF for the above-said billing is 40.*
- 8.4 *The impugned decision with regard to the low power factor penalty is incorrect and withdrawn to this extent.*
- 8.5 *The billing account of the Respondent be overhauled after adjusting payments made against the disputed bills. The impugned decision is modified in the above terms."*
5. The Petitioner filed a review petition before the NEPRA on 22.03.2024, wherein the impugned decision has been opposed, *inter alia*, mainly on the main grounds; (1) the honorable forum misconstrued the fact that the reading was recorded by meter and the proper calculation was done by the Petitioner, therefore the revision of the units with MF=40 is void; (2) the connected load of the Respondent was considered as 28 kW instead of sanctioned load=63.38 kW; (3) the impugned decision is the result of great miscarriage

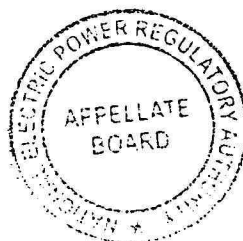
of justice and wrong interpretation of the law; (04) the review petition be accepted and the appeal be decided in accordance with the law.

6. Hearing in the matter of the subject review petition was scheduled for 08.06.2024 at NEPRA Regional Office Lahore for which notices dated 27.05.2024 were issued to both parties (the Petitioner and Respondent). On the date of the hearing, both parties were present. At the outset of the hearing, learned counsel for the Respondent raised the preliminary objection regarding limitation and argued that the appeal was decided by this forum on 25.10.2023 against which the Petitioner filed the review petition on 22.03.2024, which is time-barred being after filed after the lapse of 30 days as envisaged in NEPRA (Review Procedure) Regulations, 2009. Reliance in this regard is placed on the various judgments of superior courts reported as PLD 2004 Lahore 91, PLJ 2004 Lahore 95, and 2017 YLR 229. On the contrary, learned counsel for the Petitioner rebutted the contention of the Respondent regarding limitation and prayed that the review petition be decided on merits instead of technical grounds. On merits, learned counsel for the Petitioner reiterated the same contentions as given in the memo of the review petition and stated that the impugned decision was rendered without considering the facts, and the same is liable to be reviewed at this stage.

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

7.1 While addressing the preliminary objection of the Respondent regarding the limitation, it is observed that the impugned decision was announced by the NEPRA on 25.10.2023 against which the Petitioner filed the instant review petition before the NEPRA on 22.03.2024 after a lapse of 150 days from the date of communication of said order i.e. 25.10.2023. As per Regulation 3(3) of the NEPRA (Review Procedure) Regulations, 2009, the period of limitation for filing a review petition against any other order, decision or determination of NEPRA not covered under Rule 16(6) of NEPRA Tariff (Standards & Procedure) Rules, 1998 shall be 30 days from the date of communication of such order, decision or determination. The Petitioner neither submitted an application for condonation of delay nor could justify the inordinate delay in filing the instant review petition.

7.2 In terms of Regulation 3 (2) of NEPRA (Review Procedure) Regulations, 2009, a motion seeking review of any order of the Authority is competent only upon discovery of a mistake or error apparent on the face of the record or a new and important matter of evidence. In the instant review motion, no mistake or error apparent on the face of the record has been highlighted by the Petitioner. Further, the Petitioner has not come up with







National Electric Power Regulatory Authority

any new and important matter of evidence which was not considered by the Appellate Board while making its decision dated 25.10.2023. Therefore, there is neither any occasion to amend the impugned decision nor any error inviting indulgence as admissible in law.

8. In view of the above, the instant review motion of the Petitioner is dismissed being time-barred as well as devoid of merits, and the decision dated 25.10.2023 of the Appellate Board is upheld.

On leave
Abid Hussain
Member/Advisor (CAD)


Naweed Illahi Sheikh
Convener/DG (CAD)


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

Dated: 10-10-2024

