



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

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No. NEPRA/Appeal/115/2023/ 1/9

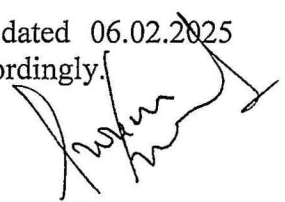
February 06, 2025

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| 1. Muhammad Yousaf,<br>S/o. Noor Akbar,<br>R/o. Chak No. 236/B,<br>Chiniot   | 2. Chief Executive Officer,<br>FESCO Ltd,<br>West Canal Road, Abdullah Pur,<br>Faisalabad        |
| 3. Saeed Ahmed Bhatti,<br>Advocate High Court,<br>66-Khyber Block, Allama Iqbal Town,<br>Lahore<br>Cell No. 0300-4350899                                 | 4. Sub Divisional Officer (Operation),<br>FESCO Ltd,<br>Narwala Road Sub Division,<br>Faisalabad |
| 5. POI/Electric Inspector<br>Lahore Region, Energy Department,<br>Govt. of Punjab, Block No. 1,<br>Irrigation Complex, Canal Bank,<br>Dharampura, Lahore |  |

Subject: **Appeal No.115/2023 (FESCO Vs. Muhammad Yousaf) Against the Decision Dated 12.04.2023 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 06.02.2025 (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 of the Appellate Board on the NEPRA website



# National Electric Power Regulatory Authority

## Before the Appellate Board

In the matter of

### Appeal No.115/POI-2023

Faisalabad Electric Supply Company Limited

.....Appellant

Versus

Muhammad Yousaf S/o. Noor Akbar,  
R/o. Chak No.236/B, Chiniot

.....Respondent

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

#### For the Appellant:

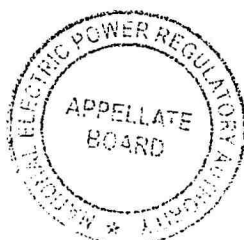
Mr. Saeed Ahmed Bhatti Advocate

#### For the Respondent:

Nemo

### **DECISION**

1. As per the facts of the case, Muhammad Yousaf (hereinafter referred to as the "Respondent") is an agricultural consumer of Faisalabad Electric Supply Company Limited (hereinafter referred to as the "Appellant") bearing Ref No.29-13225-7504840 having sanctioned load of 11 kW and the applicable tariff category is D-2(b). Reportedly, the billing meter of the Respondent became defective in June 2022, hence the bills for the period from June 2022 and onwards were charged on DEF-EST code. Subsequently, the impugned meter was replaced with a new meter by the Appellant in October 2022 and sent to M&T laboratory for checking. As per M&T report dated 14.11.2022, one phase of the impugned billing meter was found dead stop.
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 bills for the period from June 2022 to October 2022 with the plea that the excessive billing was done by the Appellant due to a defective meter. The complaint of the Respondent was disposed of by the POI vide decision dated 12.04.2023, wherein the Appellant was directed to afford credit of 9,085 units being excessively charged.
3. Being dissatisfied, the Appellant has filed the instant appeal before the NEPRA and assailed the decision dated 12.04.2023 of the POI (hereinafter referred to as the "impugned decision").





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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 facts and law of the case; that the POI misconceived and misconstrued the real facts of the case/consumption data and erred in declaring that the excessive bills were charged for the period from June 2022 to October 2022 and directed the Appellant to refund 9,085 units; that the POI neither recorded the evidence nor consumption data, hence the impugned decision is not sustainable in the eyes of law; that the POI passed the impugned decision after the expiry of 90 days, which is violative of Section 26(6) of Electricity Act 1910; and that the same is liable to be set aside.

4. Notice dated 14.12.2023 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 14.09.2024, wherein learned counsel tendered appearance for the Appellant, and no one was present from the Respondent. Learned counsel for the Appellant repeated the same arguments as contained in memo of the appeal and argued that the impugned meter became defective in June 2022 and it replaced in October 2022, as such the bills for the period from June 2022 to October 2022 charged to the Respondent are justified and payable by the Respondent. Learned counsel for the Appellant opposed the impugned decision for cancellation of the above bills and prayed for the decision on merits.

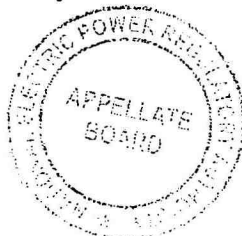
6. Having heard the arguments and record perused. Following are our observations:

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 under Section 38 of the NEPRA Act. POI pronounced its decision on 12.04.2023 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 Lahore 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*



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*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, the argument has no substance.*

### 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 Appellant is dismissed.

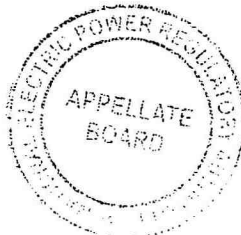
### **6.2 Bills for the period for the period from June 2022 to October 2022:**

As per the available record, the billing meter of the Respondent became defective in June 2022, which was replaced with a new meter by the Appellant in October 2022. During subsequent checking by the M&T of the Appellant, the impugned meter was found 33% slow due to one phase being dead. The Respondent subsequently disputed the bills for the period from June 2022 to October 2022 before the POI. The said forum vide impugned decision directed the Appellant to refund 9,085 units to the Respondent against which the Appellant subject appeal before the NEPRA.

6.3 In order to reach just conclusion, the consumption data of the Respondent as provided by the Appellant is examined below:

Period before dispute		Disputed period		Period after dispute	
Month	Units	Month	Units	Month	Units
Jun-21	5026	Jun-22	5026	Jun-23	460
Jul-21	3213	Jul-22	3213	Jul-23	2727
Aug-21	4112	Aug-22	0	Aug-23	8143
Sep-21	3939	Sep-22	3939	Sep-23	1877
<b>Total</b>	<b>16,290</b>	<b>Total</b>	<b>12,178</b>	<b>Total</b>	<b>13,207</b>

As evident from the above table, the total consumption charged during the disputed period is





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much less than the total consumption charged during the periods before and after the dispute. As per the billing statement, the impugned meter became defective in June 2022 and Respondent was billed on DEF-EST code during the months i.e. June 2022, July 2022, and September 2022, whereas, the bill of August 2022 was debited with nil consumption due to disconnection of the Respondent. However, the reading index of the impugned meter remained static i.e.  $OP=36,310+P=6,111$  during the disputed period from June 2022 to September 2022. Hence the determination of the POI for refund of 9,085 units is incorrect, being contrary to the facts of the case. The bills already charged for the period from June 2022 to September 2022 by the Appellant are justified and payable by the Respondent.

7. Foregoing in view, the appeal is accepted and the impugned decision is set aside.

Abid Hussain  
Member/Advisor (CAD)

Naweed Illahi Sheikh  
Convener/DG (CAD)

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

Dated: 06-02-2025

