



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

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No. NEPRA/AB/Appeal-043/POI-2015/ 655—659

July 27, 2015

1. Nisar Ahmed Alvi
Plot No. B-228,
Block-L, Street No. 7,
North Nazimabad,
Karachi
2. The Chief Executive Officer
K-Electric,
KE House, 39-B,
Sunset Boulevard, DHA-II,
Karachi
3. Rafique Ahmed Shaikh,
General Manager (Regulations),
K-Electric, KE House, 39-B,
Sunset Boulevard, DHA-II, Karachi
4. Ms. Tatheera Fatima
Deputy General Manager,
K-Electric, KE House, 39-B,
Sunset Boulevard, DHA-II, Karachi
5. Syed Mudasser Hussain Zaidi
Advocate,
105-A, Light House Centre,
M.A. Jinnah Road,
Karachi

Subject: Appeal Titled K-Electric Vs. Nisar Ahmed Alvi Against the Decision Dated 06.04.2015 of the Electric Inspector/POI to Government of the Sindh Karachi Region-II, Karachi

Please find enclosed herewith the decision of the Appellate Board dated 27.07.2015, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(M. Qamar Uz Zaman)

No. NEPRA/AB/Appeal-043/POI-2015/ 660

July 27, 2015

Forwarded for information please.

1. Registrar
2. Director (CAD)
3. Electric Inspector/POI, Karachi Region-II
4. Master File

CC:

1. Chairman
2. Vice Chairman/Member (CA)
3. Member (Tariff)
4. Member (M&E)
5. Member (Licensing)

Member Appellate Board

Registrar	8061
Dy No.....	
Dated.....	28-07-15

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- Reg-II 28/07/15
- M/F



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal 043/POI-2015

K-Electric

.....Appellant

Versus

Nisar Ahmed Alvi, Plot No. B-228, Block-L, North Nazimabad, Karachi

.....Respondent

Date of Hearing:

22/06/2015

For the appellant:

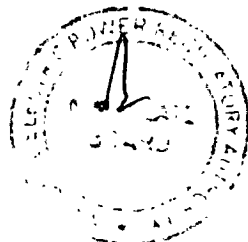
Mr. Rafique Sheikh General Manager
Ms. Tatheera Fatima Deputy General Manager

For the respondent:

Syed Mudassar H. Zaidi Advocate

DECISION

1. This decision shall dispose of an appeal filed by K-Electric against the decision dated 06.04.2015 of the Provincial Office of Inspection/Electric Inspector Karachi Region-I, Karachi (hereinafter referred to as POI) under Section 38(3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (hereinafter referred to as "the Act").
2. Brief facts giving rise to the instant appeal are that K-Electric is a licensee of National Electric Power Regulatory Authority (hereinafter referred to as NEPRA) for distribution of electricity in the territory specified as per terms and conditions of the distribution license and the respondent is its domestic consumer bearing Ref No. AL-465953 with a sanctioned load of 5 KW under tariff A-I.





National Electric Power Regulatory Authority

3. A detection bill of Rs. 311,944/- for 2,823 units net for the period 23.3.2008 to 20.07.2010 was issued by appellant to the respondent on the basis of average consumption of 1376 units per month which was challenged before the POI on 3.4.2013.
4. The matter was decided by POI vide its decision dated 06.04.2015 and the operative portion of the decision is reproduced below:

"After conducting several numbers of hearings, giving fair opportunities to hear both the parties, scrutinizing the record, made available with this authority and in the light of above findings, this authority is of the firm view that irregular bill of 28th months of 38550 units which are unjustified and are at higher side.

K-Electric Limited is directed to revise the irregular bill up to the maximum limit of 06 months at their own assessment of 1376 units per month after less already charged units at last 06 months prior to the date of inspection.

The complaint is disposed off in above for compliance by the Opponents.

5. Being aggrieved with the above decision dated 06.04.2015 of POI, K-Electric has filed the instant appeal through Ms. Tatheera Fatima Deputy General Manager before NEPRA under section 38 (3) of the Act. In the appeal, K-Electric has inter alia, stated that POI was not empowered to decide the case of theft of electricity and it has exercised the powers not vested in it and the POI has also not followed the procedure provided in Consumer Service Manual. It was further stated by the appellant that the POI has not given any reasoning on the basis of which relief was granted to the respondent. K-Electric prayed as under:

"The appellant (KE), therefore, humbly prays that the Authority (NEPRA) shall reopen the case and suspend the decision/order dated 06.04.2015 passed by the EIK (not POI) (Respondent No. 2) received in this office dated 08.04.2015 and further prays to set aside the said order in its entirety as well as grant relief as may deem just and proper to meet the ends of justice in the circumstances of the case."





National Electric Power Regulatory Authority

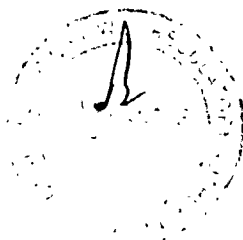
6. The respondent was issued notice for filing reply/parawise comments, which were received on 12.06.2015. The respondent in his reply/parawise comments, inter alia, stated that the appeal of K-Electric was hopelessly time barred and therefore be dismissed accordingly.
7. After issuing notice to both the parties, the appeal was heard in Karachi on 22.06.2015, in which Ms. Tatheera Fatima Deputy General Manager and Rafique Sheikh General Manager appeared on behalf of K-Electric and the respondent was represented by Syed Mudasser H. Zaidi Advocate. Learned counsel for the respondent raised preliminary objection regarding limitation and stated that the decision was announced by POI on 06.04.2015 and the appeal was filed by K-Electric before NEPRA on 13.05.2015 which may be dismissed being time barred. Ms. Tatheera Fatima DGM, K-Electric contended that the decision was announced on 06.04.2015 and copy whereof was received on 08.04.2015 and the appeal was filed before NEPRA on 06.05.2015 which was within the time limit as specified under law.
8. Having examined the record, it was noted that the appeal was filed on 13.05.2015 and not on 06.05.2015 as contended by the appellant who could not produce any documentary evidence to substantiate that the appeal was filed with NEPRA on 06.05.2015. It has been observed from the record that the impugned decision was announced by POI on 06.04.2015 and the appeal was filed before NEPRA on 13.05.2015, i.e., after the prescribed limit of 30 days.
9. As far as the legal provisions providing for limitation for filing appeals, section 38(3) of the Act and regulation 3 of NEPRA (Procedure for filing appeals) Regulations, 2012 may be relevant which are reproduced as under for reference:

Section 38 (3) of the Act.

Any person aggrieved by any decision or order of the Provincial Office of Inspection may, within thirty days of the receipt of the order, prefer an appeal to the Authority in the prescribed manner and the Authority shall decided such appeal within sixty days (Emphasis added)

Regulation 3 (1) of NEPRA (Procedure for filing appeals) Regulations, 2012:

Any person aggrieved by any decision or order of the single Member of the Authority or Tribunal constituted under section 11 of the Act or from a decision given by the Provincial






National Electric Power Regulatory Authority

office of Inspection may, within 30 days of the order or decision file an appeal before the Authority. (Emphasis added)


10. From bare perusal of above referred provisions it can be safely suggested that the appeal should be filed within 30 days of the announcement of the decision. It has been observed that the impugned decision was given by the POI on 06.04.2015 and the appeal was filed before NEPRA on 13.05.2015 i.e. after 36 days of the decision by the POI. Evidently K-Electric failed to file the appeal within the time limit of 30 days as prescribed under section 38 of the Act. As a matter of fact the appellant is required to explain and justify each day of the delay in filing the appeal but it failed to do so. Therefore it is concluded that the appeal is time barred and the same is dismissed accordingly.



Muhammad Qamar-uz-Zaman
Member



Nadir Ali Khoso
Convener



Muhammad Shafique
Member

Date: 27.07.2015

