



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

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No. NEPRA/AB/Appeal-049/POI-2015/ 1036-1039

October 20, 2015

1. Mr. Bashir  
R/o Plot No. 799-800,  
B/A, Bilal Colony, Korangi  
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

Subject: Appeal Titled K-Electric Ltd Vs. Mr. Bashir Against the Decision Dated 11.04.2015 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 19.10.2015, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(M. Qamar Uz Zaman)

No. NEPRA/AB/Appeal-049/POI-2015/ 1042

October 20, 2015

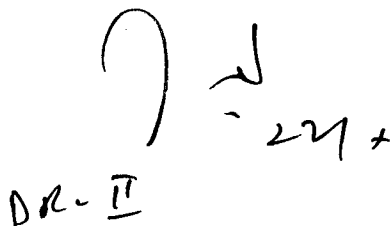
Forwarded for information please.

  
Member Appellate Board

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

CC:

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



Registrar
By No. 11/85
Dated 22-10-15



## National Electric Power Regulatory Authority

### Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-049/POI-2015

K-Electric Limited

.....Appellant

Versus

Mr. Bashir, P-No.799-800-B/A, Bilal Colony, Korangi, Karachi

.....Respondent

For the appellant:

Rafique Ahmed General Manager  
Tatheera Fatima Deputy General Manager

For the respondent:

Nemo

### DECISION

1. Through this decision, an appeal filed by K-Electric Limited (hereinafter referred to as K-Electric) against the decision dated 11.04.2014 of Provincial Office of Inspection (POI) is being disposed of.
2. As per facts of the case, the respondent is a domestic consumer of K-Electric bearing Ref No.LA-276462 with a sanctioned load of 1 kW under A1-R tariff.



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3. According to K-Electric, site inspection of the respondent's connection was carried out on 06.11.2012 and an extra phase was noticed and the connected load was found to be 6.334 KW. Detection bill of Rs.99,091/- for 6,151 units for the period 03.04.2012 to 03.10.2012 (6 months) was issued to the respondent. The respondent challenged the aforementioned detection bill vide his application dated 28.01.2013 before POI. The POI announced its decision on 11.04.2014 and inter-alia concluded that the detection/IRB bill amounting to Rs.99,091/- for 6,151 units for the period 03.04.2012 to 03.10.2012 had no justification on technical and legal grounds and be cancelled.
4. Being aggrieved with the POI decision dated 11.04.2014, K-Electric filed an appeal before Secretary Advisory Board Energy Department Government of Sindh on 30.04.2014 which was disposed of by the advisory board vide its order dated 21.04.2015. Operative portion of the order is reproduced below:  
*"The Board after going through the contents of letter No. NEPRA/TCD 01/3440-50, dated 11.04.2012 of National Electric Power Regulatory Authority (NEPRA), Islamabad, is of the view that appeals filed after 29.09.2011 by the aggrieved party would be heard and decided by the Authority (NEPRA) in accordance with section-38(3) of Regulation of Generation, Transmission & Distribution of Electric Power Act 1997 (XL of 1997) notified on 29.09.2011. Therefore, the appeal filed before this forum is disposed off with direction that appellant may file fresh appeal against the decision No. EIK-I/8-2(017) /2013-464, dated 11.04.2014 before the Authority (NEPRA)."*
5. Pursuant to the order dated 21.04.2015 of the Chairman Advisory Board Energy Department Government of Sindh, K-Electric has filed the instant appeal before NEPRA under section 38 (3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (hereinafter referred to as "the Act"). K-Electric inter-alia stated that, it contested the matter before POI and submitted written report /reply whereby the contents of the application of the respondent were denied along with supporting documents but POI accepted the complaint of the respondent and cancelled the detection bill without providing any technical and legal reasons. According to K-Electric, POI decided issue on the basis of legal hitches and lacunas. K-Electric submitted that the respondent was involved in illegal abstraction of electricity



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which was committed through direct use of electricity from one phase and he was also responsible for unauthorized extension of load. K-Electric contended that copy of each notice was sent to the respondent and site inspection was carried out after completion of all codal formalities. K-Electric further submitted that there was no violation of Section 9.1a and 14.1 of Consumer Service Manual (hereinafter referred to as CSM) and the respondent agreed to pay the detection bill for theft of electricity and therefore, no FIR was lodged against him. According to K-Electric presence of POI at site in case of theft of electricity is not required for a general consumer. K-Electric pointed out that that registration of FIR is not essential against a consumer involved in dishonest abstraction of electricity under section 26 (a) of Electricity Act 1910 and moreover theft of electricity was proved against the respondent as per site inspection report. K-Electric contended that POI was not empowered to decide the case of theft of electricity pursuant to verdict of Court and POI is bound to follow decision passed by NEPRA in the case of K-Electric v/s Khadim Ali Janwari. Therefore, as per K-Electric the decision given by POI was without jurisdiction and liable to be struck down. K-Electric further asserted that the impugned decision of POI did not contain any reasoning for the relief granted to the respondent which is contrary to the law and it is liable to be set aside. In the end K-Electric prayed as under:-

*"The Appellant, therefore, humbly prays that the Authority (NEPRA) shall reopen the case and suspend the decision/order dated 11.04.2014 passed by the Respondent No.01/EIK (not POI) received in the appellant's office dated 18.04.2014 and further prays to set aside the said order in its entirety as well as grant relief as it may deem just and proper to meet the ends of justice in the circumstances of the case."*

6. In response to the above appeal, the respondent was issued a notice for filing reply/parawise comments which were not submitted.
7. The appeal was heard in Karachi on 11.09.2015 and prior notice in this regard was issued to both the parties. Ms. Tatheera Fatima DGM and Mr. Rafique Ahmed GM appeared for K-Electric but no one entered appearance for the respondent. Regarding the point of limitation Ms. Tatheera Fatima the representative for K-Electric clarified that the impugned order was issued on 11.04.2014 which was received by K-Electric on 18.04.2014

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and the appeal was filed before Secretary Advisory Board Energy Department Government of Sindh on 30.04.2014. She contended that the Advisory Board disposed of the appeal vide its order dated 21.04.2015 which was received by K-Electric on 30.04.2015. According to K-Electric the appeal was filed with NEPRA on 19.05.2015 which was within the time limit as specified in the law. In view of the explanation given by the representative of K-Electric the delay in filing the appeal was condoned. It was stated on behalf of K-Electric that the load was illegally extended to 6.334 KW and an extra phase was under use for illegal abstraction of electricity. It was further contended that after issuing notice to the respondent, detection bill of Rs.99,091/- for 6,151 units for the period 03.04.2012 to 03.10.2012 (6 months) was issued to the respondent which is in accordance with the provisions of Consumer Service Manual (hereinafter referred to as CSM). According to K-Electric being a theft case, POI has no jurisdiction to adjudicate the complaint of the respondent. It was informed by K-Electric that as per policy no FIR was lodged for the cases upto Rs.200,000/-. K-Electric averred that the detection bill issued to the respondent was justified and he was liable to pay the same. It was further pointed out by representative of K-Electric that the complaint was lodged by the respondent for the detection bill of Rs.99,091/- for 6,151 units for the period 03.04.2012 to 03.10.2012 but the POI in its impugned decision has also cancelled other assessed bills which had not challenged by the respondent.

8. We have heard arguments of K-Electric and examined the record placed before us. It has been observed that:

- i. Premises of the respondent was checked by K-Electric and reportedly the load was found extended to 6.334 kW and an extra phase being used for direct consumption of electricity. Notices regarding the irregularity were issued by K-Electric but those are not acknowledged by the respondent.
- ii. Procedure regarding establishment of dishonest abstraction of electricity by registered consumer laid down in 9.1 b of CSM was not followed by K-Electric.
- iii. Rs.99,091/- for 6,151 units for the period 03.04.2012 to 03.10.2012 (06 months) has been disputed by the respondent. The contention of K-Electric regarding undertaking by the respondent for payment of detection bill in installments was not proved through evidence. It's reasoning for non compliance of procedure of CSM



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and non registration of FIR against the respondent have not been found satisfactory.

- iv. There is force in the arguments of K-Electric that the assessed bill for the period from January 2013 to April 2013 of 550 units per month and RBP bill of Rs.70,454/- of 4633 units were not disputed by the complainant in his application dated 28.01.2013 and therefore determination of POI regarding these detection bills was not warranted and therefore liable to be set aside.
9. The disputed period for which detection bill was raised is 03.04.2012 to 03.10.2012. As the data for the corresponding period of the previous year i.e. 03.04.2011 to 03.10.2011 is not available therefore, the undisputed consumption for the next year's corresponding period 03.04.2013 to 03.10.2013 will be considered.

The consumption table of the respondent for the period 03.04.2013 to 03.10.2013 is given below:

Consumption period	Units
03.04.2013 to 03.05.2013	641
03.05.2013 to 03.06.2013	215
03.06.2013 to 03.07.2013	187
03.07.2013 to 03.08.2013	258
03.08.2013 to 03.09.2013	209
03.09.2013 to 03.10.2013	226
<b>Total Consumption( 03.04.2013---03.10.2013)</b>	<b>1736</b>

From the above table it is observed as under:

- **Consumption Per Month for the Corresponding Period (03.04.2013 to 03.10 2013)**  
=  $1736/6 = 289$  units per month
- **Consumption Per Month for the Disputed Period (03.04.2012 to 03.10 2012)**  
=  $1625/6 = 271$  units per month

From above it is obvious that there is no appreciable difference of consumption between the disputed and undisputed periods. From this analysis it may safely be concluded that there was



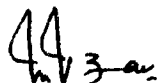
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no theft of electricity during the disputed period and there is no justification for K-Electric for charging detection bill due to alleged use of electricity illegally with the help of extra phase. Even otherwise the allegation of theft of electricity has not been proved by K-Electric. Therefore detection bill of Rs.99,091/- for 6,151 units for the period from 03.04.2012 to 03.10.2012 is void and unjustified and the respondent is not liable to pay the same.

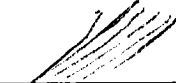
10. In view of foregoing discussion, it is concluded that:-

- i. Detection bill amounting to Rs.99,091/- for 6,151 units for the period from 03.04.2012 to 03.10.2012 is not justified and the respondent is not liable to pay the same.
- ii. The assessed bill for the period from January 2013 to April 2013 of 550 units per month and RBP bill of Rs.70,454/- of 4633 units, were not challenged by the respondent and the decision of POI to the extent of cancellation of these bills is void and illegal and therefore set aside.

The decision of POI is modified to the above extent and the appeal stands disposed of accordingly.

  
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Muhammad Qamar-uz-Zaman  
Member

  
\_\_\_\_\_  
Nadir Ali Khoso  
Convener

  
\_\_\_\_\_  
Muhammad Shafique  
Member

Date: 19.10.2015