



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

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No. NEPRA/AB/Appeal-053/POI-2015/ 948-951

October 02, 2015

1. Abdul Wasay
R/o House No. QC-21,
Block No. 11, F.B Area,
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. Abdul Wasay Against the Decision Dated 05.05.2015 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 30.09.2015, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(M. Qamar Uz Zaman)

No. NEPRA/AB/Appeal-053/POI-2015/ 952

October 02, 2015

Forwarded for information please.

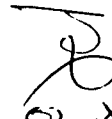

Member Appellate Board

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)

— D/PS-I
— M/F


02.X.15

Registrar	10327
DV No.....
Date.....	02-10-15



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-053/POI-2015

K-Electric Limited

.....Appellant

Versus

Abdul Wasay, House No. QC-21, Block No. 11, F.B Area, Karachi

.....Respondent

For the appellant:

Rafique Ahmed General Manager
Tatheera Fatima Deputy General Manager
Abdul Rab Deputy General Manager
Salman Ahmed Manager

For the respondent:

Abdul Wasay

DECISION

1. Through this decision, an appeal filed by K-Electric Limited (hereinafter referred to as K-Electric) against the decision dated 05.05.2015 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.AL-497814 with a sanctioned load of 1 kW under A1-R tariff.



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3. The respondent challenged the arrears bill amounting to Rs. 53,008/- for the month of June 2013 before POI. In response POI vide its interim order dated 09.09.2013 allowed the respondent to pay the current bill. The respondent received yet another bill amounting to Rs. 79,927/- for September 2013 which contained the arrear bill of Rs.76,263/-. The same bill was challenged before POI vide respondent's application dated 23.09.2013. Later on the respondent received a bill of Rs.110,456/- in February 2014 which again contained the arrear amount of Rs.109,428/-. The respondent vide his application dated 05.03.2014 challenged the bill of Rs.110,456/- for the month of February 2014 which contained the arrear bill of Rs.109,428/-. The POI vide its interim order dated 05.03.2014 suspended the arrear bill and allowed the respondent to pay the current bill only. However, during the pendency of the case before POI, it transpired that K-Electric had charged detection bills as per detail given below:

Billing Month	Period	Duration	Net Units	Amount
September 2013	07.02.2013 to 05.08.2013	6 Months	4,815	Rs.69,138/-
February 2014	07.09.2013 to 07.01.2014	4 Months	2,309	Rs.33,074/-

The POI announced its decision on 05.05.2015 and concluded as under:

"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 relevant law & Regulations and above findings, this authority is of the firm view that the irregular/ detection bills, amounting to Rs.69,138/- of 4814 units for the period from 07.02.2013 to 05.08.2013, and other detection bill amounting to Rs.33,074/- of 2309 units for the period from 07.09.2013 to 07.01.2014, both are has no legal and technical grounds hence liable to be cancelled."

4. Being aggrieved with the POI decision dated 05.05.2015, 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 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 supportive documents but

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POI cancelled the detection bills against the respondent 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 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 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 05.05.2015 passed by the Respondent No.01/EIK (not POI) received in this office dated 06.05.2015 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."

5. In response to the above appeal, the respondent was issued a notice for filing reply/parawise comments which were submitted on 13.08.2015. The respondent in his reply/parawise comments refuted allegations of the appellant and submitted that the checking of his connection if any was done by K-Electric without any notice and detection bills were

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raised against him despite his protest to K-Electric. According to the respondent, the notices were to be sent through registered AD /TCS as per procedure given section 53 of Electricity Act 1910 and also K-Electric did not follow the procedure for dishonest abstraction of electricity as laid down in the CSM. The respondent vehemently denied the allegation of theft of electricity and stated that he was paying his monthly bills regularly as per his actual consumption and no request was made by him to K-Electric for not lodging FIR against him. He refuted the statement of K-Electric that he had confessed the theft and showed his readiness to pay the detection bill. He defended the impugned decision of POI and stated that the findings were given by him with full consideration of real facts of the case and proper examination of the evidence and therefore the impugned decision was fully sustainable in the eyes of law. The respondent contended that the impugned decision was announced purely on merit and in accordance with law therefore, it was liable to be maintained. Finally the respondent prayed as under:-

"As per real facts and finding of the case the appellant has violated the rules and regulations of the Electricity Act 1910 and CSM approved by NEPRA. The appellant is not entitled for any relief. Therefore, the instant appeal of the appellant may please be dismissed with heavy compensatory cost."

6. After issuing notice to both the parties the appeal was heard in Karachi on 11.09.2015. Ms. Tatheera Fatima DGM and Mr. Rafique Ahmed GM appeared for K-Electric and Mr. Abdul Wasay the respondent appeared in person. It was stated on the behalf of K-Electric that after issuing notice to the respondent his meter was checked twice and it was discovered that the load was extended to 6.6 KW and an extra phase was being used for dishonest abstraction of electricity. After issuing notices to the respondent detection bill of Rs.69,138/- for 4,815 units for the period 07.02.2013 to 05.08.2013 (6 months) and another detection bill of Rs.33,074/- of 2,309 units net for the period 07.09.2013 to 07.01.2014 were issued against the respondent but instead of making payment he challenged the same before POI. K-Electric contended that it was a theft case and POI had no jurisdiction to entertain the application in the instant case. K-Electric informed that as per policy no FIR was lodged for the cases up to Rs,200,000/- as difficulty was encountered in registration of FIR. The representative of K-Electric averred that respondent agreed for payment of the detection bill



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due to theft of electricity in installments but POI did not discuss these technical issues and announced a decision which was against the facts and law. On a query by the Appellate Board the representative of K-Electric clarified that the detection bills were issued separately for the periods of 6 months and 4 months and therefore the observation of POI that the detection bills were charged continuously for 10 months was incorrect. According to K-Electric, the respondent was involved in theft of electricity for which he had agreed and paid the bills in installments. K-Electric pointed out that the detection bills beyond three months were issued in accordance with the CSM after obtaining approval from CEO. The respondent, appearing in person rebutted the arguments of K-Electric and contended that the notices were not served to him as per procedure given in the CSM. According to him, site inspection if any was carried out in his absence and the load survey was also incorrect. He explained that K-Electric was responsible for violation of CSM and moreover, the report regarding extension of load was fabricated. The respondent averred that all the arguments given in his reply/parawise comments shall also be considered. The respondent defended the decision of POI and prayed that the same may be upheld.

7. We have heard arguments of both the parties 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 6.6 kW and an extra phase 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. Detection bill of Rs. 69,138/- of 4,815 units for the period 07.02.2013 to 05.08.2013 (06 months) and another detection bill of Rs. 33,074/- for 2,309 units for the period 07.09.2013 to 07.01.2014 (04 month) have been disputed by the respondent. The contention of K-Electric regarding undertaking by the respondent for payment of detection bill installments was not proved through evidence. It's reasoning for non compliance of procedure of CSM and non registration of FIR against the respondent

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have not been found satisfactory. Objection of K-Electric regarding the remark of POI in the impugned decision that detection bill was charged continuously for 10 month is valid as the bills were charged for separate periods of 06 months and 04 months.

8. The consumption table of the respondent is given below:

Month	Year (2012)	Year (2013)	Year(2014)
January	-	107	166
February	0	170	177
March	250	156	176
April	100	199	221
May	258	204	212
June	499	619	257
July	0	194	244
August	349	200	278
September	391	211	261
October	365	218	243
November	291	210	237
December	4	237	172

From the above table it is observed as under:

Disputed Period (March 2013 to August 2013):

- Consumption for the period March 2012 to August 2012 = 1,456 units
- Consumption for the period March 2013 to August 2013 = 1,572 units
- Consumption for the period March 2014 to August 2014 = 1,388 units

Disputed Period (October 2013 to January 2014):

- Consumption for the period October 2012 to January 2013 = 767 units
- Consumption for the period October 2013 to January 2014 = 831 units
- Consumption for the period October 2014 to January 2015 = 783 units


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From the above table it is obvious that the consumption during the disputed periods of the year, 2013 is higher than the consumption for the corresponding period of previous year 2012 and next year i.e. 2014. From this analysis it may safely be concluded that there was no theft of electricity during the disputed period and there is no justification 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. 69,138/- for 4,815 units for the period from 07.02.2013 to 05.08.2013 and other detection bill amounting to Rs. 33,074/- of 2,309 units for the period from 07.09.2013 to 07.01.2014 are void and unjustified and the respondent is not liable to pay the same.

9. In view of foregoing discussion we do not find any reason to interfere in the impugned decision dated 05.05.2015 of POI and therefore the same is upheld and the appeal of K-Electric is dismissed accordingly.



Muhammad Qamar-uz-Zaman
Member



Nadir Ali Khoso
Convener



Muhammad Shafique
Member

Date: 30.09.2015