



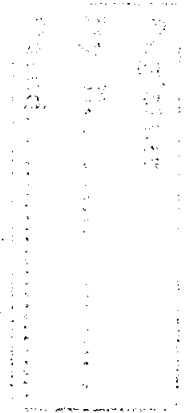
Before the Appellate Board
National Electric Power Regulatory Authority
(NEPRA)
Islamic Republic of Pakistan

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No. NEPRA/AB/Appeal-021/POI-2016/1221-1225

September 22, 2016

1. Mohsin Waheed,
S/o Waheed Khan,
R/o House No. A-34/3,
Marana Goth, Scheme No. 33,
Gulistan-e-Jauhar, Karachi
2. The Chief Executive Officer,
K-Electric,
KE House, 39-B,
Sunset Boulevard, DHA-II,
Karachi
3. Asif Shajer,
Deputy General Manager,
K-Electric, KE House, 39-B,
Sunset Boulevard, DHA-II,
Karachi
4. Ms. Tatheera Fatima,
Deputy General Manager,
K-Electric Ltd,
3rd floor, KE Block,
Civic Centre, Gulshan-e-Iqbal,
Karachi
5. The Electric Inspector,
Karachi Region-II,
Block No. 51, Pak Secretariat,
Shahra-e-Iraq, Saddar,
Karachi



Subject: Appeal Titled K-Electric Ltd Vs. Mohsin Waheed Against the Decision Dated 28.12.2015 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 20.09.2016, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(Ikram Shakeel)

No. NEPRA/AB/Appeal-021/POI-2016/1226

September 22, 2016

Forwarded for information please.

Assistant Director
Appellate Board

1. Registrar
2. Director (CAD)

CC:

1. Member (CA)



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-021/POI-2016

K-Electric Ltd

.....Appellant

Versus

Mohsin Waheed S/o Waheed Khan, (Riaz Hussain Sangi), House No. A-34/3,
Marana Goth, Scheme No.33, Gulistan-e-Jauhar, Karachi

.....Respondent

For the appellant:

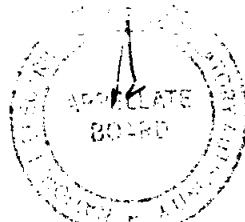
Ms. Tatheera Fatima Deputy General Manager (Legal Distribution)
Mr. Masahib Ali Deputy Manager
Mr. Imran Hanif Assistant Manager

For the respondent:

Nemo

DECISION

1. This decision shall dispose of the appeal filed by K-Electric against the decision dated 28.12.2015 of Provincial Office of Inspection/Electric Inspector, Karachi Region-II, Karachi (hereinafter referred to as POI).
2. Brief facts of the case are that the respondent is a commercial consumer of K-Electric having two connections bearing Ref No. AP-082043 under B-1 tariff and Ref No. LA-659858 under A-2C tariff with total sanctioned load of 4 kW. Premises of the respondent was inspected by K-Electric on 28.10.2015 and allegedly the respondent was found involved in dishonest abstraction of electricity through use of a three phase hook connection from main service line and connected load was also noticed as 16.166 kW, which is much higher than the sanctioned load of 4kW. A notice was issued to the respondent on 28.10.2015 regarding above





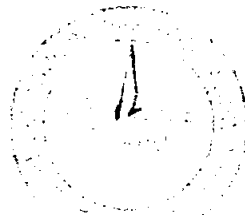
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discrepancy and an assessed bill amounting to Rs. 63,143/- for 3,374 units was charged to the respondent in November 2015 on the basis of connected load.

3. Being aggrieved, the respondent filed an application before POI on 02.11.2015 and challenged the assessed bill amounting to Rs. 63,143/- for November 2015 and also requested for checking the premises. POI inspected the premises of the respondent in presence of both the parties on 10.11.2015 and found no discrepancy in the metering equipment, however the connected load was observed as 11.57 kW being higher than the sanctioned load. During the pendency of case before POI, K-Electric charged a detection bill of Rs. 422,116/- for 21,894 units for the period 04.04.2015 to 05.10.2015 (May 2015 to October 2015) to the respondent on the basis of connected load, which was also agitated by the respondent before POI. The matter was disposed of by POI vide its decision dated 28.12.2015, operative portion of which is reproduced below:

"After conducting several number 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 Irregular bills amounting to Rs.422,116/- of 21,894 units for the period from 04.04.2015 to 05.10.2015, issued by the opponents has no justification on legal and technical grounds, therefore direct the opponents to cancel the said bill. The opponent is also directed to cancel the assessed bill for the month of November 2015 and revise the same on actual meter reading. The appellant is directed to regularize his unauthorized extended load as per procedure of opponent. The complaint of the complainant is disposed off with above remarks."

4. Being dissatisfied with the POI decision dated 28.12.2015 (hereinafter referred to as the impugned decision), K-Electric has filed the instant appeal under section 38 (3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (hereinafter referred to as the NEPRA Act 1997). In its appeal, K-Electric contended that premises of the respondent was inspected on 28.10.2015 and the respondent was found stealing electricity through use of a three phase hook from main service line and connected load was noticed much higher than the sanctioned load. According to K-Electric, a detection bill of Rs. 422,116/- for 21,894 units for the period 04.04.2015 to 05.10.2015 (May 2015 to October 2015) charged to the respondent on the basis of connected load was legal, valid justified and the respondent is liable to pay the same. K-Electric submitted that an assessed bill amounting to Rs. 63,143/- was also debited to the respondent in

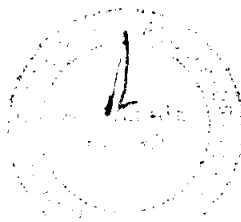




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November 2015 as the actual energy was not being recorded due to dishonest abstraction of electricity by the respondent. As per K-Electric, being a case of theft of electricity, POI was not empowered to decide the instant matter. K-Electric stated that the impugned decision was illegal, without jurisdiction and therefore liable to be set aside.

5. In response to the above appeal, the respondent was issued a notice for filing reply/parawise comments, which however were not submitted.
6. After issuing notice to both the parties, hearing of the appeal was held in Karachi on 19.08.2016 in which Ms. Tatheera Fatima Deputy General Manager (Distribution Legal), along with other officials represented the appellant K-Electric and no one appeared for the respondent. Learned representative of K-Electric repeated the same arguments as earlier narrated in memo of the appeal and contended that premises of the respondent was inspected by K-Electric on 28.10.2015 and he was found stealing electricity through a three phase hook connection and the connected load was much higher than the sanctioned load. As per representative for K-Electric, the detection bill of Rs. 422,116/- for 21,894 units for the period 04.04.2015 to 05.10.2015 (May 2015 to October 2015) was charged to the respondent in order to recover the revenue loss sustained by K-Electric due to dishonest abstraction of electricity by the respondent. According to K-Electric, consumption of the respondent during disputed period was very low as compared to the undisputed periods (prior/after), which established that the respondent was using unfair means. Representative of K-Electric averred that, besides the aforesaid detection bill, an assessed bill of Rs. 63,143/- was also charged to the respondent in November 2015 as the actual energy was not being recorded during the said period due to dishonest abstraction of electricity. K-Electric pleaded that the impugned decision was unjustified and therefore liable to be set aside.
7. We have heard arguments of K-Electric and examined the record placed before us. It is observed as under:
 - i. Theft of electricity by the respondent is alleged by K-Electric but no FIR and other proceedings as required under law and Consumer Service Manual were initiated by K Electric and moreover as observed by POI, no concrete proof was provided by K-Electric regarding theft of electricity. Therefore objection of K-Electric regarding jurisdiction of POI being a theft case is not valid and therefore liable to be dismissed as already determined in the impugned decision.





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- ii. A detection bill amounting to Rs. 422,116/- for 21,894 units for the period 04.04.2015 to 05.10.2015 (May 2015 to October 2015) was charged to the respondent.

Comparison of the consumption recorded between the disputed and undisputed periods (prior/after) as provided by K-Electric is tabulated as under:

Period	Normal Mode Average Units/Month	Detection Mode Average Units/Month
Period before dispute June 2014 to April 2015 (11 months)	925	-
Corresponding months of previous year May 2014 to October 2014 (6 months)	928	-
Disputed period May 2015 to October 2015 (6 months)	1,007	4,656
Period after dispute January 2016 to June 2016 (6 months)	1,311	-

It is evident from the above table that the detection bill charged @ 4,656 units/month during the disputed period May 2015 to October 2015 is considerably higher than the consumption of 925 units/month and 1,311 units/month during the periods before and after dispute respectively. Moreover the detection units charged @ 4,656 units/month are also much higher than the consumption of 928 units/month during the same months of previous year. Therefore the detection bill amounting to Rs. 422,116/- for 21,894 units for the period 04.04.2015 to 05.10.2015 (May 2015 to October 2015) charged to the respondent has no justification and the respondent is not liable to pay the same. The impugned decision to this extent is liable to be maintained.

- iii. K-Electric has also disputed the period before dispute, therefore it would be appropriate to charge the detection bill @ 1,311 units/month for the disputed period as recorded in the period after dispute i.e. January 2016 to June 2016. According to clause 9.1 c (3) of CSM, the respondent is liable to be billed maximum for three billing cycles, being a domestic consumer as nothing has been placed before us by K-Electric showing that approval for charging the detection bill for six months was obtained from Chief Executive (or any officer authorized in this behalf) of K-Electric and any action was initiated against the officer in charge for not





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being vigilant enough. Therefore the respondent is liable to be charged the detection bill @ 1,311 units/month for the period August 2015 to October 2015. The impugned decision is liable to be modified to this extent.

iv. There is no force in the contention of K-Electric for charging the assessed bill amounting to Rs. 63,143/- for November 2015 on the basis of connected load and the impugned decision regarding the cancellation of aforesaid assessed bill is justified and liable to be maintained.

8. In view of foregoing discussion, we have reached to the conclusion that:

i. Detection bill amounting to Rs. 422,116/- for 21,894 units for the period 04.04.2015 to 05.10.2015 (May 2015 to October 2015) charged to the respondent is null, void and the respondent is not liable to pay the same. Assessed bill amounting to Rs. 63,143/- charged to the respondent in November 2015 is not justified and to be revised on the basis of actual consumption. The impugned decision to this extent is upheld.

ii. The respondent is liable to be debited the detection bill @ 1,311 units/month for the period August 2015 to October 2015 (3 months). The impugned decision stands modified to this extent.

9. The appeal is disposed of in above terms.

Muhammad Qamar-uz-Zaman
Member

Nadir Ali Khoso
Convener

Muhammad Shafique
Member

Date: 20.09.2016

