



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

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No. NEPRA/AB/Appeal-088/POI-2015/ *010-014*

January 06, 2016

1. Adil Ali Shah
C/o Advocate Naveed Ahmed,
Suite No. 113, The Plaza Do Talwar,
Block 9, Clifton, 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 Ltd,
3rd floor, KE Block,
Civic Centre, Gulshan-e-Iqbal,
Karachi
5. The Electric Inspector
Karachi Region-I,
Block No. 51, Pak Secretariat,
Shahra-e-Iraq, Saddar,
Karachi.

Subject: Appeal Titled K-Electric Ltd Vs. Abil Ali Shah Against the Decision Dated 18.06.2015 of the Electric Inspector/POI to Government of the Sindh Karachi Region-I, Karachi

Please find enclosed herewith the decision of the Appellate Board dated 05.01.2016, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(M. Qamar Uz Zaman)

No. NEPRA/AB/Appeal-088/POI-2015/ *015*

January 06, 2016

Forwarded for information please.

M. Qamar Uz Zaman
Member Appellate Board

1. Registrar
2. Director (CAD)

CC:

1. Vice Chairman/Member (CA)

010-014
11/01/16

Registrar	802
By No.	
Dated.	11-01-16



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-088/POI-2015

K-Electric Limited

.....Appellant

Versus

Abid Ali Shah (Shuja Ur Rehman), 102 1st floor, Plot No. 54/C,
Street-9, Badar Commercial Phase-V, D.H.A, Karachi

.....Respondent

For the appellant:

Mr. Rafique Ahmed Sheikh General Manager

Ms. Tatheera Fatima Deputy General Manager (Distribution Legal)

Mr. Imran Hanif Assistant Manager

For the respondent:

Jauhar Nagani c/o Abid Ali Shah

DECISION

1. Through this decision, an appeal filed by K-Electric Limited (hereinafter referred to as KE) against the decision dated 18.06.2015 of the Provincial Office of Inspection/Electric Inspector Karachi Region-i (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") is being disposed of.
2. Brief facts giving rise to the instant appeal are that KE 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.LA-623825 with a sanctioned load of 2 kW under tariff A1-R.

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3. The site inspection of the respondent's connection was carried out by the inspection team of KE on 17.01.2013 for which a notice was issued by KE. As per site inspection report dated 17.01.2013, a hole was found in the meter's body and the connected load was observed as 5.89 kW. After issuing notice dated 17.01.2013 a detection bill of Rs.67,811/- of 4,715 units for the period 20.06.2012 to 17.12.2012 (6 months) was issued by KE to the respondent on 28.01.2013.
4. The respondent being aggrieved with the aforementioned detection bill filed an application dated 13.03.2013 before POI and inter-alia stated that he received the monthly bill for February 2012 on 08.03.2013 which contained an arrear of Rs.70,049/- along with current bill of Rs.140/-. The respondent contended that on inquiry from concerned KE office, he came to know that detection bill was raised as his meter was found tampered. In the end the respondent, inter-alia, prayed that the direction be issued to KE for cancellation of the inflated irregular bill.
5. In response to the above application, POI conducted hearings and announced its decision on 18.06.2015 (hereinafter referred to as impugned decision). POI in the impugned decision held that the detection bill amounting to Rs.67,811/- for 4,715 units for the period 20.06.2012 to 17.12.2012 was not justified on technical and legal grounds and therefore, directed KE to cancel the same. KE was also directed to waive of all late payment surcharges imposed after issuance of the impugned detection bill and afterwards along with replacement of meter charges.
6. Being aggrieved with the impugned decision, KE has filed the instant appeal under section 38 (3) of the Act.
7. Notice of the appeal was issued to the respondent for filing reply/parawise comments which were not filed.
8. After issuing notices to both the parties, the hearing of the appeal was conducted in Karachi on 07.12.2015 in which both the parties participated. Ms. Tatheera Fatima Deputy General Manager (Distribution Legal) and Mr. Rafique Ahmed Sheikh General Manager appeared for KE and Mr. Jauhar Nagani appeared on behalf of the respondent. Representatives of KE reiterated the same arguments which have been given in memo of the appeal. Ms. Tatheera Fatima, the legal representative of KE, stated that the meter of the respondent was checked by the inspection team of KE and as per site inspection report dated 17.01.2013 a hole was discovered in the meter's

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body. According to KE the detection bill of Rs.67,811/- of 4,715 units for the period 20.06.2012 to 17.12.2012 was issued to the respondent on 28.01.2013 for the revenue loss which occurred due to tampering of the meter by the respondent. Representatives of KE contended that for carrying out site inspection and charging the detection bill notices were issued to the respondent, which were not responded. It was further contended by the representatives of KE that the site inspection report was signed by the security guard present at the premises during checking on 17.01.2013. Mr. Rafique Ahmed Sheikh the representative of KE averred that the disputed meter was removed and checked in the meter department laboratory and as per laboratory report dated 26.01.2013 the meter was found tampered as two holes were found in the main cover. The representatives of KE pleaded that the respondent was involved in dishonest abstraction of electricity which falls under section 26(A) of the Electricity Act 1910 and as such the jurisdiction of POI is barred. According to KE the impugned decision announced by POI was without jurisdiction and lawful authority and was liable to be dismissed on this ground. Mr. Rafique Ahmed Sheikh the representative of KE added that the theft of electricity was admitted by the respondent and on his request FIR was not lodged by KE as the respondent agreed to pay the detection bill. The representative of KE informed that the impugned meter was replaced in January 2013 and it was observed that afterwards the consumption of the respondent increased by 50% which proved that the respondent was involved in theft of electricity. Ms. Tatheera Fatima the legal representative of KE assailed the decision of POI and pleaded that it was not based on technical reasoning. As regards the procedure laid down in clause 9.1(b) of Consumer Service Manual (hereinafter referred to as CSM), KE submitted that due to practical difficulties it was hard to observe the same procedure. Regarding the justification of detection bill, the representatives of KE explained that the quantum of energy and the period of detection bill was calculated in accordance with the provisions of CSM. On the contrary, Mr. Jauhar Nagani the representative of the respondent, rebutted the arguments of the representatives of KE and stated that checking of the respondent's meter was carried out unilaterally by KE and he denied the allegation of theft of electricity and presence of any security guard and signing of the site inspection report dated 17.01.2013 by him. The representative of the respondent submitted that the respondent was permanently residing in Mirpur Khas Sindh and occasionally visited his flat in Karachi. He disputed the checking of connected load by KE and contended that it was never done as the flat remains normally locked. The representative of the respondent argued that the meter was removed by KE in violation of the procedure and law.

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According to him, the respondent made efforts for rectification of his inflated bill but was not properly responded by KE. The representative of the respondent claimed that an error has been committed by KE by raising the detection bill which was not supported by any evidence. He drew the attention of the Appellate Board towards the threats which were being hurled by KE for defending the case. He pleaded that the decision was taken by POI after due consideration of facts and law and the same was liable to be upheld. He prayed for dismissal of the appeal.

9. We have heard arguments of both the parties and examined the record placed before us. It has been observed that:
- i. The objection regarding the jurisdiction of POI has no weight, as pursuant to the Supreme Court decision reported vide 2012 PLD 371, POI has the jurisdiction in case of dishonest abstraction of electricity by the way of tampering of the meter. Since the instant case pertains to theft of electricity alleged through tampering of the meter, therefore it is held that POI has rightly exercised its jurisdiction and the objection of KE in this regard is dismissed.
 - ii. Meter of the respondent was checked by KE's inspection team on 17.01.2013 and as per site inspection report dated 17.01.2013 a hole was detected in the meter body. The meter was removed in January 2013 and was checked in the department laboratory on 26.01.2013 and as reported by KE two holes were confirmed in the main cover. However the respondent was not present on any occasion. Moreover the signing of site inspection report dated 17.01.2013 by the security guard was not established by KE.
 - iii. There is no force in the arguments of the representatives of KE that provisions of clause 9.1(b) of CSM could not be adhered due to practical difficulties as the provisions of CSM are binding upon KE.
 - iv. As per 9.1(b) of CSM the maximum billing due to tampering of the meter is restricted to three billing cycles but in the instant case the detection bill was raised for six months which is not justified. Moreover nothing has been placed on the record by KE that being a domestic connection approval of CEO was obtained for charging detection bill for six months and action was initiated by KE against the officer in-charge for not being vigilant enough as envisaged in the CSM. Moreover the quantum of energy loss is to be determined as per procedures explained in Annex-VIII of CSM.



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v. Working of the detection bill charged by KE is given below:

Summer:

<u>Months</u>	<u>Units assessed</u>
May-2012	1060
June-2012	<u>1135</u>
Total	2195

Average units per month = $2195/2 = 1098$ Units

Winter:

Units per month assessed for winter = 60% of 1098 = 0.60×1098

= 658 Units

Detection period 19.06.2012 to 17.12.2012 (6 months)

**Total detection units = Total units for summer + Total units for winter
= $(1098 \times 04) + (658 \times 02) = 4392 + 1316 = 5708$ Units**

Total detection units chargeable = **5708 Units**

Already charged units = **993 Units**

Net units to be charged = $5708 - 993 =$ **4715 Units**

Amount of detection bill = **Rs.67,811/-**

vi. According to clause 9.1 (b) and Annex-VIII of CSM, the detection bill is worked out as under:

Detection units to be charged for three billing cycles

i.e. from October 2012 to December 2012

= Load (kW) x Load factor x No. of hours per month x No. of Months

= $5.89 \times 0.2 \times 730 \times 3 =$ **2,580 units**

Less already charged units from October 2012 to December 2012 = **332 units**

Net chargeable units = $2,580 - 332 =$ **2,248 units**

Therefore, the respondent is liable to be charged detection bill for 2,248 units instead of 4,715 units as charged by KE.

vii. From the explanation given (v) and (vi), it is obvious that detection bill charged by KE is not in line with the provisions of CSM (both for quantum and period). Therefore the detection bill

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Rs. 67,811/- for 4,715 units for the period 19.06.2012 to 17.12.2012 has no justification and liable to be cancelled as determined by POI. Similarly Late Payment Surcharge (LPS) levied against the respondent due to non-payment of the said detection bill is not justified and liable to be withdrawn.

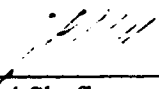
10. In view of foregoing discussion it is concluded that:

- i. Detection bill of Rs. 67,811/- for 4,715 units for the period 19.06.2012 to 17.12.2012 is not justified and the respondent is not liable to pay the same.
- ii. The respondent is liable to be charged detection bill for 2,248 units for the period October 2012 to December 2012 (refer para 9(vi) above).
- iii. LPS levied against the respondent due to raising of the detection bill on 28.01.2013 shall be withdrawn


The impugned decision of POI is modified to the above extent.



Muhammad Qamar-uz-Zaman
Member



Muhammad Shafique
Member



Nadir Ali Khoso
Convener

Date: 05.01.2016