



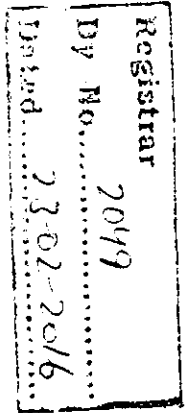
Before the Appellate Board
National Electric Power Regulatory Authority
(NEPRA)
Islamic Republic of Pakistan

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No. NEPRA/AB/Appeal-089/POI-2015/197-201

February 19, 2016

1. Rais Ahmed
(Sangeeta),
Plot No. S-21,
Phase-I, Defence Society,
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. Rais Ahmed Against the Decision Dated 16.07.2015 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 19.02.2016, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(M. Qamar Uz Zaman)

No. NEPRA/AB/Appeal-089/POI-2015/ 202

February 19, 2016

Forwarded for information please.

Member Appellate Board

1. Registrar
2. Director (CAD)

CC:

1. Vice Chairman/Member (CA)



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-089/POI-2015

K-Electric Ltd

.....Appellant

Versus

Rais Ahmed, (Sangeeta), Plot No: S-21,
Phase-I, Defence Society, Karachi

.....Respondent

For the appellant:

Mr. Rafique Ahmed Shaikh General Manager
Ms. Tatheera Fatima Deputy General Manager
Mr. Najam Din Deputy General Manager

For the respondent:

Nemo

DECISION

1. Through this decision, an appeal filed by K-Electric (hereinafter referred to as KE) against the decision dated 16.07.2015 of Provincial Office of Inspection/Electric Inspector, Karachi Region-I, Karachi (hereinafter referred to as POI) is being disposed of.
2. The respondent is a domestic consumer of KE bearing Ref No. AL-631004 with a sanctioned load of 0.83 kW under A1-R tariff. As per fact of the case, site of the respondent's connection was inspected by KE on 10.09.2009 and reportedly the connected load was found as 12.975 kW and discrepancy of neutral break and use of earth for direct consumption of electricity was noticed. After issuing notice to the respondent, first detection bill of Rs. 95,089/- 10,144 units for the period from 01.09.2008 to 01.09.2009 (12 months) was added in the bill for November 2009.
3. Being aggrieved with the first detection bill of Rs. 95,089/-, the respondent filed an





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application before POI on 28.01.2012. The respondent stated that assessed bill amounting to Rs. 95,089/- for November 2009 was unjustified, unlawful and liable to be cancelled. During the pendency of the application before POI, site of the respondent was again checked by KE on 27.09.2014 and as per site inspection report dated 27.09.2014, the connected load was 10.583 kW and an extra phase/hook from street light was used for direct consumption of electricity by breaking the neutral, therefore second detection bill of Rs.97, 853/- for 5,547 units for the period 05.03.2014 to 02.09.2014 (06 months) was added in the bill for Sept 2014. POI disposed of the matter vide its decision dated 16.07.2015 and concluded as under:

"After 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 above findings, this authority is of the firm view that opponents have violated the mandatory requirements of Electricity Act-1910 and guide lines communicated through consumer service manual(CSM) of NEPRA as pointed in above findings. this authority therefore directs the opponents to cancel the first detection bill amounting to Rs. 95,089/- of 10,144 units for the period from 01.09.2008 to 01.09.2009 and revise the same for only three months i.e. 01.07.2009 to 10.09.2009 less already charged units and second irregular bill for the period from 05.03.2014 to 02.09.2014 during the pendency of case before this authority is also liable to be cancelled as it has no legal and technical justification. Opponents are further directed to waive the replacement charges of energy meter and all late payment surcharges after issuance of the impugned detection bill"

4. Being aggrieved with the POI decision dated 16.07.2015 (hereinafter referred to as the impugned decision), KE 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 Act). KE in its appeal contended that site of the respondent was checked on 10.09.2009 & 27.09.2014 and on both occasions the respondent was found stealing electricity. According to KE, first detection bill for Rs. 95,089/- for 10,144 units for the period from 01.09.2008 to 01.09.2009 (12 months) and second detection bill of Rs. 97,853/- for 5,547 units for the period 05.03.2014 to 02.09.2014 (06 months), calculated on the basis of connected load of the respondent, were justified and respondent was liable to pay the same. KE submitted that POI

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is not authorized to decide the instant matter as the respondent was involved in dishonest abstraction of electricity by bypassing the meter, therefore the decision of POI was without lawful authority and liable to be cancelled. KE further contended that only first detection bill for Rs. 95,089/- for 10,144 units for the period from 01.09.2008 to 01.09.2009 (12 months) was challenged by the respondent vide his application dated 28.01.2012 and the second detection bill amounting of Rs. 97,853/- for 5,547 units for the period 05.03.2014 to 02.09.2014 (06 months) was charged after filing the application by the respondent. As per KE, second detection bill was not disputed by the respondent but POI by taking suo moto action included the same in the impugned decision. KE averred that as per rules POI should have decided the case within 90 days but he failed to do so.

5. In response to the above appeal, the respondent was issued a notice for filing reply/parawise comments, which were however not filed.
6. After issuing notice to both the parties, the appeal was heard in Karachi on 08.02.2016 in which Mr. Rafique Ahmed Shaikh General Manager, Ms. Tatheera Fatima Deputy General Manager (Distribution Legal) and Mr. Najam Din Deputy General Manager (Defense) appeared for the appellant KE but no one entered appearance for the respondent. In the outset of the hearing, the representatives of KE contended that despite notice twice, the respondent failed to appear and argue his case, therefore the matter shall be decided on ex-parte basis. Regarding the first detection bill, KE contended that it was charged for a period of 12 months as per its approved policy and Electricity Act 1910. Regarding charging detection bill for the period of 12 months, representative of KE further explained that arrears could be recovered for a retrospective period of 36 months pursuant to Article 52 of Limitation Act 1908. Regarding second detection bill of Rs. 97,853/- for 5,547 units for the period 05.03.2014 to 02.09.2014 (06 months), representatives of KE averred that it was charged in accordance with the provisions of Consumer Service Manual and the respondent was liable to pay the same. According to KE, second detection bill of Rs. 97,853/- for 5,547 units for the period 05.03.2014 to 02.09.2014 (06 months) was not challenged by the respondent before POI and as such impugned decision in this regard was without lawful authority and the relief granted beyond the pleadings.



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7. We have heard arguments of arguments of KE and examined the record placed before us. It has been observed as under:-
- i. Request of KE to decide the matter on ex-parte basis is declined as there is no such provision in the existing law and procedure in vogue.
 - ii. KE did not press the objection regarding decision of the matter by POI after 90 days and therefore the same is liable to be dismissed.
 - iii. Theft of electric by the respondent was alleged by KE but no FIR and other proceedings as required under law and CSM were initiated by KE. Contention of KE regarding lack of jurisdiction of POI being a theft case is not supported by documents and therefore dismissed.
 - iv. First detection bill of Rs. 95,089/- for 10,144 units, for the period from 01.09.2008 to 01.09.2009 (12 months), was challenged before POI by the respondent vide application dated 28.12.2012 and second detection bill of Rs. 97,853/- for 5,547 units for the period 05.03.2014 to 02.09.2014 (06 months) was charged during the pendency of the dispute of first detection bill before POI and no application was filed before POI for challenging the second detection bill.
 - v. We are not convinced with the contention of KE for stretching the period retrospectively for 12 months for first detection bill, as there is no such provision in the Electricity Act 1910. POI has rightly determined in the impugned decision that the respondent is liable to be charged for the period of 03 months i.e. from 01.07.2009 to 01.09.2009.
 - vi. We are inclined to agree with the contention of KE that second detection bill of Rs. 97,553/- for 5,547 units for the period 05.03.2014 to 02.09.2014 (06 months) was not challenged before POI and therefore the impugned decision for cancelling the same detection bill is beyond prayer of the respondent and liable to be withdrawn..
8. In view of the foregoing discussion it is concluded as under:-
- i. First detection bill of Rs. 95,089/- 10,144 units, for the period from 01.09.2008 to 01.09.2009 (12 months) added in the bill for November 2009 is illegal, void and the respondent is not liable to pay the same. Impugned decision to this extent is maintained.



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- ii. The respondent is liable to be charged detection bill for a period of 03 months only i.e. from 01.07.2009 to 01.09.2009 as determined by POI. Impugned decision to this extent is upheld
 - iii. Impugned decision for cancellation of the second detection bill of Rs. 97,853/- for 5,547 units for the period 05.03.2014 to 02.09.2014 (06 months) is illegal and therefore declared null and void to this extent.
 - iv. Replacement of meter charge and late payment surcharges (LPS) imposed due to issuance of detection bills are not justified and the respondent is not liable to pay the same. Impugned decision to this extent is upheld.
9. The impugned decision is modified in above terms.

Muhammad Qamar-uz-Zaman
Member

Nadir Ali Khoso
Convener

Date: 19.02.2016