



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

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No. NEPRA/AB/Appeal-095/POI-2015/ 081-085

January 18, 2016

1. Shahab Ahmed Siddiqui
Plot No. A-268,
Block-N, Street No. 12,
North Nazimabad, 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-II,
Block No. 51, Pak Secretariat,
Shahra-e-Iraq, Saddar,
Karachi.

Subject: Appeal Titled K-Electric Ltd Vs. Shahab Ahmed Siddiqui Against the Decision Dated 05.06.2015 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 18.01.2016, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(M. Qamar Uz Zaman)

No. NEPRA/AB/Appeal-095/POI-2015/ 086

January 18, 2016


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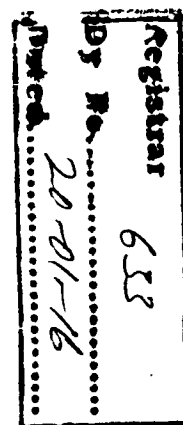

Member Appellate Board

1. Registrar
2. Director (CAD)

CC:

1. Vice Chairman/Member (CA)


20/01/16
DIR-1/MIF





National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-095/POI-2015

K-Electric Limited

.....Appellant

Versus

Shahab Ahmed, Plot No. A-268,
Block- N North Nazimabad, Karachi

.....Respondent

For the Appellant:

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

For the Respondent:

Nemo

DECISION

1. Through this decision, an appeal filed by K-Electric Limited (hereinafter referred to as KE) filed against the decision dated 05.06.2015 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. 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. AL-240691 with a sanctioned load of 5 kW under tariff A1-R.
3. Brief facts giving rise to the instant appeal are that the site inspection of the respondent's connection was carried out by the inspection team of KE on 12.11.2012 and reportedly an extra phase at site was found directly in use. Moreover, the connected load of the respondent

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was observed to be 11.622 kW. Notice regarding the said checking was issued on 11.11.2012. Supply of the respondent was disconnected on 22.01.2013. The first detection bill of Rs.85,515/- for 4,928 units for the period 10.05.2012 to 10.11.2012 was charged by KE to the respondent in February 2013. The connection of the respondent was again checked by KE on 31.05.2013 and as per site inspection report dated 31.05.2013 the meter was found missing and the electricity was being used directly. After issuing notice dated 31.05.2013, the second detection bill of Rs.29,968/- for 1,689 units for the period 10.01.2013 to 10.05.2013 was charged to the respondent in July 2013. The respondent received a bill amounting to Rs.490,123/- for the month of October 2013. The respondent deposited a sum of Rs. 100,000/- in October 2013 but there was no restoration of his supply.

4. The respondent being aggrieved with the detection bill of Rs. 490,123/- filed an application dated 21.11.2013 before POI and challenged the disputed bill of Rs.490,123/-. Further the respondent prayed that the issuance of bills after disconnection of electricity was illegal and he prayed for declaration of electricity bills from February 2013 to October 2013 as illegal which were issued after disconnection of supply on 22.01.2013.
5. The matter was disposed of by POI vide it's decision dated 05.06.2015 (hereinafter referred to as the impugned decision). According to the impugned decision, the first detection bill of Rs.85,515/- for 4,928 units from the period 10.05.2012 to 10.11.2012 was revised from six months to three months. As per impugned decision, the second detection bills of Rs.29,968/- for 1,689 units for the period 10.01.2013 to 10.05.2013 was cancelled and the assessed bills from February 2013 to date were also cancelled and were to be revised on the actual meter reading basis. Besides it was directed that a healthy new meter be installed immediately and bills issued on assessed load be revised as per three months consumption of the new healthy meter. POI in the impugned decision directed KE to recover minimum charges from the respondent for the period during which his supply remained disconnected.
6. Being dissatisfied with the POI decision dated 05.06.2015, KE has filed the instant appeal under section 38 (3) of the Act. KE prayed that the case be reopened and the impugned decision be set aside to meet ends of justice.

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7. Subsequent to the above appeal, the respondent was issued a notice for filing reply/parawise comments which were filed on 21.09.2015. The respondent in his reply/parawise comments denied the allegations of KE and contended that he was not involved in illegal abstraction of electricity. According to his reply, the electric meter and cable were removed without any notice by KE and unjustified bills were being charged against him on average basis since the year 2013. The respondent further stated that his supply was disconnected without any notice and therefore he was constrained to get supply from 5 kW generator installed for this purpose. The respondent submitted that the electricity bill of Rs.490,123/- issued in October 2013 was quite illegal and against the law. He complained that on assurance of KE official/Deputy General Manager he deposited Rs.100,000/- in October 2013 but his connection was not restored. He alleged that the site inspection report dated 31.05.2013 and notice dated 31.05.2013 were forged, fabricated and concocted. He prayed for dismissal of the appeal.
8. After issuing notices to both the parties, hearing of the appeal was conducted on 10.11.2015 in the NEPRA regional office Karachi in which both the parties participated. Ms. Tatheera Fatima Deputy General Manager (Distribution Legal) and Mr. Rafique Ahmed Sheikh General Manager appeared for the appellant KE and Mr. Shahab the respondent, appeared in person. During hearing Mr. Rafique Ahmed Sheikh General Manager offered for an outside court settlement to the respondent which after some arguments was agreed by him. In order to provide an opportunity to the parties for negotiating an amicable settlement, the hearing was adjourned as requested by both the parties. However, later on an application of the respondent was received on 17.11.2015 which transpired that amicable settlement between the parties could not be reached. The respondent pleaded for disposal of the appeal on merits. After issuing notice to both the parties the appeal was heard in Karachi on 07.12.2015 in which Ms. Tatheera Fatima Deputy General Manager (Distribution Legal) and Mr. Rafique Ahmed Sheikh General Manager appeared for the appellant KE but there was no representation for the respondent. Representatives of KE reiterated the same arguments which have been given in memo of the appeal. It was contended that the respondent was found consuming electricity dishonestly during the site inspections carried on 18.11.2012 and 31.05.2013. KE averred that

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the detection bill of Rs.85,515/- for 4,928 units for the period 10.05.2012 to 10.11.2012 and detection bill of Rs.29,968/- for 1,689 units for the period 10.01.2013 to 10.05.2013 were charged to the respondent in order to recover the revenue loss sustained by KE due to unmetered consumption of electricity by the respondent. According to KE being a theft case, the matter was beyond the jurisdiction of POI and the impugned decision rendered by POI was therefore liable to be set aside being void and without lawful authority. As per KE version, the provisions of chapter 9 of Consumer Service Manual (hereinafter referred to as CSM) could not be followed due to practical difficulties. KE informed that as per policy of KE, FIR is registered against a consumer involved in the theft of electricity for an amount exceeding Rs.300,000/- and that is the reason FIR was not lodged in the instant case. It is relevant to mention that subsequent to hearing an application of the respondent was received on 08.12.2015 where in he stated that his arguments during hearing 10.11.2015 and reply dated 14.11.2015 may be treated final. He had expressed his inability to attend the hearing on 07.12.2015.

9. We have heard arguments of both the parties and examined the record placed before us. It has been observed that:
- i. There is no force in the arguments of the representatives of KE that provisions of chapter 9 of CSM could not be adhered due to practical difficulties as the provisions of CSM are binding upon KE.
 - ii. First detection bill of Rs. 85,515/- for 4,928 units for the period June 2012 to November 2012 was issued in February 2013 and second detection bill of Rs. 29,968/- for 1,689 units for the period February 2013 to May 2013 was issued in July 2013. The respondent received a bill amounting to Rs. 490,123/- inclusive of above mentioned detection bill in October 2013. Due to default of payment the supply of the respondent was disconnected on 22.01.2013. A payment of Rs. 100,000/- was made in October 2013 but his supply was not restored.

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iii. The consumption data of the respondent is given below:-

Month/Year	Units	Billing Mode
October 2011	769	Normal
November 2011	663	Normal
December 2011	827	Normal
January 2012	789	Normal
February 2012	754	Normal
March 2012	795	Normal
April 2012	1128	Normal
May 2012	1129	Normal
Total	6854	

Month/Year	Units	Billing Mode
June 2012	1288	Assessed
July 2012	938	Normal
August 2012	469	Normal
September 2012	580	Normal
October 2012	662	Normal
November 2012	945	Normal
Total	4882	

Month/Year	Units	Billing Mode
December 2012	991	Normal
January 2013	910	Normal
Total	1901	

Month/Year	Units	Billing Mode
February 2013	1025	Assessed

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March 2013	992	Assessed
April 2013	992	Assessed
May 2013	992	Assessed
Total	4001	

Month/Year	Units	Billing Mode
June 2013	1300	Assessed
July 2013	1800	Assessed
August 2013	1800	Assessed
September 2013	1800	Assessed
October 2013	1500	Assessed
November 2013	1500	Assessed
Total	9700	

From the above table it is evident that the consumption of 4,882 units during the disputed period of June 2012 to November 2012 is higher than the same period of the year 2011 which is evidence that the electricity was consumed normally and legally. As such charging of detection bill of Rs. 85,515/- is not justified during this period. Therefore we do not agree with the decision of POI that the impugned detection bill be revised from six to three months.

- iv. The respondent was charged in the assessed mode in the absence of electricity meter for the period February 2013 to June 2013 therefore further burdening him with detection units in the same period is tantamount to double jeopardy and has no justification. Therefore the detection bill of Rs. 29,968/- for February 2013 to June 2013 is void ab-initio, unjustified and the respondent is not liable to pay the same. The decision of POI in this regard is correct and endorsed.
- v. We are not inclined to agree with the version of the respondent that he switched over to self generation after disconnection of electricity and removal of meter on 22.01.2013. There are reasons to believe the statement of KE that he continued to get un-metered supply from KE system despite disconnection.



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10. Sequel of the above discussion is that:

- i. First detection bill of Rs. 85,515/- for 4,928 units for the period 10.05.2012 to 10.11.2012 is null and void and the respondent is not liable to pay the same.
- ii. The second detection bill of Rs. 29,968/- for the period 10.01.2013 to 10.05.2013 is null and void and the respondent is not liable to pay the same.
- iii. As directed by POI a new meter shall be installed and the connected load of the respondent be regularized.

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

Muhammad Qamar-uz-Zaman
Member

Nadir Ali Khoso
Convener

Muhammad Shafique
Member

Date: 19.01.2016