



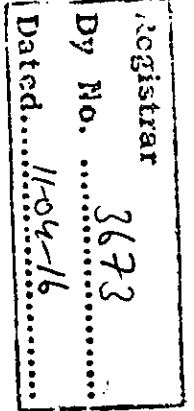
Before the Appellate Board
National Electric Power Regulatory Authority
(NEPRA)
Islamic Republic of Pakistan

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No. NEPRA/AB/Appeal-114/POI-2015/ 405-409

April 08, 2016

1. Tariq Aziz
House No. L-810,
4-A, Surjani Town,
North Karachi, 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. Tariq Aziz Against the Decision Dated 14.09.2015 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 07.04.2016, regarding the subject matter, for information and necessary action accordingly.


Encl: As Above

(Ikram Shakeel)

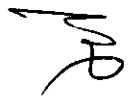
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April 08, 2016

Forwarded for information please.


Assistant Director
Appellate Board

1. Registrar
2. Director (CAD)


11.04.16
-D/Reg-II/AR/MF

CC:

1. Member (CA)



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-114/POI-2015

K-Electric Ltd

.....Appellant

Versus

Tariq Aziz s/o Iqbal Ahmed Khan, House No.L-810,
Sector 4A, Surjani Town, North Karachi,

.....Respondent

For the appellant:

Ms. Tatheera Fatima Deputy General Manager (Legal Distribution)
Mr. Ali H Bashar Deputy General Manager (Admin)
Mr. Masahib Ali Deputy Manager

For the respondent:

Mr. Waqas Ahmed Khan

DECISION

1. Through this decision, an appeal filed by K-Electric against the decision dated 14.09.2015 of Provincial Office of Inspection/Electric Inspector, Karachi Region-II, Karachi (hereinafter referred to as POI) is being disposed of.
2. The respondent is a domestic consumer of K-Electric bearing Ref No. LA-662909 with a sanctioned load of 1 kW under A1-R tariff. As per fact of the case, site of the respondent's connection was inspected by K-Electric on 03.01.2015 and reportedly the connected load was found as 3.036 kW and use of extra phase for dishonest abstraction of electricity was



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also noticed. After issuing notice to the respondent, first detection bill of Rs. 15,246/- for 1,586 units for the period 07.06.2014 to 06.12.2014 (6 months) was added in the bill for February 2015 on the basis of consumption of connected load. Connection of the respondent was again checked by K-Electric on 17.04.2015, which reportedly found the use of an extra phase for direct consumption of electricity with connected load of 6.976 kW. After issuing notice to the respondent, second detection bill of Rs.29, 559/- for 2,273 units for the period 09.01.2015 to 07.05.2015 (4 months) on connected load basis was charged in June 2015.

3. Being aggrieved with the aforementioned detection bills, the respondent filed an application before POI on 10.07.2015 and contended that the entire arrears of Rs. 42,441/- were illegal, unwarranted and required to be excluded from the bill. POI disposed of the matter vide its decision dated 14.09.2015 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 relevant law & Regulations and above findings authority, this authority is of the firm view that detection bills amounting to Rs.15,246/- of 1,586 units for the period from 07.06.2014 to 06.12.2014 and 2nd irregular bill amounting to Rs.29,559/- of 2273 units for the period from 09.01.2015 to 07.05.2015 (11 months) are at higher side and revised up-to 02 months instead 11 months. The complaint of the complainant is disposed off with above remarks"

4. Being dissatisfied with the POI decision dated 14.09.2015 (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 Act). K-Electric in its appeal contended that site of the respondent was inspected on 03.01.2015 & 17.04.2015 and on both the occasions the respondent was found stealing electricity through the use of an extra phase and also the connected load was found much higher than the sanctioned load. According to K-Electric, first detection bill of Rs. 15,246/- for 1,586 units for the period 07.06.2014 to 06.12.2014 (6 months) added in the bill for February 2015 and second detection bill of Rs.29, 559/- for



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2,273 units for the period 09.01.2015 to 07.05.2015 (4 months) charged in June 2015 calculated on the basis of connected load of the respondent, were justified and the respondent is liable to pay the same. K-Electric further submitted that POI was not authorized to adjudicate the instant matter as the respondent was involved in dishonest abstraction of electricity by bypassing the meter and therefore the impugned decision of POI was without lawful authority and liable to be set aside.

5. In response to the above appeal, the respondent was issued a notice for filing reply/parawise comments, which were filed on 03.12.2015. Respondent in his reply denied the service of notices or any inspection conducted by K-Electric from December 2014 till to date and contended that it was clear violation of clause 14.1 of the Consumer Service Manual (CSM), According to the respondent, the impugned decision of POI was based on merits and is liable to be maintained. He prayed for dismissal of the appeal.
6. After issuing notice to both the parties, the appeal was heard in Karachi on 15.03.2016 in which, Ms. Tatheera Fatima Deputy General Manager (Distribution Legal), Mr. Ali H Bashar Deputy General Manager and Mr. Masahib Ali Deputy Manager appeared for the appellant K-Electric and Mr. Waqas Ahmed Khan represented the respondent. The representatives of K-Electric repeated the same arguments as earlier given in memo of the appeal and contended that connection of the respondent was inspected twice after issuing notices and both the detection bills charged to the respondent were justified as the respondent was involved in dishonest abstraction of electricity through the use of an extra phase. According to K-Electric, consumption of the respondent during the disputed periods of detection bills was very low, which proved that the actual consumption was not being recorded by the electricity meter due to unfair means adopted by the respondent. Moreover, the representatives of K-Electric argued that the period prior to the July 2014 was also disputed due to low consumption but was not included in the detection bill due to constraints imposed by CSM. The representative of the respondent, in his rebuttal, contended that the respondent was not involved in any theft of electricity and allegations leveled by K-Electric were baseless and malafide. The representative of the respondent pleaded that load of the respondent's premises gradually increased and it was accordingly



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recorded by the electricity meter. The representative of the respondent prayed for upholding the impugned decision.

7. We have heard arguments of both the parties and examined the record placed before us. It has been observed as under:-
- i. Theft of electricity by the respondent was alleged by K-Electric but no FIR and other proceedings as required under law and CSM were initiated by K-Electric against the respondent. Objection of K-Electric regarding the lack of jurisdiction of POI, being a theft case, is not supported by the documents and therefore liable to be dismissed.
 - ii. First detection bill of Rs. 15,246/- for 1,586 units for the period 07.06.2014 to 06.12.2014 (6 months) was added in the bill for February 2015 and second detection bill of Rs.29,559/- for 2,273 units for the period 09.01.2015 to 07.05.2015 (4 months) was charged in June 2015 on the basis of connected load.
 - iii. Comparison of electricity consumption between the disputed and undisputed periods is as under:

Period	Normal Mode Average Units/Month	Detection Mode Average Units/Month
Period before dispute: (10 months) 09/2013 to 06/2014	100 Units	-
First disputed period : (06 months) 07/2014 to 12/2014	49 Units	313 Units
Second disputed period: (04 months) 02/2015 to 05/2015	104 Units	672 Units
Period after dispute: (04 months) 06/2015 to 09/2015	149 Units	-

- iv. It is evident from the above table that the detection bills charged during both the disputed periods are higher as compared to the consumption recorded in the undisputed periods. However the consumption of electricity i.e. 49 units/ month during the first disputed period and 104 units/month during the second disputed period are lower than the consumption of electricity i.e. @ 149 units/month during the period after dispute i.e. June



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2015 to September 2015, which indicates that the meter was not recording actual consumption during the disputed periods.

- v. Since the period before the disputed period has also been suspected by K-Electric, it would be appropriate to charge the respondents @ 149 units/ month (as recorded during the period after dispute i.e. June 2015 to September 2015) for the disputed periods. According to clause 9.1 c (3) of CSM, the maximum period for charging in such cases shall be restricted to three billing cycles for general supply consumers i.e. A-I & A-II and for period beyond three billing cycles up-to a maximum of six months is subject to the approval of the Chief Executive of the K-Electric and initiation of action against the officer in charge for not being vigilant enough. These provisions of CSM were not followed by K-Electric in the instant case. The respondent is liable to be charged the detection bill @ 149 units/ month for the disputed periods i.e. 07.09.2014 to 06.12.2014 (3 months) and 08.02.2015 to 07.05.2015 (3 months).
 - vi. First detection bill of Rs. 15,246/- for 1,586 units for the period from 07.06.2014 to 06.12.2014 (6 months) added in the bill for February 2015 and second detection bill of Rs.29,559/- for 2,273 units for the period 09.01.2015 to 07.05.2015 (4 months) are not justified and liable to be cancelled as already determined in the impugned decision. Moreover, the impugned decision for charging the detection bill for two months only against the total dispute period is not justified and liable to be modified to this extent.
8. In view of foregoing discussion, we have reached to the conclusion is as under:
- i. First detection bill of Rs. 15,246/- for 1,586 units for the period from 07.06.2014 to 06.12.2014 (6 months) added in the bill for February 2015 and second detection bill of Rs.29,559/- for 2,273 units for the period from 09.01.2015 to 07.05.2015 (4 months) charged in June 2015 are not justified and liable to be cancelled. The respondent is not liable to pay the above detection bills and therefore the impugned decision to this extent is maintained.
 - ii. The respondent is liable to pay the detection bill @ 149 units /month for the disputed



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periods i.e. 07.09.2014 to 06.12.2014 (3 months) and 08.02.2015 to 07.05.2015 (3 months). However the units already charged during these disputed periods are to be adjusted in the revised bill. The impugned decision to this extent is modified.

9. The appeal is disposed of in above terms.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Date: 07.04.2016