



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

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No. NEPRA/AB/Appeal-117/POI-2015/ 417-421

April 08, 2016

1. Saeed Akhter
House No. 4/963,
Shah Faisal Colony,
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.

Registrar
Dy No. 3671
Dated 11-04-2016

Subject: Appeal Titled K-Electric Ltd Vs. Saeed Akhter Against the Decision Dated 29.09.2015 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 07.04.2016, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(Ikram Shakeel)


No. NEPRA/AB/Appeal-117/POI-2015/ 422

April 08, 2016

Forwarded for information please.


Assistant Director
Appellate Board

1. Registrar
2. Director (CAD)


11.04.16

D/Reg-II/APP M/F

CC:

1. Member (CA)



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-117/POI-2015

K-Electric Ltd

.....Appellant

Versus

Saeed Akhtar (Inayatullah), House No.4/963, Shah Faisal Colony, Karachi

.....Respondent

For the appellant:

Mr. Rafique Ahmed Sheikh General Manager
Ms. Tatheera Fatima Deputy General Manager (Legal Distribution)
Mr. Mir Nihal Khan Manager
Mr. Masahib Ali Deputy Manager

For the respondent:

Mr. Saeed Akhtar

DECISION

1. Through this decision, an appeal filed by K-Electric against the decision dated 29.09.2015 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 K-Electric bearing Ref No. AL-222035 with a sanctioned load of 1 kW under A1-R tariff. As per fact of the case, premises of the respondent was inspected by K-Electric on 12.12.2013 and as reported by K-Electric, the connected load was found as 4.95 kW and use of extra phase for dishonest abstraction of electricity was also noticed. After issuing notice dated 13.12.2013 to the respondent, first detection bill of Rs. 26,071/- for 2,117 units for the period i.e. 27.06.2013 to 27.12.2013 (6 months) was charged in the bill for January 2014 on the basis of consumption of connected load. Connection of the respondent was again checked by K-Electric on 02.12.2014 and reportedly, K-Electric found the use of an extra phase for direct consumption of electricity with connected load of 9.612 kW. After issuing notice dated 02.12.2014 to the respondent, second detection bill of



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Rs.106,540/- for 6,884 units for the period i.e. 28.05.2014 to 24.11.2014 (6 months) was added in the bill for December 2014.

3. Being aggrieved with the aforementioned detection bills, the respondent filed an application before POI on 12.01.2015 and contended that the entire arrears amounting to Rs. 182,492/- added in the bill of December 2014 by K-Electric were incorrect, illegal and without any justification. The respondent prayed for cancellation of entire arrears amounting to Rs. 182,492/- charged by K-Electric. POI disposed of the matter vide its decision dated 29.09.2015 and concluded as under:

"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 authority, this authority is of the firm view that opponents have violated the mandatory requirements of Electricity Act 1910 and guidelines communicated through consumer service manual of NEPRA as pointed out in above findings. The authority therefore direct the licensee to cancel the detection bills amounting to Rs 26,071/= of 2117 units for the period from 27.06.2013 to 27.12.2013 & Rs.106, 540/= of 6844 units for the period from 28.05.2014 to 24.11.2014 as the same have no justification on technical and legal grounds. It is further directed the opponents to waive all late payment surcharges after issuance of the impugned detection bills and afterwards, as complainant was not found at fault. The complaint is disposed off in terms of above, for compliance by the opponents."

4. Being dissatisfied with the POI decision dated 29.09.2015 (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 checked on 12.12.2013 & 02.12.2014 and on both the occasions the respondent was found involved in dishonest abstraction of electricity through the use of an extra phase and the connected load was much above the sanctioned load. According to K-Electric, first detection bill of Rs. 26,071/- for 2,117 units for the period from 27.06.2013 to 27.12.2013 (6 months) added in the bill for January 2014 and second detection bill of Rs.106, 540/- for 6,884 units for the period from 28.05.2014 to 24.11.2014 (6 months) charged in December 2014 were justified and the respondent is liable to pay the same. K-Electric further submitted that POI was not



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authorized to adjudicate the instant matter as the respondent was involved in dishonest abstraction of electricity by bypassing the meter. K-Electric further submitted that POI exercised his power beyond his limits as the said discrepancy did not fall in the jurisdiction of POI, therefore the 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 01.01.2016. Respondent in his reply submitted that the impugned decision was legal and as per instructions contained in Consumer Service Manual (CSM) issued by NEPRA. He prayed for up-holding the impugned decision and dismissal of the appeal.
6. After issuing notice to both the parties, the appeal was heard in Karachi on 15.03.2016 in which Mr. Rafique Ahmed Sheikh General Manager, Ms. Tatheera Fatima Deputy General Manager (Distribution Legal), Mr. Mir Nihal Khan Manager and Mr. Masahib Ali Deputy Manager appeared for the appellant K-Electric and Mr. Saeed Akhtar the respondent appeared in person. The representatives of K-Electric contended that connection of the respondent was checked twice after issuing notices and both the detection bills charged to the respondent were justified as the respondent was found involved in dishonest abstraction of electricity through the use of an extra phase. According to K-Electric, consumption of the respondent prior to the disputed periods is also controversial but the detection bill could not be charged for those periods due to the restrictions of maximum period of 6 months imposed vide clause 9.1c (3) of CSM. The representatives of K-Electric further submitted that consumption of the respondent during the disputed periods of detection bills was also very low, which proved that the actual consumption was not being recorded by the electricity meter due to unfair means adopted by the respondent. The respondent in his rebuttal contended that the respondent was not involved in any theft of electricity and allegations leveled by K-Electric were not based on legal and technical grounds. 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. Objection of K Electric regarding the lack of jurisdiction of POI, being a theft case, is not supported by the



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documents and therefore liable to be dismissed.

- ii. First detection bill Rs. 26,071/- for 2,117 units for the period from 27.06.2013 to 27.12.2013 (6 months) was added in the bill for January 2014 and second detection bill of Rs.106, 540/- for 6,884 units for the period from 28.05.2014 to 24.11.2014 (6 months) was charged in December 2014 on the basis of connected load.
- iii. Comparison of electricity consumption between the disputed and undisputed periods retrieved from the data provided by K-Electric is as under:

Period	Normal Mode Average Units/Month	Detection Mode Average Units/Month
Period before dispute: (4 months) 02/2013 to 05/2013	160 Units	-
First disputed period: (6 months) 06/2013 to 11/2013	135 Units	488 Units
Second disputed period: (6 months) 06/2014 to 11/2014	136 Units	1277 Units
Period after dispute: (10 months) 12/2014 to 09/2015	205 Units	-

- iv. It is evident from the above table that the detection bills charged during the disputed periods are higher as compared to the consumption recorded in the undisputed periods. However the consumption of electricity i.e. 135 units/ month during the first disputed period and consumption of electricity i.e. 136 units/ month during the second disputed period are lower than the consumption electricity of both the undisputed periods, which indicates that the meter was not recording actual consumption during the disputed periods.
- v. Since the period before the disputed periods has also been suspected by K-Electric, therefore it would be appropriate to charge the respondent @ 205 units/month (as recorded during the period after dispute i.e. December 2014 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



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being vigilant enough. Obviously, these provisions of CSM have not been followed by K-Electric in the instant case. The respondent is liable to be charged the detection bills @ 205 units/month for the disputed periods i.e. 28.09.2013 to 27.12.2013 (3 months) and 25.08.2014 to 24.11.2014 (3 months).

vi. First detection bill Rs. 26,071/- for 2,117 units for the period from 27.06.2013 to 27.12.2013 (6 months) added in the bill for January 2014 and second detection bill of Rs.106,540/- for 6,884 units for the period from 28.05.2014 to 24.11.2014 (6 months) charged in December 2014 were not justified and liable to be cancelled. Impugned decision to this extent is liable to maintained.

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

i. First detection bill Rs. 26,071/- for 2,117 units for the period from 27.06.2013 to 27.12.2013 (6 months) added in the bill for January 2014 and second detection bill of Rs.106,540/- for 6,884 units for the period from 28.05.2014 to 24.11.2014(6 months) charged in December 2014 are not justified and therefore declared as null and void and the respondent is not liable to pay the same. The impugned decision to this extent is maintained.

ii. The respondent is liable to pay the detection bill @ 205 units/month for the period i.e. 28.09.2013 to 27.12.2013 (3 months) and 25.08.2014 to 24.11.2014 (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

Nadir Ali Khoso
Convener

Muhammad Shafique
Member

Date: 07.04.2016