



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

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No. NEPRA/AB/Appeal-122/POI-2015/ 429-428

April 08, 2016

1. Mirza Sabir Baig
House No. B-207, Block 4-A,
Gulshan-e-Iqbal, 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

Registrar
Dy No. 3670
Dated 11-04-16

5. The Electric Inspector
Karachi Region-I,
Block No. 51, Pak Secretariat,
Shahra-e-Iraq, Saddar,
Karachi.

Subject: Appeal Titled K-Electric Ltd Vs. Mirza Sabir Baig Against the Decision Dated 30.09.2015 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-122/POI-2015/ 429

April 08, 2016

Forwarded for information please.

Ikram Shakeel
Assistant Director
Appellate Board

1. Registrar
2. Director (CAD)

IS
11.04.16

CC:

D/Reg-II/AR/M/F

1. Member (CA)



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-122/POI-2015

K-Electric Ltd

.....Appellant

Versus

Mirza Sabir Baig (Muhammad Shafi), House No: B/207,
Block 4/A, Gulshan-E-Iqbal, Karachi

.....Respondent

For the appellant:

Mr. Rafique Ahmed Sheikh General Manager
Ms. Tatheera Fatima Deputy General Manager (Legal Distribution)
Mr. Muhammad Rizwan Deputy General Manager
Mr. Imran Hanif Assistant Manager

For the respondent:

Mirza Sabir Baig
Mr. Gulzar Hussain

DECISION

1. Through this decision, an appeal filed by K-Electric against the decision dated 30.09.2015 of Provincial Office of Inspection/Electric Inspector, Karachi Region-I, Karachi (hereinafter referred to as POI) is being disposed of.
2. Brief facts of the case are that the respondent is a domestic consumer of K-Electric bearing Ref No. AL-258445 with a sanctioned load of 3 kW under A1-R tariff. Site of the respondent's connection was inspected by K-Electric on 14.11.2011 and reportedly the connected load was found as 9.323 kW and use of extra phase for dishonest abstraction of electricity was also noticed. After issuing notice to the respondent, first detection bill of Rs. 69,484/- for 4,667 units for the period from 19.05.2011 to 18.11.2011 (6 months) was added in the bill for November 2011 on the basis of connected load.

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3. Being aggrieved with the aforesaid detection bill, the respondent filed an application before POI on 23.01.2012 and stated that K-Electric added detection charges amounting to Rs.81,955/- in the bill of November 2011 on the basis of connected load. The respondent denied the allegation of illegal abstraction of electricity and prayed for cancellation of the bill amounting to Rs.81,955/- issued for the month of November 2011. During the pendency of matter before POI, premises of the respondent was inspected by K-Electric on 06.05.2013 and reportedly connected load was found as 13.745 kW and electricity was being dishonestly consumed through an extra phase. After issuing notice to the respondent, second detection bill amounting to Rs.291,491/- of 18,165 units for the period i.e. 18.11.2011 to 19.04.2013 (17 Months) was charged to the respondent on 16.05.2013 on the basis of connected load. The respondent filed another application before POI on 06.06.2013 and challenged the detection bill of Rs. 70,008/- issued by K-Electric on 07.05.2013. The respondent in the application dated 06.06.2013 further submitted that K-Electric issued an assessed bill amounting to Rs. 23,718/- for 1,560 units along with arrears of Rs. 232,695/- on 23.05.2013. The inspection of the respondent's connection was again carried out on 19.06.2015 and reportedly the respondent was found involved in the illegal abstraction of electricity through extra phase from an underground cable and his connected load was 6.317 kW. Notice was issued to the respondent and a third detection bill of Rs. 15,900/- for 989 units for the period i.e. 13.03.2015 to 12.06.2015 (3 months) was charged to the respondent in June 2015. Besides above detection bills , assessed bills as per detail given below were also charged to the respondent:

Month	Assessed Units Charged	Amount Charged (Rs.)	Month	Assessed Units Charged	Amount Charged (Rs.)
July 2012	284 Units	3,104/-	February 2015	1,426 Units	22,478/-
May 2013	1,560 Units	25,179/-	March 2015	1474 Units	22,423/-
January 2015	744 Units	9,644/-	-	-	-

4. POI disposed of the matter vide its decision dated 30.09.2015 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





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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 1st detection bill amounting to Rs 69,484/= of 4,667 units for the period from 19.05.2011 to 18.11.2011, 2nd detection bill issued on 06.05.2013 amounting to Rs. 102,993/= of 6,639 units for the period from 18.11.2011 to 21.06.2012, 3rd detection bill issued on some date i.e. 16.06.2013 amounting to Rs. 188,498/= of 11,522 units for the period from 22.06.2012 to 19.04.2013 (10 months =), 4th detection bill amounting to Rs. 15,900/= of 989 units for the period from 13.03.2015 to 12.06.2015, as the same have no justification on technical and legal grounds. The assessed bills for the month of July 2012 of 284 units amounting to Rs. 3,104/=(gross), May 2013 amounting to Rs. 25,719/=(gross) of 1560 units, January 2015 amounting to Rs. 9,644/=(gross) 744 units, February 2015 amounting to Rs.22,478/=(gross) of 1426 units and March 2015 amounting to Rs.22,423/=(gross) of 1474 units should also be cancelled and revise the same on actual meter reading recorded by the energy meter. 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 amount paid by the complainant towards inflated billing should also be adjusted in his future billing. The complaint is disposed off in terms of above, for compliance by the opponents."

5. Being dissatisfied with the POI decision dated 30.09.2015 (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 contended that the site of the respondent was inspected on 14.11.2011, 06.05.2013 & 19.06.2015 and on all the occasions, the respondent was found stealing electricity through the use of an extra phase and the connected load was also found much above the sanctioned load. According to K-Electric, first detection bill of Rs. 69,484/- for 4,667 units for the period from 19.05.2011 to 18.11.2011 (6 months) added in the bill for November 2011, second detection bill amounting to Rs.291,491/- of 18,165 units for the period i.e. 18.11.2011 to 19.04.2013 (17 Months) charged on 16.05.2013, third detection bill amounting to Rs. 15,900/- for 989 units for the period i.e. 13.03.2015 to 12.06.2015 (3 months) charged in June 2015 and all assessed bills total amounting to Rs. 83,368/- were justified and the respondent is liable to pay the same. K-Electric further submitted that POI was

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not authorized to adjudicate the instant matter as the respondent was involved in dishonest abstraction of electricity, which is beyond it's jurisdiction.

6. In response to the above appeal, the respondent was issued a notice for filing reply/parawise comments, which were submitted on 10.02.2016. 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 to maintain the impugned decision.
7. 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) and Mr. Muhammad Rizwan Deputy General Manager appeared for the appellant K-Electric and Mr. Mirza Sabir Baig the respondent appeared in person along with Mr. Gulzar Hussain. 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 many times and as per K-Electric, he was found stealing the electricity. K-Electric averred that all the detection bills amounting to R. 376,850/- were issued to the respondent to recover the revenue loss sustained by K-Electric. The representatives of K-Electric submitted that besides above detection bills, the assessed bills amounting to Rs. 83,368/- were also charged to the respondent as the actual energy was not being recorded by the electricity meter. According to K-Electric, consumption of the respondent during disputed period was low, which establishes that the respondent was using unfair means. Further K-Electric contended that the respondent challenged the first detection bill of Rs. 69,484/- for 4,667 units for the period from 19.05.2011 to 18.11.2011 (6 months) added in the bill for November 2011 and second detection bill amounting to Rs.291,491/- of 18,165 units for the period i.e. 18.11.2011 to 19.04.2013 (17 Months) charged on 16.05.2013 vide his applications dated 23.01.2012 & 06.06.2013 before POI and did not challenge the remaining bills as mentioned in the impugned decision. K-Electric pleaded that unchallenged detection and assessed bills were declared void as per impugned decision, which is illegal, void and liable to be withdrawn. The respondent in his rebuttal, contended that the allegation of theft of electricity leveled by K-Electric was baseless and malafide. According to the respondent, he protested for first detection bill of Rs. 69,484/- for 4,667 units for the period from 19.05.2011 to 18.11.2011 (6 months) added in the bill for November 2011 before K-Electric and paid the same after installments were allowed by K-Electric. Similarly, second detection bill amounting to



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Rs.291,491/- of 18,165 units for the period i.e. 18.11.2011 to 19.04.2013 (17 Months) charged on 16.05.2013 and third detection bill amounting to Rs. 15,900/- for 989 units for the period i.e. 13.03.2015 to 12.06.2015 (3 months) charged in June 2015 along with assessed bills amounting to Rs. 83,368/- were not justified and liable to be withdrawn. The respondent averred that neither checking of the electricity meter was carried out in his presence nor any notice was served to him in this regard. The respondent pleaded that the impugned decision was justified and shall be upheld.

8. 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. Contention 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. 69,484/- for 4,667 units for the period from 19.05.2011 to 18.11.2011 (6 months) added in the bill for November 2011 was challenged by the respondent vide its application dated 23.01.2012 before POI and similarly second detection bill amounting to Rs.291,491/- of 18,165 units for the period i.e. 18.11.2011 to 19.04.2013 (17 Months) charged on 16.05.2013 was also challenged by the respondent vide its application dated 06.06.2013 before POI.
 - iii. The comparison of the electricity consumption between the disputed periods and undisputed periods as retrieved from the consumption data provided by K-Electric is as under:

Period	Normal Mode Average Units/Month	Detection Mode Average Units/Month
Period before dispute: (13 months) 04/2010 to 04/2011	305 Units	-
First disputed period: (6 months) 19.05.2011 to 18.11.2011	360 Units	1144 Units
Second disputed period: (17 months) 18.11.2011 to 19.04.2013	335 Units	1410 Units
Period after dispute: (12 months) 06/2013 to 05/2014	464 Units	-



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- It is evident from the above table that the detection units charged during the disputed periods are higher as compared to the consumption recorded in the undisputed periods.
- The consumption of electricity i.e. 360 units/ month during the first disputed period is higher than the consumption of electricity i.e. 305 units/month during the period before dispute. We are not convinced with the contention of K-Electric regarding charging the detection bill @ 1144 units/month to the respondent during the first disputed period. First detection bill of Rs. 69,484/- for 4,667 units for the period from 19.05.2011 to 18.11.2011 (6 months) added in the bill for November 2011 has no justification and therefore the respondent is not liable to pay the same. The impugned decision to this extent is liable to be maintained.
- Second detection bill amounting to Rs.291,491/- of 18,165 units for the period i.e. 18.11.2011 to 19.04.2013 (17 Months) was charged to the respondent on 16.05.2013. Since the period before the disputed period has also been disputed by K-Electric, therefore it would be appropriate to charge the detection bill @ 464 units/month as recorded during the period after second dispute i.e. June 2013 to May 2014 for the second disputed period. According to clause 9.1 c (3) of CSM, 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. Obviously, these provisions of CSM were not followed by K-Electric in the instant case. The respondent is liable to be charged the detection bill @ 464 units/month for three months only i.e. from 20.01.2013 to 19.04.2013. The impugned decision is liable to be modified to this extent.
- iv. Third detection bill amounting to Rs. 15,900/- for 989 units for the period i.e. 13.03.2015 to 12.06.2015 (3 months) was issued in June 2015 and the assessed bills total amounting to Rs. 83,368/- were also charged to the respondent. Nothing is placed before us to establish that those bills were challenged by the respondent before POI and therefore POI was not justified to make determination for the same. We are in agreement with the contention of K-Electric that the impugned decision regarding cancellation of these bills is illegal and therefore liable to be set aside.

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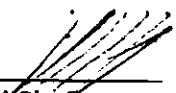
9. In view of foregoing discussion, we have reached to the conclusion as under:
- i. First detection bill of Rs. 69,484/- for 4,667 units for the period from 19.05.2011 to 18.11.2011 (6 months) added in the bill for November 2011 and second detection bill amounting to Rs.291,491/- of 18,165 units for the period i.e. 18.11.2011 to 19.04.2013 (17 Months) charged to the respondent on 16.05.2013 are declared as null & void and the respondent is not liable to pay the same. The impugned decision to this extent is upheld.
 - ii. Impugned decision regarding cancellation of third detection bill amounting to Rs. 15,900/- for 989 units for the period i.e. 13.03.2015 to 12.06.2015 (3 months) charged in June 2015 and assessed bills total amounting to Rs. 83,368/- charged to the respondent is not in accordance with law and therefore declared null and void to this extent.
 - iii. The respondent is liable to be charged the detection bill @ 464 units/month for the period from 20.10.2013 to 19.04.2013 (3months). The impugned decision to this extent stands modified.
10. The appeal is disposed of in above terms.



Muhammad Qamar-uz-Zaman
Member



Nadir Ali Khoso
Convener



Muhammad Shafique
Member

Date: 07.04.2016