



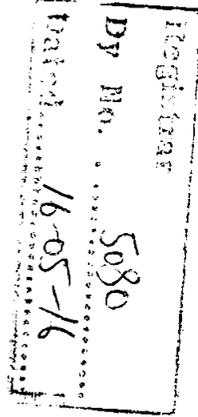
Before the Appellate Board
National Electric Power Regulatory Authority
(NEPRA)
Islamic Republic of Pakistan

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No. NEPRA/AB/Appeal-018/POI-2016/ 533-537

May 11, 2016

1. Muhammad Hafeez
Plot No. F-195, Sector-1-A-4,
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. Muhammad Hafeez Against the Decision Dated 28.12.2015 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 10.05.2016, regarding the subject matter, for information and necessary action accordingly.

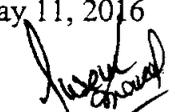
Encl: As Above

(Ikram Shakeel)

No. NEPRA/AB/Appeal-018/POI-2016/ 538

May 11, 2016

Forwarded for information please.


Assistant Director
Appellate Board

1. Registrar
2. Director (CAD)


16.05.16
-DD(IT)
-DIR-II/MF

CC:

1. Member (CA)



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-018/POI-2016

K-Electric Ltd

.....Appellant

Versus

Muhammad Hafeez, Plot No.F-195,
Sector-1-A-4, North Karachi, Karachi,

.....Respondent

For the appellant:

Mr. Ali H Bashar Deputy General Manager (CA)
Mr. Nursing Lal Manager (Legal)
Mr. Imran Hanif Assistant Manager (RAD)

For the respondent:

Mr. Muhammad Hafeez
Mr. Abu Bakar Usman
Mr. Tariq Mahmood

DECISION

1. Through this decision, an appeal filed by K-Electric against the decision dated 28.12.2015 of Provincial Office of Inspection/Electric Inspector, Karachi Region-II, 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. LA-861235 with a sanctioned load of 1kW under A1-R tariff. Site of the respondent's connection was inspected by K-Electric on 24.11.2013 and reportedly the connected load was found as 5.231 kW and use of extra phase for dishonest abstraction of electricity was also noticed. After issuing notice dated 24.11.2013 to the respondent, a detection bill amounting to Rs. 38,075/- for 2,974 units for the period from 20.02.2013 to 21.08.2013 (6 months) was charged to the respondent in December 2013 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 14.02.2014 and stated that K-Electric added detection charges amounting to Rs.44,046/- in the bill of December 2013 on the basis of load connected. The respondent prayed for cancellation of the bill amounting to Rs. 44,046/- issued for the month of December 2013. POI disposed of the matter vide its decision dated 28.12.2015 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 irregular bills, amounting to Rs. 38,075/- for 2,974 units for the period from 20.02.2013 to 21.08.2013, issued by the opponents has no justification on legal and technical grounds, therefore direct the opponents to cancel the said bill. The opponents are directed to act in terms of above instructions, accordingly. The complaint is disposed off in terms of above, for compliance by the opponents.”
4. Being dissatisfied with the POI decision dated 28.12.2015 (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 site of the respondent was inspected on 24.11.2013 and the respondent was found stealing electricity through the use of an extra phase and the connected load was higher than the sanctioned load. According to K-Electric, a detection bill amounting to Rs. 38,075/- for 2,974 units for the period from 20.02.2013 to 21.08.2013 (6 months) charged to the respondent for December 2013 on the basis of connected load was 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, which is beyond its jurisdiction.
5. In response to the above appeal, the respondent was issued a notice for filing reply/parawise comments, which were submitted on 17.03.2016. Respondent in his reply denied service of any notice or inspection to his premises by K-Electric. The respondent further submitted that the impugned decision was based on merit and prayed for upholding the same and dismissal of the appeal.
6. After issuing notice to both the parties, the appeal was heard in Karachi on 11.04.2016 in

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which, Mr. Ali H Bashar Deputy General Manager (CA), Mr. Nursing Lal Manager (Legal) and Mr. Imran Hanif Assistant Manager (RAD) appeared for the appellant K-Electric and Mr. Muhammad Hafeez, the respondent, appeared in person along with Mr. Abu Bakar Usman. 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 on 24.11.2013 and he was found stealing the electricity. K-Electric averred that the detection bill amounting to Rs. 38,075/- for 2,974 units for the period from 20.02.2013 to 21.08.2013 (6 months) was charged to the respondent for December 2013 on the basis of connected load to recover the revenue loss sustained by K-Electric. K-Electric pleaded that the impugned decision was unjustified and liable to be set aside. The respondent in his rebuttal stated that the allegation of theft of electricity leveled by K-Electric was baseless and mala fide. According to the respondent, the provisions of Chapter 9 of Consumer Service Manual (CSM) were not followed for establishing the allegation of theft of electricity and no testing of the meter was conducted in his presence in spite of their request to POI. Representative of the respondent contended that electric consumption of the respondent remained unaltered during disputed and undisputed periods, which establishes that the respondent was not involved in dishonest abstraction of electricity. 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 defended the impugned decision, termed it justified and prayed that same shall be maintained.

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. 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. Detection bill amounting to Rs. 38,075/- for 2,974 units for the period from 20.02.2013 to 21.08.2013 (6 months) issued to the respondent for December 2013 was challenged by the respondent vide its application dated 14.02.2014 before POI. Entire bill was cancelled vide the impugned decision.
 - iii. The comparison of the electricity consumption between the disputed and undisputed



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periods as per data provided by K-Electric is as under:

Period	Normal Mode Average Units/Month	Detection Mode Average Units/Month
Disputed period: (6 months) 03/2013 to 08/2013	133 Units	624 Units
Period after dispute: (12 months) 09/2013 to 08/2014	173 Units	-

- It is evident from the above table that the detection bill charged @ 624 units/month during the disputed period is higher (173 units/month) as compared to the consumption recorded in the undisputed period.
- The consumption of electricity i.e. 133 units/ month during the disputed period is lesser than the consumption of electricity i.e. 173 units/month during the period after dispute in normal mode, which indicates that the actual consumption of electricity was not recorded by the electricity meter during the disputed period.
- We are not convinced with the contention of K-Electric regarding charging the detection bill @ 624 units/month to the respondent during the disputed period. Detection bill amounting to Rs. 38,075/- for 2,974 units for the period from 20.02.2013 to 21.08.2013 (6 months) charged to the respondent for December 2013 has no justification and therefore the respondent is not liable to pay the same as already determined in the impugned decision. The impugned decision to this extent is liable to be maintained.
- It would be appropriate to charge the detection bill @ 173 units/month for the disputed period as recorded during the period after dispute i.e. September 2013 to August 2014. According to clause 9.1 c (3) of Consumer Service Manual (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

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charged the detection bill @ 173 units/month for three months only i.e. June 2013 to August 2013. The impugned decision is liable to be modified to this extent.

8. In view of foregoing discussion, we have reached to the conclusion that:
 - i. Detection bill amounting to R. 38,075/- for 2,974 units for the period from 20.02.2013 to 21.08.2013 (6 months) added in the bill for December 2013 charged to the respondent is declared as null and void and the respondent is not liable to pay the same. The impugned decision to this extent is upheld
 - ii. The respondent is liable to be charged the detection bill @ 173 units/month for the period from June 2013 to August 2013 (3months). 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: 10.05.2016