



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

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No. NEPRA/AB/Appeal-051/POI-2016/1295-1299

September 30, 2016

1. Ahmed Imtiaz,
(Muhammad Saleem),
House No. 132, Street No. 11,
Al-Hamra Co-Operative Housing Society,
Karachi
2. The Chief Executive Officer,
K-Electric,
KE House, 39-B,
Sunset Boulevard, DHA-II,
Karachi
3. Asif Shajer,
Deputy General Manager,
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. Electric Inspector,
Karachi Region-I,
Block No. 51, Pak Secretariat,
Shahra-e-Iraq, Saddar,
Karachi

Subject: **Appeal Titled K-Electric Ltd Vs. Ahmed Imtiaz Against the Decision Dated 29.01.2016 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 29.09.2016, regarding the subject matter, for information and necessary action accordingly.

Encl: **As Above**

No. NEPRA/AB/Appeal-051/POI-2016/1300

Forwarded for information please.

(Ikram Shakeel)

September 30, 2016


Assistant Director
Appellate Board

1. Registrar
2. Director (CAD)

CC:

1. Member (CA)



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-051/2016

K-Electric Ltd

.....Appellant

Versus

Ahmed Imtiaz (Muhammad Saleem), Plot No.132, Block 7-8,
Street No.11, Al- Hamra Co-Operative Housing Society, Karachi

.....Respondent

For the appellant:

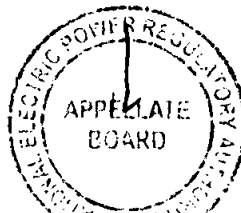
Ms. Tatheera Fatima Deputy General Manager (Legal Distribution)
Mr. Omair Farooq Deputy Manager
Mr. Imran Hanif Assistant Manager
Mr. Sajid Hussain (Legal Coordinator)

For the respondent:

Mr. Ahmed Imtiaz

DECISION

1. Brief facts leading to the disposal of this case are that the respondent is a domestic consumer of K-Electric bearing Ref No. AL-222009 with a sanctioned load of 10kW under A1-R tariff. The premises of the respondent was inspected by K-Electric on 08.10.2013 and allegedly, the respondent was found abstracting electricity dishonestly through use of neutral break and the connected load was observed as 20.488 kW, which is higher than the sanctioned load. After issuing notice dated 08.10.2013 to the respondent regarding above discrepancy, a detection bill of Rs. 138,951/- for 7,996 units for the period 06.04.2013 to 05.10.2013 (May 2013 to October 2013) was charged to the respondent in December 2013 on the basis of connected load.
2. Being aggrieved, the respondent filed a Writ Petition CP No. D-5447/2013 before Sindh High Court, Karachi and challenged the aforesaid detection bill. The honorable Sindh High Court, Karachi referred the matter to Provincial Office of Inspection (POI) vide its order dated



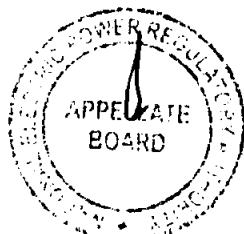


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01.09.2015 for further adjudication. Subsequently, the respondent filed an application dated 28.09.2015 before POI and assailed the detection bill of Rs. 138,951/- for 7,996 units for the period 06.04.2013 to 05.10.2013 (May 2013 to October 2013) charged in December 2013. POI disposed of the matter vide its decision dated 29.01.2016 with the following conclusion:

"After conducting several number of hearings and finally on 05.11.2015, giving fair opportunities to hear both the parties, scrutinizing the record, made available with this authority and in the light of above findings, this authority is of the firm view that Opponents failed to act in accordance with the mandatory requirements of Electricity Act 1910 and guidelines communicated through Consumer Service Manual (CSM) of NEPRA as pointed out in above findings. The authority therefore direct the Opponents to cancel the detection bill amounting to Rs.138,951 for 7,996 units for the period 05.04.2013 to 05.10.2013, as it has 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 bill and afterwards, as compliant was not found at fault. The complaint is disposed off in terms of above for compliance by the Opponents and complaint as well."

3. Being dissatisfied with the POI decision dated 29.01.2016 (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 NEPRA Act 1997). In its appeal, K-Electric pleaded that being a case of theft of electricity, it was beyond the jurisdiction of POI. K-Electric asserted that the detection bill amounting to Rs. 138,951/- for 7,996 units for the period 06.04.2013 to 05.10.2013 (May 2013 to October 2013) charged to the respondent in December 2013 due to illegal abstraction of electricity was legal, justified and the respondent is liable to pay the same.
4. Notice of the appeal was issued to the respondent for filing reply/parawise comments, which were filed on 04.05.2016. In his reply, the respondent refuted the allegation of theft of electricity leveled by K-Electric. The respondent contended that the appeal filed by K-Electric is time barred as the impugned decision was pronounced on 29.01.2016 whereas the appeal was filed on 07.03.2016 after a lapse of 37 days without any cogent reason. As per respondent, neither any notice was served upon him by K-Electric nor was any inspection of the premises carried out in his presence, which is violative of section 20 of Electricity Act 1910 and Consumer Service Manual (CSM). The respondent defended the impugned decision and prayed for upholding the same.



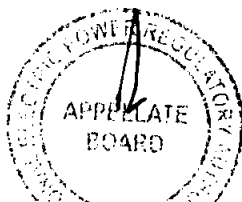


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5. After issuing notice to both the parties, hearing of the appeal was conducted in NEPRA's Regional Office at Karachi on 09.09.2016 in which Ms. Tatheera Fatima Deputy General Manager (Distribution Legal) along with her team appeared for the appellant K-Electric and Mr. Ahmed Imtiaz the respondent appeared in person. Learned representative of K-Electric repeated the same arguments as earlier narrated in memo of the appeal and contended that site of the respondent was checked by K-Electric on 08.10.2013 and the respondent was found consuming electricity illegally through use of neutral break and the load connected was much above the sanctioned load. According to K-Electric, the detection bill of Rs. 138,951/- for 7,996 units for the period 06.04.2013 to 05.10.2013 (May 2013 to October 2013) was charged in December 2013 on the basis of connected load in order to recover the revenue loss sustained by K-Electric due to dishonest abstraction of electricity by the respondent. K-Electric pleaded that the detection bill charged to the respondent is legal, valid and justified and payable by the respondent. On the other hand, the respondent refuted the allegation of theft leveled by K-Electric and contended that neither any notice was served to him by K-Electric nor he was associated during inspection of the premises. The respondent argued that after reporting of the alleged theft and removal of discrepancy, there was no variation in the consumption of the respondent during the period to follow. According to the respondent, the detection bill of Rs. 138,951/- for 7,996 units for the period 06.04.2013 to 05.10.2013 charged in December 2013 is not justified and he is not liable to pay the same. The respondent defended the impugned decision and pleaded for cancellation of the aforesaid detection bill.
6. Arguments heard and record perused. As far as the objection of the K-Electric as to the jurisdiction of POI, judgment of Honorable Supreme Court of Pakistan cited as "PLD-2012-SC-371" may be referred and relevant portion is reproduced as under:-

(a) Electricity Act (IX OF 1910---

---Ss. 26(6) & 26-A---Detection Bill, issuance of---Theft of energy by consumer, charge of--- Jurisdiction of Electric Inspector and Advisory Board---Scope---Electric Inspector for processing special expertise in examining the working of metering equipment and other related apparatus had jurisdiction to certain reference under S.26(6) of Electricity Act, 1910 only in case of dishonest consumption of energy by consumer through deliberate manipulation of or tampering with metering equipment or other similar apparatus---Electric Inspector would have no jurisdiction in matter of theft by means other than tampering or manipulation of metering equipment etc. falling exclusively under S.26-A of Electricity Act, 1910---





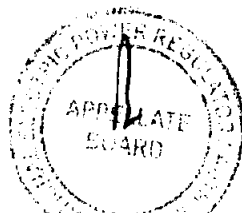
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Principles."

Since in this case, theft is being alleged through manipulation of the metering equipment therefore, in view of the principle laid down by Honorable Supreme Court of Pakistan, POI has the jurisdiction to entertain the complaint. Therefore, we agree with the conclusion of POI as per impugned decision that POI has jurisdiction in the instant case and the objection of K-Electric in this regard is therefore overruled. As regards the objection of the respondent that the appeal is time barred, it is relevant to clarify that the impugned decision was announced on 29.01.2016 and received by K-Electric on 09.02.2016. The appeal against the impugned decision was filed before NEPRA on 09.03.2016 within 30 days of its receipt as prescribed under section 38(3) of NEPRA Act 1997. Therefore the objection of the respondent in this regard is also overruled and the appeal is considered to be filed within the prescribed time. As per merits of the case, a detection bill of Rs. 138,951/- for 7,996 units for the period 06.04.2013 to 05.10.2013 (May 2013 to October 2013) was charged to the respondent in December 2013 on the basis of connected load which was challenged by the respondent before POI vide the application dated 28.09.2015. A comparison of the consumption recorded between the disputed and undisputed periods as per data provided by K-Electric is tabulated as under:

Period	Normal Mode Average Units/Month	Detection Mode Average Units/Month
Period before dispute February 2013 to April 2013 (3 months)	822	-
Disputed period May 2013 to October 2013 (6 months)	1,730	3,062
Period after dispute November 2013 to September 2013 (11 months)	1,450	-

It is evident from the above table that the detection bill charged @ 3,062 units/month during the disputed period is much higher than the consumption recorded @ 822 units/month and 1,450 units/month in normal mode in the periods before and after the dispute respectively. Moreover the consumption of 1,730 units/month during the disputed period is also considerably higher than the consumption during the undisputed periods





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(prior/after), which supports the stance of the respondent that no significant variation occurred in the consumption of electricity by the respondent. Under these circumstances, the detection bill amounting to Rs. 138,951/- for 7,996 units for the period 06.04.2013 to 05.10.2013 (May 2013 to October 2013) charged to the respondent in December 2013 was not justified and therefore is rightly cancelled through the impugned decision.

7. For the foregoing reasons, the impugned decision is upheld and accordingly the appeal is dismissed.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Date: 29.09.2016

