



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

NEPRA Office, Atta Turk Avenue (East), G5/1, Islamabad
Tel. No. +92 051 2013200 Fax No. +92 051 2600030
Website: www.nepra.org.pk E-mail: office@nepra.org.pk

No. NEPRA/AB/Appeal-054/POI-2016/ 1537-1541

December 05, 2016

1. Shahid Mahmood,
S/o Asghar Ali,
R/o House No. 158-A,
Street No. 19, Block-B,
Urdu Bazar, Sher Shah Colony,
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-II,
Block No. 51, Pak Secretariat,
Shahra-e-Iraq, Saddar,
Karachi

Subject: Appeal Titled K-Electric Ltd Vs. Shahid Mahmood Against the Decision Dated 27.01.2016 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 02.12.2016, regarding the subject matter, for information and necessary action accordingly.

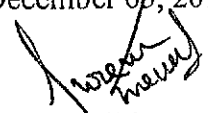
Encl: As Above

(Ikram Shakeel)

No. NEPRA/AB/Appeal-054/POI-2016/ 1542

December 05, 2016

Forwarded for information please.


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-054/2016

K-Electric Ltd

.....Appellant

Versus

Shahid Mahmood S/o Asghar Ali, R/o House No.158-A,
Street No.19, Block-B, Urdu Bazar, Sher Shah Colony, Karachi

.....Respondent

For the appellant:

Ms. Tatheera Fatima Deputy General Manager (Legal Distribution)
Mr. Masahib Ali Deputy Manager
Mr. Anas Lakhani

For the respondent:

Mr. Abdul Baqi Lone advocate
Mr. Shahid Mahmood

DECISION

1. This decision shall dispose of the appeal filed by K-Electric against the decision dated 27.01.2016 of Provincial Office of Inspection/Electric Inspector, Karachi Region-II, Karachi (hereinafter referred to as POI).
2. Brief facts of the case are that the respondent is a consumer of K-Electric having two connections bearing Ref No. LA-059240 with a sanctioned load of 1kW under A1-R tariff (hereinafter referred to as residential connection) and Ref No. AP-74736 with a sanctioned load of 8 kW under B-1 tariff (hereinafter referred to as industrial connection). Premises of the respondent was inspected by K-Electric on 07.09.2015 and meters of both connections were found dead stop and allegedly the respondent was dishonestly abstracting electricity with the means of an extra phase. Moreover the connected loads were observed as 9.013 kW and



National Electric Power Regulatory Authority

7.823 kW for industrial and residential connections respectively. The respondent filed first application before POI on 10.09.2015 and prayed for restraining K-Electric from changing the meters and disconnection of electric supply. On request of the respondent, POI inspected the premises of the respondent in presence of both the parties on 17.09.2015 and no discrepancy whatsoever was noticed in the industrial connection however neutral break was found in the residential connection. Both the meters were replaced by K-Electric in presence of POI on the same day. Notices were issued to the respondent regarding above discrepancies and first detection bill of Rs.1,278,159/- for 65,559 units for the period 11.02.2014 to 11.08.2015 (18 months) for industrial connection and second detection bill of Rs. 399,919/- for 23,798 units for the period 11.02.2014 to 11.08.2015 (18 months) against residential connection were charged by K-Electric on 16.10.2015.

3. Being aggrieved, the respondent challenged the aforesaid detection bills before Sindh High Court, Karachi through CP No.D-6779/2015 and the honorable Court referred the matter to POI vide its order dated 30.10.2015 for further adjudication. The respondent filed second application dated 16.11.2015 before POI and challenged the detection bills of Rs. 1,278,159/- and Rs. 399,919/- charged to industrial and residential connections respectively. POI disposed of the matter vide its decision dated 27.01.2016 with the following conclusion:

"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, this authority is of the firm view that both detection bills bearing Consumer No.AP-074736 amounting to Rs.1,278,159/- of 65,559 units for the period 11.02.2014 to 11.08.2015 and other irregular bill bearing Consumer No.LA-059240 amounting to Rs.399,920/- of 23810 units for the period from 11.02.2014 to 10.08.2015 are at higher side and both irregular bills are directed to be revised up-to 06 months and 03 months respectively. The complainant is directed to regularize his unauthorized extended load as per codal formalities of the opponents. The complaint of the complainant disposed off with above remarks."

4. Being dissatisfied with the POI decision dated 27.01.2016 (hereinafter referred to as the impugned decision), K-Electric has filed the instant appeal under section 38 (3) of the



National Electric Power Regulatory Authority

Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (hereinafter referred to as the NEPRA Act 1997). In its appeal, K-Electric contended that premises of the respondent was checked on 07.09.2015 and theft of electricity was detected both in residential and industrial connections. According to K-Electric, the detection bill of Rs. 1,278,159/- charged to industrial connection and Rs. 399,919/- charged against the residential connection are legal, valid, justified and payable by the respondent. K-Electric pleaded that POI is not authorized to decide the cases of theft of electricity and as such the impugned decision is without lawful authority and liable to be set aside.

5. Notice was issued to the respondent for filing reply/parawise comments, which were filed on 31.05.2016. In his reply, the respondent raised the preliminary objection regarding maintainability of the appeal and contended that the impugned decision for charging the detection bills for three and six months respectively was not justified, hence an appeal against the impugned decision was filed by the respondent before the Secretary Advisory Energy Department Government of Sindh at Karachi under Section 10 of Sindh (Establishment & Powers of Inspection Order 2004), which is still pending and therefore the appeal of K-Electric in this regard before this forum is not maintainable. The respondent submitted that the impugned decision is violative of chapter 6 and 9 of Consumer Service Manual (CSM). The respondent averred that neither any notice was served upon him nor any inspection was carried out by K-Electric during their presence. As per respondent, POI inspected their premises on 17.09.2015 and found no discrepancy in the industrial connection and as regards neutral break found in the residential connection, the respondent denied any responsibility for the same. The respondent contended that detection bills are unjustified, illegal and therefore liable to be cancelled.
6. After issuing notice to both the parties, hearing of the appeal was conducted in Karachi on 31.10.2016 in which Ms. Tatheera Fatima Deputy General Manager (Distribution Legal) appeared along with her team for the appellant K-Electric and Mr. Shahid Mahmood the respondent appeared in person along with Mr. Abdul Baqi Lone advocate. Learned representative of K-Electric contended that site of the respondent was checked by K-Electric on 07.09.2015 and the respondent was found consuming electricity illegally through use of extra phase and neutral break. According to K-Electric, first detection bill of Rs. 1,278,159/- for

1



National Electric Power Regulatory Authority

65,559 units for the period 11.02.2014 to 11.08.2015 (18 months) for industrial connection and second detection bill of Rs. 399,919/- for 23,798 units for the period 11.02.2014 to 11.08.2015 (18 months) against residential connection were charged by K-Electric to the respondent due to dishonest abstraction of electricity. K-Electric pleaded that both the detection bills charged to the respondent are legal, valid, justified and payable by the respondent. Conversely, learned counsel for the respondent contended that being aggrieved, an appeal against the impugned decision was filed by the respondent before the Secretary Advisory Energy Department Government of Sindh at Karachi under Section 10 of Sindh (Establishment & Powers of Inspection Order 2004), which is still pending and therefore the instant appeal of K-Electric before NEPRA is not maintainable.

7. We have heard arguments of both the parties and examined the record placed before us. Following are our observations:
- i. Theft of electricity by the respondent is alleged by K-Electric but no FIR or other proceedings as required under law and Consumer Service Manual were initiated by K-Electric and moreover theft of electricity was also not established. The objection of K-Electric regarding jurisdiction of POI is not valid.
 - ii. The appeal against the impugned decision has been filed by K-Electric under section 38 (3) of NEPRA Act 1997 and is maintainable. The objection of the respondent in this regard has no force.
 - iii. First detection bill of Rs. 1,278,159/- for 65,559 units for the period 11.02.2014 to 11.08.2015 (18 months) for the industrial connection and second detection bill of Rs. 399,919/- for 23,798 units for the period 11.02.2014 to 11.08.2015 (18 months) for the residential connection were charged, which were challenged before POI.
 - iv. As per clause 9.1c (3) of Consumer Service Manual (CSM), the period for charging the detection bill for residential and industrial consumers has been restricted to three months and six months respectively. There is no justification for K-Electric to charge the detection bill beyond that period. Therefore we are inclined to agree with the determination of POI that first detection bill of Rs. 1,278,159/- for 65,559 units for the period 11.02.2014 to 11.08.2015

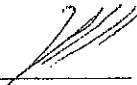


National Electric Power Regulatory Authority

(18 months) against the industrial connection and the second detection bill of Rs. 399,919/- for 23,798 units for the period 11.02.2014 to 11.08.2015 (18 months) against the residential connection charged to the respondent have no justification and need to be cancelled. As determined by POI, the respondent should be charged the detection bills for a period of three months and six months for residential and industrial connections respectively.

8. Forgoing in consideration, it is concluded that:
- i. The objection of K-Electric regarding jurisdiction of POI is not valid and therefore rejected.
 - ii. The appeal was filed within prescribed time limit and objection of the respondent in this regard is not maintainable and therefore dismissed.
 - iii. First detection bill of Rs. 1,278,159/- for 65,559 units for the period 11.02.2014 to 11.08.2015 (18 months) for the industrial connection and second detection bill of Rs. 399,919/- for 23,798 units for the period 11.02.2014 to 11.08.2015 (18 months) for the residential connection are declared null, void and not payable by the respondent Impugned decision to this extent is maintained.
 - iv. However the respondent should be charged the first detection bill against industrial connection for six months only and second detection bill against residential connection for three months only as determined in the impugned decision.
9. There is no reason to interfere with the impugned decision which is upheld and consequently the appeal of K-Electric is dismissed.


Muhammad Qamar-uz-Zaman
Member


Muhammad Shafique
Member


Nadir Ali Khoso
Convener

Date: 02.12.2016