



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

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No. NEPRA/AB/Appeal-079/POI-2016/ *1635-1639*

December 06, 2016

1. Muhammad Aslam,
Flat No. 08-Amina Manzil,
Narain Street, Pakistan Chowk,
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. Muhammd Aslam Against the Decision Dated 11.03.2016 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 06.12.2016, regarding the subject matter, for information and necessary action accordingly.

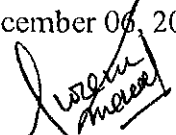
Encl: As Above

(Ikram Shakeel)

No. NEPRA/AB/Appeal-079/POI-2016/ *1640*

December 06, 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-079/POI-2016

K-Electric Ltd

.....Appellant

Versus

Muhammad Aslam 08 Amina Manzil,
3rd Floor Belassis Street, Outram Road, Karachi

.....Respondent

For the appellant:

Mr. Manzoor Ali Deputy General Manager
Mr. Nursing Lal Manager
Mr. Masahib Ali Deputy Manager
Mr. Imran Hanif Assistant Manager
Mr. Anas Lakhani

For the respondent:

Mr. Murtaza Abbas Ali
Ms. Muffaddal

DECISION

1. This decision shall dispose of the appeal filed by K-Electric against the decision dated 11.03.2016 of Provincial Office of Inspection/Electric Inspector, Karachi Region-I, Karachi (hereinafter referred to as POI).
2. Brief facts of the case are that the respondent is a domestic consumer of K-Electric bearing Ref No. AL-198400 with a sanctioned load of 1kW under A1-R tariff. Premises of the respondent was inspected by K-Electric on 02.10.2013, 28.03.2014 and 28.06.2014 respectively and on each occasion, allegedly, the respondent was found involved in dishonest abstraction of electricity through use of an extra phase, moreover the connected load was noticed as 2.77 kW,





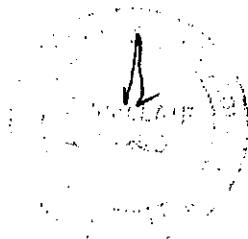
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5.435 kW and 5.728 kW respectively against the sanctioned load of 1 kW. As per K-Electric, after issuing notices to the respondent regarding above discrepancy, three detection bills were charged for the period 10.03.2013 to 09.06.2014 (15 months) to the respondent on the basis of connected load. The detail of irregular/detection bill is tabulated below:

Bill Type	Period	Months	Units	Amount (Rs.)
Detection bill	10.03.2013 to 09.09.2013	6	666	7,436/-
Detection bill	10.09.2013 to 11.03.2013	6	1,740	23,674/-
Detection bill	12.03.2013 to 09.06.2014	3	2,145	36,035/-

3. Being aggrieved, the respondent filed an application before POI on 24.07.2014 and assailed the arrears due to irregular bills amounting to Rs. 68,278/- charged by K-Electric till July 2014. The respondent submitted that the irregular bills charged were illegal, unjustified and he was not liable to pay the same. During the pendency of case before POI, premises of the respondent was again inspected by K-Electric on 18.11.2014 and allegedly he was found stealing electricity through an extra phase and the connected load was noticed as 9.583 kW being much higher than the sanctioned load. Another detection bill amounting to Rs.83,218/- for 4,724 units for the period 10.06.2014 to 11.11.2014 (5 months) was charged to the respondent on the basis of connected load, which was also disputed by the respondent before POI. The matter was disposed of by POI vide its decision dated 11.03.2016, the operative portion of which is reproduced below:

"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 above findings, this authority is of the firm view that Opponents have violated the mandatory requirements of Electricity Act-1910 and guide lines communicate through Consumer Service Manual (CSM) of NEPRA as pointed out in above findings. The authority therefore, direct the Opponents to cancel the detection bills amounting to Rs.7,436/- of 666 units for the period 10.03.2013 to 09.09.2013, Rs.23,674/- of 1,740 units for the period 10.09.2013 to 11.03.2014, Rs.36035/- of 2,145 units for the period from 12.03.2014 to 09.06.2014 &Rs.83,218/- for the period from 10.06.2014 to 11.11.2014 (issued during the pendency of case), as these have no justification on technical and legal grounds. It is further directed to waive all late payment surcharges and disconnection/reconnection charges after issuance of the impugned detection bill and afterwards, as the complaint was not found at fault. The complaint is disposed off in





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above terms of above for compliance by the Opponents”

4. K-Electric was dissatisfied with the POI decision dated 11.03.2016 (hereinafter referred to as the impugned decision) and therefore 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 contended that the premises of the respondent was inspected on 02.10.2013, 28.03.2014, 28.06.2014 and 18.11.2014 and on all the occasions, the respondent was found consuming electricity directly through use of an extra phase and the connected load was much higher than the sanctioned load. According to K-Electric, four detection bills for the period 10.03.2013 to 11.11.2014 (20 months) charged to the respondent on the basis of connected load were legal, valid, justified and the respondent is liable to pay the same. K-Electric stated that FIR could not be registered against the respondent as he had agreed for payment of the detection bills. K-Electric submitted that as notice under section 20 of the Electricity Act 1910 was issued, that dispenses with the necessity of issuing notice under clause 14.1 of Consumer Service Manual (CSM). K-Electric further explained that the presence of POI during inspection of the domestic connection is not mandatory and as regards the presence of two witnesses of the area, K-Electric contended that people of the area never agree for such role. As per K-Electric, being a case of theft of electricity, POI was not empowered to decide the instant matter. K-Electric pleaded that the impugned decision was illegal, without jurisdiction and therefore liable to be set aside.
5. A notice of the above appeal was issued to the respondent for filing reply/parawise comments, which were filed on 17.05.2016. In his reply, the respondent denied the allegation of theft of electricity levelled by K-Electric and contended that neither any prior notice was served nor any inspection was conducted in his presence, moreover the respondent also denied the receipt of any notice regarding the discrepancy alleged by K-Electric. The respondent submitted that four detection bills were charged by K-Electric continuously for the period 10.03.2013 to 11.11.2014 (20 months) due to alleged dishonest abstraction of electricity, which is violative of law and CSM. Finally the respondent prayed for dismissal of the appeal.
6. After issuing notice to both the parties, hearing of the appeal was conducted in Karachi on 28.11.2016 in which Mr. Manzoor Ali Deputy General Manager along with other officials represented the appellant K-Electric and Mr. Murtaza Abbas Ali along with Ms. Muffaddal



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entered appearance for the respondent. Representative of K-Electric reiterated the same arguments as earlier given in memo of the appeal and contended that the premises of the respondent was inspected by K-Electric four times and on each occasion, the respondent was found stealing electricity through an extra phase and his connected load was found much higher than the sanctioned load. As per representatives for K-Electric, four detection bills were charged for the period 10.03.2013 to 11.11.2014 (20 months) to the respondent to recover the revenue loss sustained by K-Electric due to theft of electricity by the respondent. According to K-Electric, consumption of the respondent during disputed period was very low as compared to the period after dispute, which proved that the respondent was using electricity illegally. K-Electric further pleaded that the impugned decision was unjustified and liable to be set aside. Conversely, representative for the respondent refuted the allegation of theft of electricity leveled by K-Electric and contended that neither any notice was served to the respondent before and after alleged checking nor the respondent was associated during inspection of the premises. As per representative for the respondent, four detection bills were charged uninterruptedly for the period 10.03.2013 to 11.11.2014 (20 months) due to alleged illegal abstraction of electricity but K-Electric failed to register FIR or initiate any criminal proceeding as per provisions of CSM. The representative for the respondent submitted that the impugned decision pronounced by POI was as per facts and law and should be upheld.

7. Arguments of both the parties heard, perused the record, Following are our observations:
- i. Theft of electricity by the respondent is alleged by K-Electric but no FIR and other criminal proceedings as required under law and CSM were initiated by K-Electric and moreover as observed by POI, no concrete proof was provided by K-Electric regarding theft of electricity. We are not convinced with the stance of K-Electric that due to some reasons procedure laid down by CSM could not be followed. Therefore the objection of K-Electric regarding jurisdiction of POI being a theft case is not sustainable and liable to be dismissed.
 - ii. Four detection bills were charged consecutively for the period 10.03.2013 to 11.11.2014 (20 months) by K-Electric to the respondent on the basis of the connected load, the detail of which is tabulated below:





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Bill Type	Period	Months	Units	Amount (Rs.)
Detection bill	10.03.2013 to 09.09.2013	6	666	7,436/-
Detection bill	10.09.2013 to 11.03.2013	6	1,740	23,674/-
Detection bill	12.03.2013 to 09.06.2014	3	2,145	36,035/-
Detection bill	10.06.2014 to 11.11.2014	5	4,764	83,218/-

Charging of the detection bill is restricted for three months, pursuant to clause 9.1 c (3) of CSM as K-Electric could not produce any document to the effect of approval for maximum six months and initiation of action against the responsible K-Electric officials. Since K-Electric failed to follow the procedure of CSM, hence all the above detection bills charged for the period 10.03.2013 to 11.11.2014 (20 months) to the respondent have no justification and liable to be cancelled. The respondent is liable to charge the detection bill for three months only i.e. September 2014 to November 2014, if justified.

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
Disputed period July 2014 to November 2014 (5 months)	575	1,518
Period after dispute December 2014 to October 2015 (11 months)	639	-

It is evident from the above table that the average consumption of 575 units/month charged during the disputed period i.e. July 2014 to November 2014 is lesser than the average consumption of 639 units/month recorded in normal mode during the period after dispute i.e. December 2014 to October 2015, which established that the actual consumption was not being recorded by the meter during the disputed period. Therefore it would be fair and appropriate to charge the detection bill @ 639 units/months for three months only i.e. September 2014 to November 2014 as recorded during the undisputed period after dispute. The respondent is liable to be charged @ 639 units/months for the period i.e. September 2014 to November 2014, however the units already charged in normal mode by K-Electric to the respondent during the same period should be credited.





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

- i. Objection of K-Electric regarding jurisdiction of POI has no force and therefore dismissed.
- ii. All the detection bills charged during the disputed period 10.03.2013 to 11.11.2014 (20 months) to the respondent as per detail given below are declared null, void and not payable by the respondent.

Bill Type	Period	Months	Units	Amount (Rs.)
Detection bill	10.03.2013 to 09.09.2013	6	666	7,436/-
Detection bill	10.09.2013 to 11.03.2013	6	1,740	23,674/-
Detection bill	12.03.2013 to 09.06.2014	3	2,145	36,035/-
Detection bill	10.06.2014 to 11.11.2014	5	4,764	83,218/-

Impugned decision to this extent is upheld.

- iii. The respondent should be charged the detection bill @ 639 units/month for three months only i.e. September 2014 to November 2014 and the revised bills be issued to the respondent after making adjustment of units already charged in normal mode during the same period. Impugned decision is modified to this extent.
- iv. Late payment surcharges (LPS) if any, levied by K-Electric due to non-payment of the detection bills for the period 10.03.2013 to 11.11.2014 (20 months) should be waived off as already decided by POI in the impugned decision.

9. The appeal is disposed of in above terms.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Date: 06.12.2016

