



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-127/2016/ & 142/2016/1264-1268

September 26, 2016

1. Muhammad Yaseen,
S/o Khalil Ahmed Bhatti,
House No. P-375, Gali No. 2,
Bhatta Town, Peoples Colony,
Near Piyala Hotel, North Nazimabad,
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. Muhammad Yaseen & Muhammad Yaseen Vs. K-Electric Ltd Against the Decision Dated 26.05.2016 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 22.09.2016, regarding the subject matter, for information and necessary action accordingly.

Encl: **As Above**

(Ikram Shakeel)

No. NEPRA/AB/Appeal-127/2016/ & 142/2016/ 1269

September 26, 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-127/POI-2016

K-Electric Ltd

.....Appellant

Versus

Muhammad Yaseen S/o Ahmed Bhatti, KESC Survey No.375,
Peoples Colony, North Nazimabad, Karachi

.....Respondent

Appeal No. NEPRA/Appeal-142/POI-2016

Muhammad Yaseen S/o Ahmed Bhatti, KESC Survey No.375,
Peoples Colony, North Nazimabad, Karachi

.....Appellant

Versus

K-Electric Ltd

.....Respondent

For K-Electric Ltd:

Ms. Tatheera Fatima Deputy General Manager (Legal Distribution)
Mr. Faisal Shafat Manager
Mr. Masahib Ali Deputy Manager
Mr. Imran Hanif Assistant Manager

For Consumer:

Mr. Muhammad Yaseen
Mr. Aneel Mumtaz

DECISION

1. The subject appeals have been filed against the same decision dated 26.05.2016 of Provincial Office of Inspection/Electric Inspector, Karachi Region-II, Karachi (hereinafter referred to as POI), therefore, through this consolidated decision, both the appeals are being disposed of.
2. Brief facts giving rise to the instant appeals are that K-Electric is a licensee of National Electric Power Regulatory Authority for distribution of electricity in the territory specified as per terms and conditions of the license and Mr. Muhammad Yaseen is it's residential consumer (hereinafter referred to as "the Consumer") bearing RefNo.AL-668946 with a sanctioned load of 1 kW under





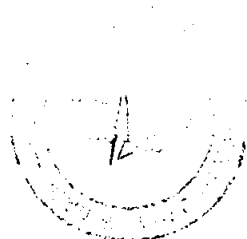
National Electric Power Regulatory Authority

A1-Rtariff. Site of the Consumer's connection was inspected by K-Electric on 10.09.2013 and 29.04.2014 and on both the occasions, allegedly the respondent was found involved in dishonest abstraction of electricity through use of a hook connection and the connected load was also found as 11.722 kW and 7.692 kW respectively, which is much higher than the sanctioned load. Accordingly, first detection bill of Rs. 98,300/- for 6,300 units for the period 12.03.2013 to 10.09.2013 (April 2013 to September 2013) and second detection bill of Rs. 70,450/- for 4,518 units for the period 10.10.2013 to 10.04.2014 (November 2013 to April 2014) were charged to the Consumer by K-Electric.

3. Being aggrieved with the aforesaid detection bills, the Consumer filed an application before POI on 06.06.2014 and challenged the accumulated arrears of Rs. 175,872/- charged by K-Electric in the month of June 2014. During the pendency of case, the Consumer filed another application before POI and challenged the arrears of assessed/average bill amounting to Rs. 344,552/- charged in January 2016.
4. POI announced its decision on 26.05.2016 (hereinafter referred to as "the impugned decision") and operative portion of the same 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 relevant provisions of law & Regulations and above findings, this authority is of the firm view that both detection bills amounting to Rs.98,300/- of 6,302 units for the period from 12.01.2013 to 10.08.2013 and second detection bill amounting to Rs.70,450/- of 4,518 units for the period from 11.10.2013 to 10.04.2014 issued by the opponents has no legal and technical grounds hence liable to be cancelled. *The entire Assessed billing also be cancelled and revised the same on actual meter readings. * The complainant is also directed to regularize his unauthorized extension of load as per codal formalities of opponents. * If the impugned meter is faulty the same be changed at once. * The opponent is also directed to take meter reading on every month as per procedure. * The complaint of the complainant is disposed off with above remarks."*

5. Being dissatisfied with the impugned decision, both the parties filed appeals 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"). As the subject matter of both of the appeals is the same, hence both the appeals have been clubbed together and being disposed of through a single decision.





National Electric Power Regulatory Authority

6. K-Electric contended that the premises of the Consumer was inspected on 10.09.2013, 29.04.2014 and on both the occasions, the Consumer was found stealing electricity through a hook connection. According to K-Electric, first detection bill of Rs. 98,300/- for 6,300 units for the period 12.03.2013 to 10.09.2013 (April 2013 to September 2013) and second detection bill of Rs. 70,450/- for 4,518 units for the period 10.10.2013 to 10.04.2014 (November 2013 to April 2014) were charged to the Consumer on the basis of connected load. K-Electric submitted that premises of the Consumer was again inspected on 06.07.2015 and the Consumer was dishonestly abstracting electricity through a hook and therefore third detection bill of Rs. 25,117/- for 1,553 units for the period 11.12.2014 to 11.06.2015 (January 2015 to June 2015) was charged to the Consumer. K-Electric contended that the Consumer is a habitual defaulter and also involved in theft of electricity therefore his arrears increased as the time passed. K-Electric further submitted that being a case of theft of electricity, jurisdiction of POI was barred in the instant matter. On the other hand, the appeal filed by the Consumer shows that the issues mentioned in the appeal were neither raised before POI nor discussed in the impugned decision and as such are not liable to be considered at this stage being irrelevant.
7. After issuing notice to both the parties, the hearing of the appeals was conducted in Karachi on 09.09.2016. Ms. Tatheera Fatima Deputy General Manager (Distribution Legal) along with her team represented K-Electric and the Consumer appeared in person along with his representative. Ms. Tatheera Fatima Deputy General Manager (Distribution Legal) the representative for K-Electric reiterated the same argument as narrated in memo of the appeal and contended that site of the Consumer was checked on 10.09.2013, 29.04.2014 and 06.07.2015 and on all the occasions, the electricity was being consumed directly and connected load was much higher than the sanctioned load. According to K-Electric, first detection bill of Rs. 98,300/- for 6,300 units for the period 12.03.2013 to 10.09.2013 (April 2013 to September 2013), second detection bill of Rs. 70,450/- for 4,518 units for the period 10.10.2013 to 10.04.2014 (November 2013 to April 2014) and third detection bill of Rs. 25,117/- for 1,553 units for the period 11.12.2014 to 11.06.2015 (January 2015 to June 2015) charged to the Consumer were legal, valid, justified and the Consumer is liable to pay the same. As per K-Electric, due to default in payment of electricity dues, electric connection of the Consumer was disconnected on 09.05.2016 but the supply was restored illegally by the Consumer. Mr. Aneel Mumtaz representative for the Consumer in his rebuttal contended that serial number of meters installed at site and mentioned in the bill are not





National Electric Power Regulatory Authority

the same. According to the representative for the Consumer, K-Electric did not specify the purpose of use of hook in its site inspection reports (SIR) and checking of the load was done by K-Electric unilaterally without involving the Consumer. He pointed that K-Electric failed to follow the procedure prescribed in the chapter 9 of Consumer Service Manual (CSM) for establishing the dishonest abstraction of electricity. According to the Consumer, all the SIRs were fake and allegation of theft of electricity was unfounded. Representative for the Consumer contended that there were lot of discrepancies in the impugned decision of POI and he demanded for taking action against K-Electric and POI under applicable criminal laws and constitution of Islamic Republic of Pakistan.

8. We heard arguments of both the parties and examined the record placed before us and 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 Consumer Service Manual were initiated by K-Electric and moreover as observed by POI, no concrete proof was provided by K-Electric regarding theft of electricity. Therefore objection of K-Electric regarding jurisdiction of POI being a theft case is not valid and therefore liable to be dismissed.
 - ii. The action sought by representative of the Consumer against K-Electric and POI is beyond the jurisdiction of the Appellate Board. Therefore such plea of the consumer is devoid of legal grounds and therefore dismissed
 - iii. First detection bill of Rs. 98,300/- for 6,300 units for the period 12.03.2013 to 10.09.2013 (April 2013 to September 2013) and second detection bill of Rs. 70,450/- for 4,518 units for the period 10.10.2013 to 10.04.2014 (November 2013 to April 2014) were charged to the Consumer and challenged before POI vide the application dated 06.06.2014.

Electricity consumption of the Consumer for the disputed and undisputed periods as per data provided by K-Electric is tabulated below:





National Electric Power Regulatory Authority

Table-A Period	Average Units/Month initially charged	Detection Mode Average Units/Month
First disputed period April 2013 to September 2013 (6 months)	215	1,266
Undisputed period October 2013 (1 month)	718	-
Second disputed period November 2013 to April 2014 (6 months)	260	1,013

From the above data it is revealed that both the detection bills charged @ 1,266 units/ month and @ 1,013 units/month to the Consumer in first disputed period i.e. April 2013 to September 2013 and second disputed period i.e. November 2013 to April 2014 respectively are remarkably higher than the normal consumption of 718 units in October 2013. Therefore first detection bill of Rs. 98,300/- for 6,300 units for the period 12.03.2013 to 10.09.2013 (April 2013 to September 2013) and second detection bill of Rs. 70,450/- for 4,518 units for the period 10.10.2013 to 10.04.2014 (November 2013 to April 2014) charged to the Consumer have no justification and liable to be cancelled as determined in the impugned decision.

However the normal consumption of electricity @ 215 units/month and @ 260 units/month for the first and second disputed period respectively are quite lesser than the normal consumption of 718 units recorded during undisputed month i.e. October 2013, which established that the actual consumption was not recorded by the meter during both the disputed periods. Therefore it would be fair and appropriate to charge the first and second detection bills on the basis of 718 units/month as recorded in October 2013 being undisputed. Having decided the quantum of electricity (718 units/month) of the detection bill, the period needs to be determined. In this regard, reliance is made on clause 9.1 c (3) of CSM, which prescribes charging the domestic consumer for a maximum period of 3 billing cycles, which could be extended to 6 months with the approval of Chief Executive of K-Electric or his authorized officer along with disciplinary action against the delinquents. K-Electric failed to do⁵⁰ therefore the Consumer is liable to be charged for a period of three months in case of each detection bill, which is explained in the following table:





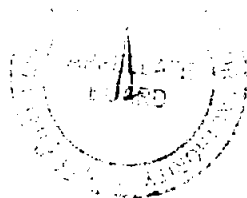
National Electric Power Regulatory Authority

Table-B Period	Allowable Period for detection bills	Units to be Charged	Units Already Charged	Net Units to be debited
First disputed period April 2013 to September 2013 (6 months)	July 2013 to September 2013 (3 months)	718 x 3 = 2,154	939	1,215
Second disputed period November 2013 to April 2014(6 months)	February 2014 to April 2014 (3 months)	718 x 3 = 2,154	895	1,259
Total		4,308	1,834	2,474

- iv. As regards charging of third detection bill of Rs. 25,117/- for 1,553 units for the period 11.12.2014 to 11.06.2015 (January 2015 to June 2015) to the Consumer, it is observed that neither third detection bill was challenged before POI nor any determination was given for the same in the impugned decision. Therefore plea of K-Electric in this regard is dismissed.
- v. During the pendency of his application before POI, the Consumer also challenged the assessed bill of Rs. 344,552/- charged by K-Electric in January 2016 but no breakup of the quantum and period has been provided for this assessed amount by the Consumer. However POI has also failed to specify the period of assessed bill, therefore the impugned decision for cancellation of entire assessed bills is ambiguous, unclear and non-speaking and therefore liable to be cancelled to that extent. As assessed bills till January 2016 were challenged during the pendency of case before POI, obviously those pertain to the period from May 2014 to January 2016 after the second disputed period ending in April 2014. Detail of the assessed/average bills charged to the Consumer is tabulated below:

Table-C Month	Assessed/ Average units	Month	Assessed/ Average units
June 2014	650	July 2015	0
July 2014	780	September 2015	1,000
September 2014	780	October 2015	1,101
October 2014	650	November 2015	950
December 2014	450	December 2015	590
June 2015	2,338	January 2016	500

- Total units charged in assessed/average mode = 9,792 units
- Total disputed months= 12 months
- Average units charged per month in assessed/average mode = $9,792/12= 816$ units/month





National Electric Power Regulatory Authority

From the above it is revealed that average consumption of 816 units/month in the above specified disputed months is higher than the undisputed 718 units as recorded in October 2013. Therefore it would be fair and appropriate to charge the 718 units/month for these disputed months as per calculation given below:

Table-D	Period	Units to be Charged	Units Already Charged	Units to be credited
Assessed Bills June 2014, July 2014, September 2014, October 2014, December 2014, June 2015, July 2015, September 2015, October 2015, November 2015, December 2015, January 2016 (12 months)		718 x 12 = 8,616	9,792	1,176

vi. Considering para 8.(iii) and (v) above, net units to be debited to the Consumer are explained below:

- Units to be debited to the Consumer (Table-B) = 2,474 unit
- Units to be credited to the consumer (Table-D)= 1,176 units
- Net units to be charged to the Consumer = 2,474 -- 1,176 = **1,298 units**

9. In view of forgoing discussion, it is concluded that;

- First detection bill of Rs.98,300/- for 6,300 units for the period 12.03.2013 to 10.09.2013 (April 2013 to September 2013) and second detection bill of Rs.70,450/- for 4,518 units for the period 10.10.2013 to 10.04.2014 (November 2013 to April 2014) charged to the Consumer are not justified and liable to be cancelled as determined in the impugned decision.
- The Consumer is liable to be charged for 1,298 units net till January 2016 (refer para 8.(vi) above). Impugned decision stands modified to this extent.
- The billing account of the Consumer be overhauled in view of para 9.(i) & (ii) above and the bills be issued accordingly.





National Electric Power Regulatory Authority

10. The appeals are disposed of in above terms.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Date: 22.09.2016

