



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](http://www.nepra.org.pk) E-mail: [office@nepra.org.pk](mailto:office@nepra.org.pk)

No. NEPRA/AB/Appeal-129/POI-2015/ 690 — 695 May 27, 2016

1. Fakhruddin,  
Rubb Bakery,  
Shop at House No. C-3,  
Nafess Banglows, Jinnah Square,  
Malir, Karachi
2. The Chief Executive Officer,  
K-Electric,  
KE House, 39-B,  
Sunset Boulevard, DHA-II,  
Karachi
3. Muhammad Zeeshan,  
Advocate High Court,  
Madina Law Associates,  
Office at G-87/10, Office No. 4 & 5,  
Malir Town, Near Liaquat Market,  
Karachi
4. Rafique Ahmed Shaikh,  
General Manager (Regulations),  
K-Electric, KE House, 39-B,  
Sunset Boulevard, DHA-II,  
Karachi
5. Ms. Tatheera Fatima,  
Deputy General Manager,  
K-Electric Ltd,  
3<sup>rd</sup> floor, KE Block,  
Civic Centre, Gulshan-e-Iqbal,  
Karachi
6. The Electric Inspector,  
Karachi Region-I,  
Block No. 51, Pak Secretariat,  
Shahra-e-Iraq, Saddar,  
Karachi

Subject: Appeal Titled K-Electric Ltd Vs. Fakhruddin Against the Decision Dated 30.10.2015 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 26.05.2016, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(Ikram Shakeel)

No. NEPRA/AB/Appeal-129/POI-2015/ 696

May 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-129/POI-2015

K-Electric Ltd

.....Appellant

Versus

Fakhruddin Rubab Bakery Shop at House No.C-3,  
Nafees Banglows, Jinnah Square, Malir, Karachi

.....Respondent

### For the appellant:

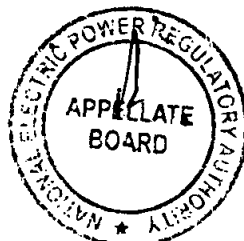
Ms. Tatheera Fatima Deputy General Manager (Legal Distribution)  
Mr. Asif Shajer Deputy General Manager  
Mr. Masahib Ali Deputy Manager  
Mr. Imran Hanif Assistant Manager (RAD)

### For the respondent:

Mr. Muhammad Zeeshan Advocate

## DECISION

1. Through this decision, an appeal filed by K-Electric against the decision dated 30.10.2015 of Provincial Office of Inspection/Electric Inspector, Karachi Region-I, Karachi (hereinafter referred to as POI) is being disposed of.
2. Brief facts of the case are that the respondent is a commercial consumer of K-Electric bearing Ref No. LA-731942 with a sanctioned load of 1 kW under A-2C tariff. Site of the respondent was inspected by K-Electric on 30.05.2015 and reportedly the respondent was found involved in dishonest abstraction of electricity through use of an extra phase and connected load was found as 6.564 kW. After issuing notice dated 07.06.2013, detection bill amounting to Rs. 222,907/- for 11,565 units for the period





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from 27.11.2012 to 20.05.2013 (6 months) was charged to the respondent in July 2013 on the basis of connected load.

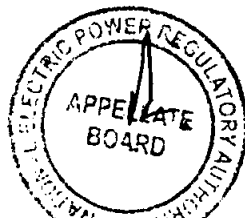
3. Being aggrieved, the respondent challenged the aforesaid detection bill before Sindh High Court, Karachi through C.P. No. D-3411/2013 on 29.08.2013. The honorable Sindh High Court disposed of the petition vide its order dated 07.08.2015, the operative portion of which is reproduced below.

*"Petition is disposed of as not pressed by giving specific directions to the petitioner to file an application before Electric Inspector within seven days and he would consider and decide the same within one month from the date of receipt of the application."*

4. The respondent filed an application dated 10.08.2015, which was disposed of by POI vide its decision dated 30.10.2015 with following conclusion:

*"After conducting 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 the opponents have violated the mandatory requirements of Electricity Act 1910 and guide lines communicated through Consumer Service Manual (CSM) of NEPRA as pointed out in the detection bill amounting to Rs.222,907/= of 11565 units for the period from 27.11.2012 to 20.05.2013, 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 irregular/detection bill and after words, as complainant was not found at fault. The earlier bill amounting to Rs. 99,487/- issued by the opponents and paid by complainants is a settled issue, hence requires no interference in the said matters. The complaint is disposed off in terms of above for compliance by the opponents."*

5. Being dissatisfied with the POI decision dated 30.10.2015 (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 30.05.2013 and the respondent was consuming electricity illegally through the use of an extra phase and the connected load was higher than the sanctioned load.

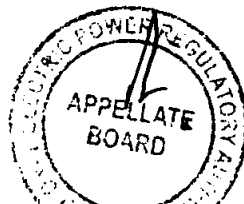




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According to K-Electric, the detection bill amounting to Rs. 222,907/- for 11,565 units for the period from 27.11.2012 to 20.05.2013 (6 months) charged to the respondent in July 2013 on the basis of connected load was justified and the respondent is 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 and as such it is beyond its jurisdiction.

6. In response to the above appeal, the respondent was issued a notice for filing reply/parawise comments, which were submitted on 27.04.2016. The respondent denied the allegation of theft and submitted that the detection bill of Rs.99,487/- charged by K-Electric in November 2012 was not justified, but same was paid in installments under protest. The respondent further submitted that K-Electric issued another detection bill of Rs.246,134/- in July 2013 just after completion of installments of previous detection bill, which was illegal, unjustified and therefore be declared null & void as determined in the impugned decision. The respondent pleaded for dismissal of the appeal.
7. After issuing notice to both the parties, the appeal was heard in Karachi on 09.05.2016 in which, Ms. Tatheera Fatima Deputy General Manager (Legal Distribution), Mr. Asif Shajer Deputy General Manager, Mr. Masahib Ali Deputy Manager and Mr. Imran Hanif Assistant Manager (RAD) appeared for the appellant K-Electric. Ms. Tatheera Fatima Deputy General Manager (Legal Distribution) the representative of K-Electric repeated the same arguments as earlier given in memo of the appeal and contended that the respondent was found using electricity directly during site inspection carried out by K-Electric on 30.05.2013. According to the learned representative for K-Electric, the detection bill amounting to Rs. 222,907/- for 11,565 units for the period from 27.11.2012 to 20.05.2013 charged on connected load basis to the respondent in July 2013 was justified and the respondent is liable to pay the same. Representative of K-Electric argued that from the consumption data, it is proved that the respondent was using electricity through unfair means and was therefore charged the detection bill for 6 months on the basis of connected load as per K-Electric policy. K-electric further

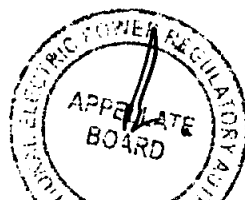




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pointed out that the impugned decision could not be pronounced by POI within one month despite the direction of honorable Sindh High Court, Karachi vide its order dated 07.08.2015 and as such the impugned decision was void and therefore liable to be set aside. Mr. Muhammad Zeeshan Advocate, the learned representative of the respondent contended that the respondent was not using an extra phase for stealing electricity and the allegation of K-Electric in this regard was baseless and malafide. Learned representative of the respondent averred that neither checking of the electricity meter was carried out in respondent's presence nor any notice was served in this regard. Moreover he contended that the application was filed within time limit of 7 days of the order of honorable Sindh High Court, Karachi. Regarding delay in determination beyond one month, the representative of the respondent pleaded that such delay would not nullify the impugned decision. The respondent defended the impugned decision and pleaded that the same shall be upheld.

8. We have heard arguments of both the parties and examined the record placed before us. It has been observed as under:-
- i. We are in agreement with the stance of the representative of the respondent that the application was filed within 7 days as per direction of honorable Sindh High Court and the determination of POI after lapse of one month of directions of honorable Sindh High Court would not render the decision null and void. Preliminary objection of K-Electric is not convincing therefore dismissed.
  - ii. 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. Objection of K-Electric regarding jurisdiction of POI being a theft case is not valid and therefore liable to be dismissed.
  - iii. The detection bill amounting to Rs. 222,907/- for 11,565 units for the period from 27.11.2012 to 20.05.2013 added in July 2013 was challenged by the respondent vide its application dated 10.08.2015 before POI.



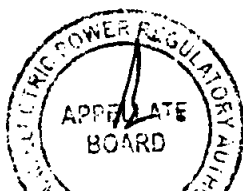


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iv. The comparison of the electricity consumption between the disputed and undisputed periods as obtained from the consumption data of K-Electric is as under:

Period	Normal Mode Average Units/Month	Detection Mode Average Units/Month
<b>Period before dispute</b> 12/2011 to 11/2012 (12 months)	267	-
<b>Disputed period</b> 27.11.2012 to 20.05.2013 (6 months)	427	2355
<b>Period after dispute</b> 06/2013 to 05/2014 (12 months)	485	-

- It is evident from the above table that the detection units (i.e. 2,355 units/month) charged during the disputed period are quite high as compared to the consumption of the undisputed periods (prior/after). The detection bill amounting to Rs. 222,907/- for 11,565 units for the period from 27.11.2012 to 20.05.2013 (6 months) added in July 2013 has no justification and therefore the respondent is not liable to pay the same. The impugned decision to this extent is liable to be maintained
- The consumption of electricity i.e. 427 units/ month during the disputed period is higher than the consumption of electricity i.e. 267 units/month during the period before dispute. However the consumption of electricity i.e. 485 units/ month after the disputed period is higher than the consumption of electricity i.e. 427 units/month during the disputed period. It would be fair and appropriate to charge the detection bill @ 485 units /month for the disputed period as recorded during the period after dispute i.e. June 2013 to May 2014. According to clause 9.1 c (3) of 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 moreover action is to be initiated against the officer in charge for not being vigilant enough. Obviously, these provisions of CSM were not followed by K-Electric in the





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instant case. Therefore the respondent is liable to be charged detection bill @ 485units/month for three months only i.e. March 2013 to May 2013. The impugned decision is liable to be modified to this extent.

9. In view of foregoing discussion, we have reached to the conclusion that:
- i. The detection bill amounting to Rs. 222,907/- for 11,565 units for the period from 27.11.2012 to 20.05.2013 (6 months) charged to the respondent added in July 2013 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 @ 485 units/month for the period from March 2013 to May 2013 (3 months). The impugned decision to this extent is modified.
10. The appeal is disposed of in above terms.

Muhammad Qamar-uz-Zaman  
Member

Nadir Ali Khoso  
Convener

Date: 26.05.2016

