



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-092/POI-2017/ 1540-1544

October 19, 2017

1. Muhammad Akber Ali,
House No. L-21/18,
Block-13, Gulshan-e-Iqbal,
Karachi
2. 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, First Floor,
Block F, Elander Complex,
Elander Road, Karachi
5. Electric Inspector,
Karachi Region-I,
Block No. 51, Pak Secretariat,
Shahra-e-Iraq, Saddar,
Karachi

Subject: Appeal Titled K-Electric Ltd Vs. Muhammad Akber Ali Against the Decision Dated 21.03.2017 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 18.10.2017, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

No. NEPRA/AB/Appeal-092/POI-2017/ 1545

Forwarded for information please.

(Ikram Shakeel)

October 19/2017


Assistant Director
Appellate Board

1. Registrar

CC:

1. Member (CA)



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-092/POI-2017

Muhammad Akbar Ali, House No.L-21/18,
Block-13, Gulshan-e-Iqbal, Karachi

.....Appellant

Versus

K-Electric Ltd

.....Respondent

For the appellant:

Muhammad Akbar Ali

For the respondent:

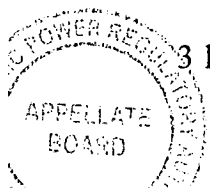
Ms. Tatheera Fatima Deputy General Manager (Distribution-Legal)

Mr. Imran Hanif Assistant Deputy Manager

Mr. Rizwan Durrani Assistant Manager

DECISION

1. This decision shall dispose of the appeal filed by Mr. Muhammad Akbar Ali (hereinafter referred to as the appellant) against the decision dated 21.03.2017 of Provincial Office of Inspection, Karachi Region-I, Karachi (hereinafter referred to as POI).
2. Brief facts of the case are that the appellant is a domestic consumer of K-Electric having two connections bearing Ref No. LA-466588 (first connection) and Ref No. LB-027696 (second connection) having sanctioned load of 2 kW and 3 kW respectively and the applicable tariff to both the connections is A-1R. As



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per appellant, an electricity bill amounting to Rs.13,719/- was charged by K-Electric in October 2007, which contained an excess amount of Rs.10,000/-. The appellant therefore approached to K-Electric for correction of the aforesaid bill, which according to him was not corrected by K-Electric and he paid the same on 24.11.2007. Subsequently, K-Electric served a notice to the appellant in May 2010, wherein it was alleged that the appellant was found stealing electricity through a hook connection. The appellant submitted that the irregular billing continued by K-Electric for long time, therefore he filed a Constitution Petition (CP) No.6581/2014 before the Sindh High Court, Karachi and agitated the exaggerated billing. The honorable High Court vide its decision dated 26.11.2015 dismissed the petition being non-maintainable and directed the petitioner (appellant) to approach Electric Inspector for redressal of his grievance.

3. Pursuant to the direction of honorable High Court, the appellant filed an application before POI on 28.01.2016 and assailed the irregular/excessive billing by K-Electric. The matter was disposed of by POI vide its decision dated 21.03.2017 and it was concluded that the complaint filed on 28.01.2016 regarding the excessive billing prior to January 2013 (beyond three years) was barred by time.
4. Through the instant appeal, the appellant has challenged the afore-referred decision before NEPRA under Section 38 (3) of the NEPRA Act 1997. In the appeal, it is contended that a notice dated 25.05.2010 was issued by K-Electric, wherein it was alleged that the appellant was consuming electricity through the hook connection,

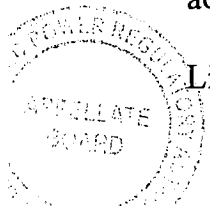




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however K-Electric in support of its contention failed to produce any evidence before any competent authority. The appellant further explained that the excessive billing was done by K-Electric for the period July 2010 to September 2010 and the amounts of Rs.25,000/- and Rs.17,900/- debited to him by K-Electric against the first and second connections respectively were unjustified, the said bills however were not corrected by K-Electric till date in spite of his request. As per appellant, being distressed with the consistent exaggerated billing, he issued a legal notice dated 24.10.2014 to K-Electric, wherein inter alia, he claimed an amount of Rs.5000,000/- as compensation. The appellant averred that his complaint was dismissed by POI being barred by time which is not correct. The appellant finally prayed that his appeal may be allowed.

5. Notice of appeal was served upon K-Electric, however, no written response was filed by it.
6. Hearing of the appeal was conducted in Karachi on 22.09.2017, which was attended by both the parties. The appellant reiterated the same arguments as contained in the memo the appeal and contended that the dispute of excessive billing was challenged by him before the Sindh High Court, Karachi in the year 2014, hence same should be treated within the time limit and matter be decided on merit. The appellant pleaded for setting aside the impugned decision. Ms. Tatheera Fatima Deputy General Manager (Distribution Legal) representing the K-Electric averred that POI has no jurisdiction to adjudicate the instant dispute being barred by time as stipulated in Article 181 of Limitation Act 1908. K-Electric supported the impugned decision and prayed for



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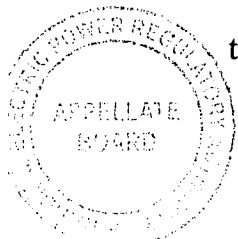
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upholding the same.

7. Arguments of both the parties heard, the record perused, following are our observations:

i. The appellant filed CP No.6581/2014 before the Sindh High Court, Karachi and challenged the excessive bills charged by K-Electric, the honorable High Court vide its decision dated 26.11.2015 dismissed the petition and further directed to the appellant to approach POI for redressal of his grievance. The appellant filed a complaint before POI on 28.01.2016 and inter alia, prayed that the electricity bills charged by K-Electric against his both connections are illegal, unlawful and liable to be withdrawn.

ii. There is a contradiction regarding the amount and period of excessive bills assailed by the appellant at different forums. The appellant filed CP No.6581/2014 before the Sindh High Court, Karachi but neither the period nor the amount were mentioned. In his complaint before POI on 28.01.2016, the appellant agitated the excessive bill of October 2007 amounting to Rs.13,719/-. However in his appeal before NEPRA, the appellant disputed the bill amounting to Rs.13,719/- for October 2007 and the excessive amounts of Rs.25,000/- and Rs.17,900/- debited during the period July 2010 to September 2010 against the first and second connections respectively. Anyhow during the proceedings before POI, it emerged that the appellant was aggrieved with the irregular bills charged by K-Electric for the period January 2012 to August 2012. POI further observed that no irregular



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billing was done by K-Electric from September 2012 and onwards. This finding of POI has not been contradicted by the appellant, therefore it may be construed that the electricity bills for the period January 2012 to August 2012 as specified by POI in the impugned decision are disputed.

iii. Though no period of limitation as such is prescribed for filing a complaint before the POI, yet it is settled principle of law that remedy, if any, should be availed without wastage of time. In a judgment passed by Lahore High Court, Lahore dated 17.11.2015 in WP No. 17314/15, it was held by the Honorable Court that where no period of limitation is prescribed, then a period of three years is to be considered as a period of limitation. Admittedly, the appellant did not avail its remedy even within a period of three years, therefore, we are in agreement with the findings of POI that any dispute prior to January 2013 does not fall within the jurisdiction of POI being beyond the period of three years.

8. In view of the foregoing discussion, we do not find any reason to intervene in the impugned decision, which is maintained and consequently the appeal is dismissed.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Dated: 18.10.2017

