



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

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No. NEPRA/AB/Appeal-002/POI-2017/ 840-844

June 01, 2017

1. Mian Ashfaq Ahmed,
House No. 63, Sheet No. 05,
KESC No. 443, Block-4/A,
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 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. Mian Ashfaq Ahmed Against the Decision Dated 22.11.2016 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 31.05.2017, regarding the subject matter, for information and necessary action accordingly.

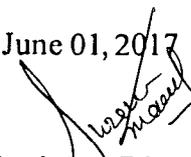
Encl: As Above

(Ikram Shakeel)

No. NEPRA/AB/Appeal-002/POI-2017/ 845

June 01, 2017

Forwarded for information please.


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-002/POI-2017

K-Electric LimitedAppellant

Versus

Mian Ashfaq Ahmed House No.63, Street No. 05,
KESC No.443, Block-4/A, Gulshan-e-Iqbal, KarachiRespondent

For the appellant

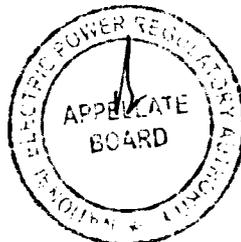
Ms. Tatheera Fatima Deputy General Manager (Legal Distribution)
Mr. Masahib Ali Manager
Mr. Imran Hanif Deputy Manager
Mr. Ali Nisar Ahmed Assistant Manager
Mr. Rizwan Durrani Assistant Manager

For the respondent:

Mian Asghar Ahmed Advocate

DECISION

1. Through this decision, an appeal filed by K-Electric against the decision dated 22.11.2016 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-880146 having a sanctioned load of 2 kW under A-2 tariff. Premises of the respondent was inspected by K-Electric on 16.02.2012 and it is alleged that the respondent was stealing electricity by means of a kunda and the connected load was noticed as 4.936 kW much higher than the sanctioned load. As per





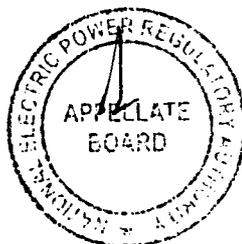
National Electric Power Regulatory Authority

K-Electric, a notice dated 07.03.2012 was issued to the respondent regarding above discrepancy and a detection bill amounting to Rs.173,688/- for 9,923 units for the period 16.08.2011 to 17.02.2012 (6 months) was charged to the respondent on 22.03.2012.

3. Being aggrieved the respondent filed an application before POI on 21.02.2013 and challenged the detection bill of Rs.173,688/- for 9,923 units for the period 16.08.2011 to 17.02.2012 charged by K-Electric. The matter was disposed of by POI vide its decision dated 22.11.2016, 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 office and in the light of above findings, this office is of the firm view that Opponents have violated the mandatory requirements of Electricity Act 1910 and guidelines communicated through Consumer Service Manual (CSM) of NEPRA as pointed out in above findings. Therefore Provincial Office of Inspection, directed the Opponents to cancel the detection bill amounting to Rs.173,688/- of 9923 units for the period from 16.08.2011 to 17.02.2012, as the same has no justification on technical and legal grounds. It is further directed the Opponents to waive off all late payment surcharges and disconnection/reconnections charges which are outcome of the impugned detection bills and afterwards, as the complaint was not found at fault. The complaint is disposed off in terms of above for compliance by the Opponents."

4. K-Electric was not satisfied with the POI decision dated 22.11.2016 (hereinafter referred to as the impugned decision) and 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,

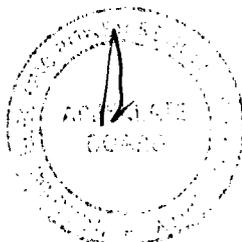




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K-Electric inter alia raised the preliminary objection regarding jurisdiction of POI being a case of theft of electricity through bypassing the meter as envisaged under PLD 2012 SC 371. As per K-Electric, the respondent was found stealing electricity through a hook connection on 16.02.2012 and the connected load was observed much above the sanctioned load. According to K-Electric, the detection bill of Rs.173,688/- for 9,923 units for the period 16.08.2011 to 17.02.2012 (6 months) was charged to the respondent to recover the revenue loss sustained due to theft of electricity. K-Electric averred 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 the Consumer Service Manual (CSM). K-Electric further elaborated that the procedure under CSM could not be observed due to ground difficulties. K-Electric prayed for setting aside the impugned decision. A notice for filing reply/parawise comments to the above appeal was issued to the respondent but no comments were filed.

5. After issuing notice to both the parties, hearing of the appeal was held in Karachi on 15.05.2017 in which Ms. Tatheera Fatima Deputy General Manager (Distribution Legal) along with other officials represented the appellant K-Electric and Mian Ashfaq Ahmed advocate appeared for the respondent. Learned representative of K-Electric repeated the same arguments as contained in memo of the appeal and contended that electrical connection of the respondent was inspected by K-Electric on 16.02.2012 and the respondent was found involved in illegal abstraction of the electricity through use of a hook connection and the connected load was noticed much higher than the sanctioned load, therefore a detection bill of Rs.173,688/- for 9,923 units for the

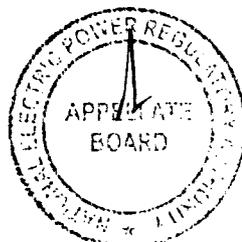




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period 16.08.2011 to 17.02.2012 was charged to the respondent, which is justified. K-Electric alleged that the respondent's connection was disconnected due to default of payment on 21.06.2012, which was restored after the payment of Rs. 40,000/- made by the respondent in September 2012. K-Electric pointed out that the increase in consumption was noticed after the elimination of the discrepancy. On the other hand, learned counsel for the respondent rebutted the contention of K-Electric and pleaded that neither any notice was served upon the respondent nor the theft of electricity was established therefore charging the aforesaid detection bill has no justification. Learned counsel for the respondent defended the impugned decision and prayed for its maintainability.

6. We have heard arguments of both the parties, it has been observed as under:
 - i. Allegation of theft of electricity was levelled by K-Electric but no FIR and other criminal proceedings as required under law and CSM were initiated by K-Electric. Further K-Electric could not give any cogent reason for its failure to adhere the provisions of CSM and other proceedings as required under the law. As no theft of electricity was established by K-Electric against the respondent, the objection regarding jurisdiction of POI is not valid and liable to be dismissed.
 - ii. As per data provided by K-Electric, comparison of the consumption recorded between the disputed and undisputed periods (prior/after) is tabulated as under:



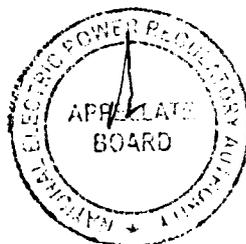


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Period	Normal Mode Average Units/Month	Detection Mode Average Units/Month
Period before dispute Jan-2011 to Aug-2011(8 months)	142	-
Disputed period Sep-2011 to Feb-2012(6 months)	122	1,776
Period after dispute Mar-2012 to Jan-2013(11 months)	268	-

It is evident from the above table that the detection units charged @ 1,776 units/month are much higher than the normal consumption of 142 units/month and 268 units/month recorded in the undisputed periods prior and after respectively. Moreover charging the detection bill for six month is inconsistent with the provision of Consumer Service Manual (CSM). Therefore we are in agreement with the determination of POI that the detection bill amounting to Rs.173,688/- for 9,923 units for the period 16.08.2011 to 17.02.2012 charged to the respondent has no justification and liable to be cancelled.

- iii. Pursuant to clause 9.1c(3) of CSM, a general supply consumer i.e. A-I and A-II could be charged for maximum three billing cycles if approval was not solicited from Chief Executive Officer of K-Electric. Therefore it would be fair and appropriate to charge the detection bill @ 268 units/month for the disputed period i.e. December 2011 to February 2012 (3 months only) as recorded during the during the period after dispute.





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iv. Late Payment Surcharges (LPS) against incorrect bills are not recoverable.

Impugned decision regarding cancellation of LPS levied due to default in payment of the unjustified detection bill is correct, therefore liable to be upheld to this extent.

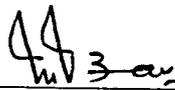
7. In view of foregoing consideration, it is concluded that:

i. Objection of K-Electric regarding jurisdiction of POI has no force, therefore over ruled.

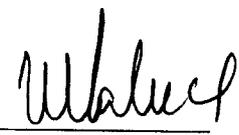
ii. Detection bill of Rs.173,688/- for 9,923 units for the period 16.08.2011 to 17.02.2012 charged by K-Electric to the respondent and LPS levied due to nonpayment of the same are declared null and void and of no legal effect as already determined in the impugned decision.

iii. The respondent should be charged the detection bill @ 268 units/months for December 2011 to February 2012 (3 months only).

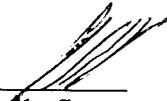
8. The impugned decision is modified in above terms.



Muhammad Qamar-uz-Zaman
Member



Nadir Ali Khoso
Convener



Muhammad Shafique
Member

Date: 31.05.2017

