



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

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No. NEPRA/AB/Appeal-014/POI-2017/ 631-635

April 27, 2017

1. Malik Maqsood-ul-Haq,
Defence Authority Country & Golf Club,
Zulfiqar Street No. 1, Phase-VIII,
D.H.A, 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. Malik Maqsood-ul-Haq Against the Decision Dated 06.12.2016 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 26.04.2017, regarding the subject matter, for information and necessary action accordingly.

Encl: **As Above**

No. NEPRA/AB/Appeal-014/POI-2017/ 636

Forwarded for information please.

(Ikram Shakeel)

April 27, 2017


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-014/POI-2017

K-Electric Ltd

.....Appellant

Versus

Malik Maqsood ul Haq, Golf Club, Phase-VIII,
Zulfiqar Street No.1, DHA, Karachi

.....Respondent

For the appellant:

Ms. Tatheera Fatima Deputy General Manager (Distribution Legal)
Mr. Masahib Ali Manager
Ms. Nazia Traiq Manager
Mr. Imran Hanif Deputy Manager
Mr. Ali Nasir Ahmed Assistant Manager

For the respondent:

Mr. Malik Maqsood-ul-Haq

DECISION

1. Through this decision, an appeal filed by K-Electric against the decision dated 06.12.2016 of Provincial Office of Inspection/Electric Inspector, Karachi Region-I, Karachi (hereinafter referred to as POI) is being disposed of.
2. As per facts of the case, the building was owned by Mr. Muhammad Kifayat Malik, who obtained a domestic connection bearing Ref No. LA-832233 with a sanctioned





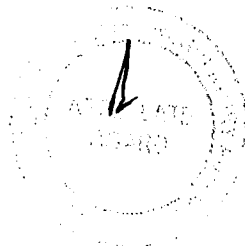
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load of 1 kW under A-1R tariff. Subsequently the building was sold out to Mr. Malik Maqsood ul Haq, who is the existing occupant consumer of K-Electric. The respondent being aggrieved with the irregular billing, challenged the same before POI as per detail given below:

Application	Dated	Bill type	Period	Units	Amount (Rs.)	Charged in
First	11.07.2013	Arrears	June 2005 to June 2013	-	321,567/-	June 2013
Second	Not known	First detection	27.02.2013 to 27.08.2013	6,474	114,217/-	05.12.2013
		Second detection	30.10.2013 to 26.04.2014	1,979	26,577/-	27.05.2014
		Third detection	27.04.2014 to 25.09.2014	2,877	45,624/-	30.10.2014
Third	Not known	Fourth Detection	26.09.2014 to 29.12.2014	1,306	16,732/-	January 2015
Fourth	10.07.2016	Fifth detection	25.11.2015 to 25.05.2016	3,164	75,793/-	July 2016
Fifth	04.11.2016	Sixth detection	26.05.2016 to 29.09.2016	893	24,244/-	October 2016

POI disposed of the matter vide its decision dated 06.12.2016 and cancelled the arrears as well as all the six detection bills being unjustified.

3. Being dissatisfied with the POI decision dated 06.12.2016 (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 NEPRA Act 1997). In its appeal, K-Electric inert alia, contended that during the period June 2005 to June 2013, payment of 20 bills was made against the 97 bills total issued to the respondent. According to

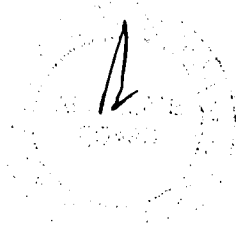




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K-Electric, the accumulated arrears of Rs.321,567/- against the premises are recoverable from the respondent. K-Electric averred that the respondent was involved in theft of electricity by using extra phase, therefore six detection bills total amounting to Rs.303,187/- charged during the years 2013 to 2016 are justified and payable by the respondent. Regarding FIR, K-Electric contended that it could not be registered as the respondent assured for making payments. As regards the formalities under Chapter 9 of Consumer Service Manual (CSM) regarding illegal abstraction of electricity. K-Electric explained that those could not be fulfilled due to non-cooperation of citizens. As per K-Electric, being a case of theft of electricity, POI was not authorized legally to decide the instant matter.

4. In response to the notice issued for filing reply/parawise comments, the respondent filed reply on 24.02.2017 and contended that the appeal is not maintainable before NEPRA as the impugned decision was announced by the Electric Inspector (not as POI), that the appeal was filed by an authorized person, that he was not involved in theft of electricity and no notice was served to him, that charging the detection bills consecutively for 26 months is violative of law.
5. After issuing notice, hearing of the appeal was conducted in Karachi on 10.04.2017 in which both the parties entered their appearance. Representatives of K-Electric repeated the same arguments as earlier narrated in memo of the appeal and contended that the respondent is responsible for the arrears of Rs.321,567/- pending against the

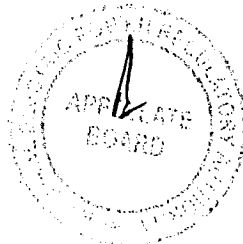




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premises till June 2013. K-Electric alleged that the respondent indulged in theft of electricity as confirmed during various site inspections and he is liable to pay the six detection bills. K-Electric averred that theft is proved as the consumption of the respondent increased after the site inspections. On the contrary, the respondent denied the allegation of theft and stated that neither any site inspection was carried out in his presence nor any notice in this regard was ever issued. Regarding the arrears of Rs.321,567/-, the respondent pleaded that the same were recoverable from the old owner and he was not responsible for failure of K-Electric in making timely recovery from the previous owner.

6. We have heard arguments of both the parties, examined the record placed before us and it is observed as under:
 - i. There is no force in the objection of K-Electric regarding the jurisdiction of POI being theft case, as K-Electric failed to follow the procedure prescribed in the law as well as in CSM for dishonest abstraction of electricity.
 - ii. Since the decision was rendered by the officer as POI under Section 38 of NEPRA Act 1997 for which an appeal is competent before NEPRA and not before the provincial government as objected by the respondent. The objection of the respondent in this regard is unjustified, therefore rejected.
 - iii. As regards objection of the respondent that the appeal is not filed through an authorized person, it is observed that the appeal was filed by Ms. Tatheera

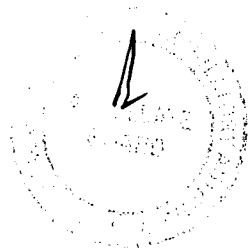




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Fatima Deputy General Manager (Distribution Legal), being an authorized person of K-Electric. This objection has no validity, therefore over ruled.

- iv. Arrears of Rs.321,567/- are pending against the premises as confirmed from the billing statement provided by K-Electric. We are not convinced with the argument of the respondent that the same is the responsibility of previous owner and hold that the incumbent owner/consumer is liable to clear these arrears. Impugned decision to this extent is liable to be withdrawn.
- v. As regards three detection bills (first detection bill of Rs.114,217/- for 6,474 units for the period 27.02.2013 to 27.08.2013, second detection bill of Rs.26,577/- for 1,979 units for the period 30.10.2013 to 26.04.2014 and third detection bill of Rs.45,624/- for 2,877 units for the period 27.04.2014 to 25.09.2014) challenged by the respondent before POI vide his second application, it is noticed that K-Electric could not follow the procedure as prescribed in CSM. Moreover K-Electric failed to produce any document (SIR, prior notice, detection proforma etc.), which could substantiate their allegation that the respondent was found stealing electricity through unfair means. Under these circumstances, there is no justification for charging the aforesaid detection bills to the respondent, which are liable to be cancelled as determined by POI.
- vi. In order to ascertain the justification of fourth detection bill of Rs.16,732/- for 1,306 units for the period 26.09.2014 to 29.12.2014, consumption data is tabulated below:





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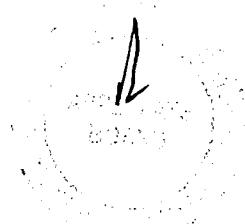
Period	Normal Mode Average Units/Month	Detection Mode Average Units/Month
Corresponding period before dispute October 2013 to December 2013	244	
Disputed period October 2014 to December 2014	141	576
Corresponding period after dispute October 2015 to December 2015	390	-

Since 576 units/month charged in detection mode are higher than the average consumption of 244 units/month and 390 units/month recorded in normal mode during the corresponding undisputed periods (prior/after), therefore fourth detection bill of Rs.16,732/- for 1,306 units for the period 26.09.2014 to 29.12.2014 charged to the respondent is unjustified and liable to be cancelled as determined in the impugned decision. It would be fair and appropriate to charge the detection bill for 390 units/month for the disputed period October 2014 to December 2014 (3 months) as recorded in the corresponding undisputed period after dispute. Impugned decision is liable to be modified to this extent.

vii. Detail of fifth and sixth detection bill is tabulated below:

Bill type	Period	Units	Amount (Rs.)	Remarks
Fifth detection	25.11.2015 to 25.05.2016	3,164	75,793/-	Direct use
Sixth detection	26.05.2016 to 29.09.2016	893	24,244/-	Direct use

From the above table, it is revealed that fifth and sixth detection bills were charged for the period 25.11.2015 to 29.09.2016 (10 months) consecutively,





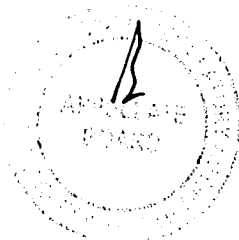
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which is not inline with the provisions of CSM. According to clause 9.1 c (3) of CSM, the respondent is liable to be billed maximum for three billing cycles being a domestic consumer as nothing has been placed on record by K-Electric showing that approval for charging the detection bill beyond three months was obtained from the Chief Executive (or any officer authorized in this behalf) of the K-Electric and action was also initiated against the officer in charge for not being vigilant.

- viii. Pursuant to clause 9.1 c (3) of CSM, the respondent is liable to be billed for July 2016 to September 2016 (3 months) only, if low consumption is established during the disputed months. In this regard, comparison of the consumption data between the disputed and undisputed periods as provided by K-Electric is tabulated below:

Period	Normal Mode Average Units/Month
Corresponding period before dispute July 2015 to September 2015 (3 months)	227
Disputed period July 2016 to September 2016 (3 months)	551
period after dispute October 2016 to March 2017 (6 months)	321

Perusal of the above table transpires that the average consumption in normal mode during the disputed period is higher than the average consumption of other two undisputed periods. Under these circumstance, it is established that fifth detection bill of Rs.75,793/- for 3,164 units for the period 25.11.2015 to





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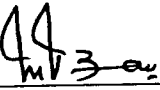
25.05.2016 and sixth detection bill of Rs.24,244/- for 893 units for the period 26.05.2016 to 29.09.2016 are unjustified and both are liable to be withdrawn as already determined in the impugned decision.

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


i. Impugned decision for cancellation of the first detection bill of Rs.114,217/-, second detection bill of Rs.26,577/-, third detection bill of Rs.45,624/-, fourth detection bill of Rs.16,732/-, fifth detection bill of Rs.75,793/- and sixth detection bill of Rs.24,244/- is justified and maintained to that extent accordingly.

ii. The respondent is responsible to pay the arrears of Rs.321,567/- and the detection bill for 390 units/month for the disputed period October 2014 to December 2014 (3 months). However recovery of the arrears should be effected in easy monthly installments from the respondent.

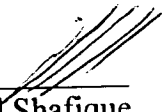
8. Impugned decision is modified in above terms.



Muhammad Qamar-uz-Zaman
Member



Nadir Ali Khoso
Convener



Muhammad Shafique
Member

Dated: 26.04.2017