



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

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No. NEPRA/AB/Appcal-015/POI-2017/ 1315 - 1319

August 31, 2017

1. Fakhr-ul-Jameel,  
S/o Muhammad Ishaq Shaikh,  
House No. 4-A, 14/4,  
Nazimabad, Karachi
2. Chief Executive Officer,  
K-Electric,  
KE House, 39-B,  
Sunset Boulevard, D11A-II,  
Karachi
3. Asif Shajer,  
Deputy General Manager,  
K-Electric, KE House, 39-B,  
Sunset Boulevard, D11A-II,  
Karachi
4. Ms. Tatheera Fatima,  
Deputy General Manager,  
K-Electric Ltd,  
3<sup>rd</sup> 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. Babar Hussain Against the Decision Dated 19.12.2016 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 30.08.2017, regarding the subject matter, for information and necessary action accordingly.

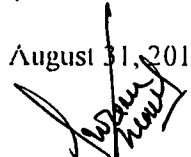
Encl: As Above

No. NEPRA/AB/Appcal-015/POI-2017/ 1320

Forwarded for information please.

(Ikram Shakeel)

August 31, 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-015/POI-2017

K-Electric Ltd

.....Appellant

Versus

Fakhar-ul-Jameel S/o Muhammad Ishaq Shaikh,  
House No.4-A, 14/4, Nazimabad, Karachi

.....Respondent

### For the appellant

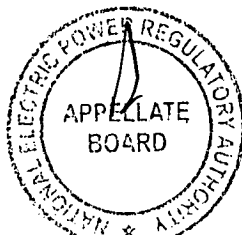
Ms. Tatheera Fatima Deputy General Manager (Legal Distribution)  
Mr. Masahib Ali Manager  
Mr. Imran Hanif Deputy Manager  
Mr. Shamim Akhtar Assistant Manager  
Mr. Israr Ahmed RA

### For the respondent:

Nemo

## DECISION

1. Brief facts of the case are that the respondent is a domestic consumer of K-Electric bearing Ref No.LA-296554 with a sanctioned load of 1 kW under A1-R tariff. K-Electric alleged that the respondent was found involved in stealing electricity through unfair means, therefore the first detection bill of Rs.87,638/- for 5,099 units for the period 06.03.2012 to 06.09.2012 was charged to the respondent on 01.11.2012. As per K-Electric, premises of the respondent was again inspected in April 2013 and allegedly the respondent was dishonestly abstracting electricity through extra phase and the connected load was observed as 9.88 kW, being much higher than the sanctioned load. After issuing notice to



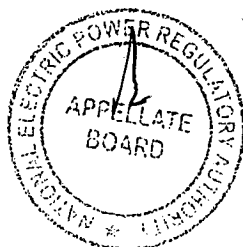


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the respondent in April 2013, second detection bill amounting to Rs.121,292/- for 6,935 units for the period 05.10.2012 to 05.04.2013 (6 months) was charged to the respondent by K-Electric on 01.08.2013@ 25% load factor of the connected load. K-Electric submitted that electric supply of the respondent was disconnected time and again but it was restored illegally, hence the bills for December 2013 and January 2014 were charged to the respondent in assessed mode.

2. Being aggrieved with the irregular billing, the respondent filed an application before Provincial Office of Inspection/Electric Inspector, Karachi Region-II, Karachi (hereinafter referred to as POI) on 03.02.2014 and challenged the billing for the period i.e. November 2012 to January 2014 (15 months), detail of which is given below:

Billing Statement					
Month	Normal bill	Detection/ Assessed bill	Previous Arrears	Payment made	Balance
Nov-12	14,874	87,638	0	29,992	72,520
Dec-12	3,085	0	72,520	17,592	58,013
Jan-13	0	11,103	58,013	30442	38,674
Feb-13	4,565	0	38,674	44181	-942
Mar-13	4115	0	-942	4462	-1,289
Apr-13	7788	0	-1,289	7788	-1,289
May-13	13871	0	-1,289	13872	-1,290
Jun-13	10383	0	-1,290	10384	-1,291
Jul-13	12391	0	-1,291	12391	-1,291
Aug-13	23206	121,292	-1,291	23992	119,215
Sep-13	20270	0	119,215	20992	118,493
Oct-13	18644	0	118,493	11896	125,241
Nov-13	11688	0	125,241	11688	125,241
Dec-13	0	17,462	125,241	25,202	117,501
Jan-14	0	17,462	117,501	29,867	105,096
<b>Total</b>	<b>144,880</b>	<b>254,957</b>	<b>-</b>	<b>294,741</b>	<b>105,096</b>



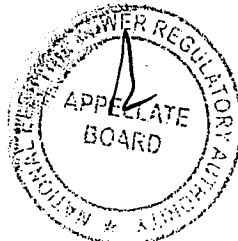


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3. POI disposed of the matter vide its decision dated 19.12.2016, the operative portion of which is reproduced below:

*“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 relevant law & Regulations and above findings, this authority is of the firm view that detection/irregular bills amounting to Rs.121,292/- of 6,935 units for the period from 05.10.2012 to 05.04.2013 issued by the opponents has no justification on legal and technical grounds, therefore direct the Opponents to cancel the said bill. The second detection/irregular bill amounting to Rs.87,638/- for 5099 units for the period from 06.03.2012 to 06.09.2012 also cancelled as discussed in above findings. The opponent is also directed to adjust the extra payment, which was made by the applicant in future billings. The assessed billing also cancelled and the same revised on the basis of actual meter readings. The opponents are directed to act in terms of above instructions, accordingly. The complaint of the complainant is disposed off with above remarks.”*

4. Being dissatisfied with the POI decision dated 19.12.2016 (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 contended that the premises of the respondent was inspected by K-Electric time and again and on all the occasions, the respondent was found consuming electricity illegally through extra phase and the connected load was

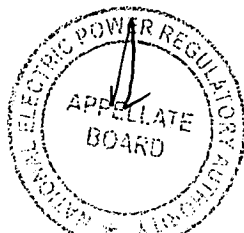




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also much higher than the sanctioned load. As per contention of K-Electric, first detection bill of Rs.87,638/- for 5,099 units for the period 06.03.2012 to 06.09.2012 was charged to the respondent on 01.11.2012, which was paid by him without any protest. According to K-Electric, second detection bill of Rs.121,292/- for 6,935 units for the period 05.10.2012 to 05.04.2013 (6 months) @ 25% load factor and assessed bills for January 2013, December 2013 and January 2014 were charged to the respondent due to the commission of theft of electricity. As per K-Electric, the respondent only challenged the aforesaid second detection bill and assessed bills for December 2013 and January 2014 whereas POI also decided the undisputed first detection bill beyond the plea of the respondent, which is illegal, unjustified and liable to be set aside. K-Electric submitted that there is no binding upon licensee to lodge the FIR against the consumer involved in theft of electricity under section 26-A of Electricity Act 1910. K-Electric further elaborated that the presence of POI during inspection of a domestic connection is not mandatory. K-Electric pointed out that POI was not authorized to adjudicate the instant complaint of the respondent being a case of theft of electricity.

5. In response to the above appeal, the respondent was issued a notice for filing reply/parawise comments, which were filed on 21.04.2017. In his reply, the respondent submitted that the first detection bill of Rs.87,638/- was charged by K-Electric in November 2012 without any lawful authority, which however was paid by him under protest. The respondent refuted the allegation of theft levelled by K-Electric and contended that neither any notice was served upon him nor any

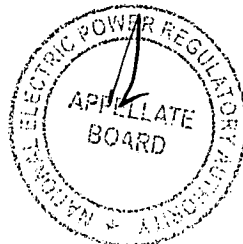




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inspection was carried out, therefore there is no justification for charging any detection/assessed bill and he is not responsible for payment of the same. The respondent defended the impugned decision and pleaded for dismissal of the appeal.

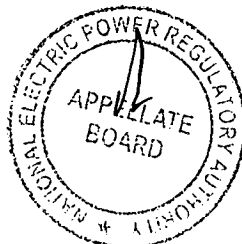
6. After issuing notice to both the parties, hearing of the appeal was held in Karachi on 07.08.2017 in which K-Electric made their attendance but no one appeared for the respondent. Ms. Tatheera Fatima Deputy General Manager (Distribution Legal), learned representative of K-Electric repeated the same arguments as earlier narrated in memo of the appeal and contended that premises of the respondent was inspected by K-Electric time and again and the respondent was found consuming electricity illegally through an extra phase. According to K-Electric, all the detection/assessed bills were charged to the respondent in order to recover the revenue loss sustained by K-Electric due to dishonest abstraction of electricity by the respondent. Representatives of K-Electric pointed out that the consumption recorded during the disputed period is much lesser than the consumption of undisputed periods, which establishes that the respondent was stealing electricity through unfair means. K-Electric submitted that POI also decided the undisputed first detection bill of Rs.87,638/- for 5,099 units for the period 06.03.2012 to 06.09.2012 charged to the respondent on 01.11.2012 beyond the prayer of the respondent and therefore the impugned decision is liable to be set aside.
7. We have heard arguments of both the parties and examined the record placed before us. Following is observed:





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- i. Theft of electricity by the respondent was alleged by K-Electric but no FIR and other proceedings as required under law and CSM 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 is not valid and therefore dismissed.
- ii. From the perusal of table given in para 2, it is evident that first detection bill of Rs.87,638/- for 5,099 units for the period 06.03.2012 to 06.09.2012 was disputed by the respondent before POI. There is no force in the contention of K-Electric that the aforesaid first detection bill was not challenged by the respondent and determination of POI in this regard is beyond the prayer of the respondent. Furthermore K-Electric failed to provide any document i.e. SIR, notice, which could substantiate their stance that the respondent was dishonestly abstracting electricity through an extra phase. Under these circumstances, we are inclined to agree with the determination of POI that the first detection bill of Rs.87,638/- for 5,099 units for the period 06.03.2012 to 06.09.2012 (6 month) charged to the respondent on 01.11.2012 is not justified and therefore liable to be cancelled.
- iii. Second detection bill amounting to Rs.121,292/- for 6,935 units for the period 05.10.2012 to 05.04.2013 (6 months) was charged by K-Electric to the respondent on the basis of connected load. Comparison of the consumption between the disputed and undisputed periods is made below:



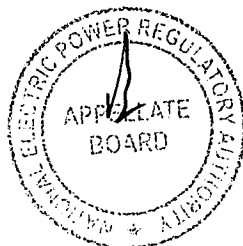


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Period	Normal Mode Average Units/Month	Detection Mode Average Units/Month
<b>Period before dispute</b> May 2012 to October 2012	208	-
<b>Disputed period</b> November 2012 to April 2013	609	1,765
<b>Period after dispute</b> May 2013 to October 2014	1,121	-

It is evident from the above table that the detection bill charged @ 1,765 units/month during the disputed period is much higher than the average consumption of 208 units/month and 1,121 units/month in normal mode during the periods before and after the dispute respectively. Moreover pursuant 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 for six 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 enough. Therefore the second detection bill amounting to Rs.121,292/- for 6,935 units for the period 05.10.2012 to 05.04.2013 (November 2012 to April 2013) has no justification and the respondent is not liable to pay the same as already determined in the impugned decision.

- iv. The bills @ 609 units per month were charged in normal mode during the disputed period, which is lesser than the normal consumption for the period after dispute. Obviously the meter did not record the correct consumption during the disputed period i.e. November 2012 to April 2013. Since the



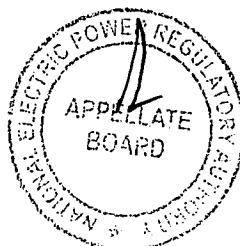




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consumption prior to the disputed period is also disputed by K-Electric, therefore it would be fair and appropriate to charge the second detection bill @ 1,121 units/month for the disputed period February 2013 to April 2013 (3 months) as recorded during the period after dispute. Impugned decision to this extent is liable to be modified.

- v. The respondent also agitated the assessed bills for January 2013, October 2013 and December 2013 before POI vide his application dated 03.02.2014. Pursuant to the record, it has been observed that the assessed bills were also charged besides the above detection bills by K-Electric during the disputed period. We are inclined to agree with the determination of POI that the aforesaid assessed bills charged to the respondent are not justified and liable to be cancelled and to be revised as per actual consumption recorded by the meter as decided by POI.
8. In view of foregoing discussion, we have reached to the conclusion that:
- i. First detection bill amounting to Rs.87,638/- for 5,099 units for the period 06.03.2012 to 06.09.2012 (6 months) and the second detection bill of Rs.121,292/- for 6,935 units for the period 05.10.2012 to 05.04.2013 and the assessed bills for January 2013, December 2013 and January 2014 charged to the respondent are unjustified therefore declared null, void. The impugned decision to this extent is maintained.
  - ii. The respondent is responsible for payment of the second detection bill @ 1,121 units/month for three months only i.e. February 2013 to April 2013 and





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the electricity bills for January 2013, December 2013 and January 2014 on the basis of actual meter reading. Billing account of the respondent should be overhauled after making adjustment of normal units charged during the second disputed period and payment already made during the disputed period i.e. November 2012 to January 2014 (15 months).

9. The impugned decision is modified with above terms.

Muhammad Qamar-uz-Zaman  
Member

Nadir Ali Khoso  
Convener

Muhammad Shafique  
Member

Dated: 30.08.2017

