



BEFORE THE APPELLATE BOARD
**National Electric Power Regulatory Authority
(NEPRA)**
Islamic Republic of Pakistan

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No. NEPRA/AB/Appeal-018/POI-2017/1045-1050

July 14, 2017

1. Syed Rafiullah,
Plot No. 4/140, Sector-21,
Korangi Industrial Estate,
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. Syed Rafiullah Against the Decision Dated 16.12.2016 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 13.07.2017, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

No. NEPRA/AB/Appeal-018/POI-2017/1051

Forwarded for information please.

(Ikram Shakeel)

July 14, 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-018/POI-2017

K-Electric Limited

.....Appellant

Versus

Syed Rafiullah, Occupier Plot No.4/140, Sector 21,
Korangi Industrial Estate, Karachi

.....Respondent

For the appellant

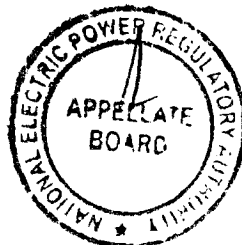
Ms. Tatheera Fatima Deputy General Manager (Legal Distribution)
Mr. Masahib Ali Manager
Mr. Imran Hanif Deputy Manager
Mr. Ali Nisar Ahmed Assistant Manager

For the respondent:

Nemo

DECISION

1. Through this decision, an appeal filed by K-Electric against the decision dated 16.12.2016 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 purchased an industrial plot from Mr. Naveed Iqbal (ex-owner) on 11.12.2014. At the time of purchase, the ex-owner disclosed that up-to year 2004 he was running a small ice factory with a sanctioned load of 55 kW under B-2b tariff, thereafter the business was closed



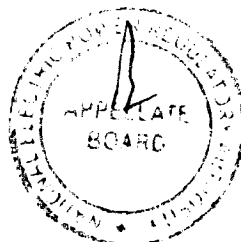


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and K-Electric disconnected electric supply, removed its installations including pole mounted transformer (PMT). Subsequently the respondent approached K-Electric vide applications on 26.02.2016 and 01.03.2016 respectively for issuance of Dues Clearance Certificate and restoration of supply. In response, K-Electric supplied a detailed billing statement for the period 01.07.2004 to 30.09.2004, which reveals that dues accumulated to Rs.1,969,114.25/- up-to September 2004 are recoverable by K-Electric against the said connection. As per respondent, meter readings taken as 337584 and 341582 on 10.08.2004 and 11.09.2004 respectively are showing the consumption of 3,998 units, whereas K-Electric charged 25,840 units to the respondent on average basis.

3. Being aggrieved, the respondent filed an application before POI on 08.03.2016 and challenged the arrears of Rs.1,969,114.25/- charged by K-Electric. In his application, the respondent submitted that the aforesaid claim of K-Electric is barred by time and not recoverable under Article 52 of Limitation Act 1908. POI disposed of the matter vide its decision dated 16.12.2016, 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 above findings, this office concluded the matter with the following order:- (a) That the demand of opponents for Rs.1,969,114.25/- of Consumer No.AP-066827 is illegal, unjustified and also barred by the provisions of Article 52 of Limitation Act 1908 and not liable to be paid by the complainant. (b) Opponents are directed to issue Dues Clearance Certificate,

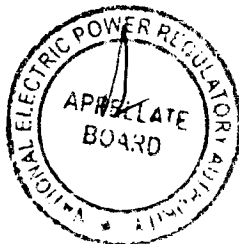




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if demanded by the complainant/consumer."

4. K-Electric has now challenged the above decision through the instant appeal wherein a preliminary objection regarding jurisdiction of POI is raised. It is further contended that the application was filed by the respondent on 08.03.2016, whereas the case was decided by POI on 16.12.2016 after a lapse of nine months, whereas the same should have been decided within 90 days as per law. On merits, K-Electric contended that the outstanding dues accumulated to Rs.1,969,114.25/- up-to September 2004 are correct pertaining to actual metered consumption and are recoverable. K-Electric pointed out that the outstanding dues are recoverable in pursuance of the clause 2.3(b) and clause 8.5 of Consumer Service Manual (CSM). Therefore the impugned decision for cancellation of aforesaid arrears is liable to be set aside.
5. Notice of the appeal was issued to the respondent for filing reply/parawise comments to the above appeal, which however were not filed.
6. After issuing notice to both the parties, hearing of the appeal was held in NEPRA's Regional Office at Karachi on 04.07.2017 in which there was presence of K-Electric personnel but no one entered appearance for the respondent. Ms. Tathcera Fatima Deputy General Manager (Distribution Legal), learned representative of K-Electric repeated the same arguments as contained in memo of the appeal and contended that accumulated arrears of Rs.1,969,114.25/- are recoverable from the respondent as land revenue under Section 54-A of Electricity Act 1910 and time period for recovery of the arrears is up-to 60 years

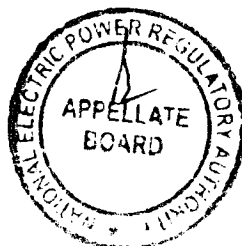




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as per Limitation Act 1908. K-Electric asserted that the matter was not investigated by POI on merits who relied mainly on limitation ground, therefore the matter should be remanded back to POI for hearing afresh.

7. Arguments heard and record perused. The preliminary objection of K-Electric regarding lack of jurisdiction of POI due to disposal of complaint after prescribed time limit of 90 days under section 26 (6) of Electricity Act 1910 has got no force at all because the decision was rendered by POI under section 38 (3) of NEPRA Act 1997 for which no time period for disposal of complaint is prescribed. It needs to be clarified that both the offices of Electric Inspector and Provincial Office of Inspection are two separate offices working under different legal framework. Office of Electric Inspector performs under the provisions of Electricity Act, 1910 whereas the office of POI has been established under NEPRA Act, 1997. In this view of the matter, the objection of K-Electric has no legal basis and is overruled. As regards the merits of the case, the respondent contacted K-Electric for issuance of Dues Clearance Certificate and restoration of supply. In response K-Electric provided a billing statement showing outstanding dues of Rs.1,969,114.25/- against the same connection, which were assailed by him before POI on 08.03.2016. It is an admitted position on record that the POI has not considered the merits of the case and decided the case simply on technicalities, therefore, the matter is liable to be reinvestigated and reheard by POI.
8. In view of above the matter is remanded back to POI for making determination





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afresh after providing opportunity of hearing to both the parties.

9. The appeal is disposed of in above terms.

Muhammad Qamar-uz-Zaman
Member

Nadir Ali Khoso
Convener

Muhammad Shafique
Member

Dated: 13.07.2017

