



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

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No. NEPRA/AB/Appeal-036/POI-2017/1491-1496

October 09, 2017

1. Shamshad Anwar,
S/o Noor-ul-Huda,
R-287, Sector 11C,
Latif Nagar, North Karachi,
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. Karam Dad Khan Tanoli,
Advocate High Court,
Room No. 313, Third Floor,
Sunny Plaza, Hasrat Mohani Road,
Karachi
6. Electric Inspector,
Karachi Region-II,
Block No. 51, Pak Secretariat,
Shahra-e-Iraq, Saddar,
Karachi

Subject: Appeal Titled K-Electric Ltd Vs. Shamshad Anwar Against the Decision Dated 16.01.2017 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 05.10.2017, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(Ikram Shakeel)

No. NEPRA/AB/Appeal-036/POI-2017/1497

October 09, 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-036/POI-2017

K-Electric Ltd

.....Appellant

Versus

Shamshad Anwar S/o Noor-ul-Huda, R-287,
Sector 11C, Latif Nagar, North Karachi, Karachi

.....Respondent

For the appellant:

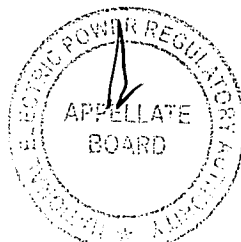
Ms. Tatheera Fatima Deputy General Manager (Distribution-Legal)
Mr. Masahib Ali Manager
Mr. Saleem-uddin Khan Manager
Mr. Reaz Kazai Manager
Mr. Imran Hanif Deputy Manager

For the respondent:

Mr. Shamshad Anwar

DECISION

1. This decision shall dispose of the appeal filed by K-Electric against the decision dated 16.01.2017 of Provincial Office of Inspection/Electric Inspector, Karachi Region-II, Karachi (hereinafter referred to as POI).
2. Brief facts of the case are that the respondent is an industrial consumer (Ice Factory) of K-Electric bearing Ref No. AP-085586 with a sanctioned load of 105 kW under B-2 tariff. Meter of the respondent was checked by K-Electric on 13.05.2016, reportedly it



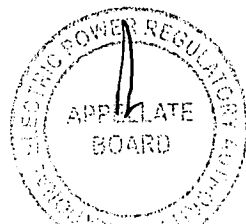


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was found burnt out and the connected load of the respondent was observed as 228 kW against the sanctioned load of 105 kW. As per K-Electric, after issuing notice dated 13.05.2016 to the respondent regarding above discrepancy, a detection bill amounting to Rs.2,002,563/- for 113,518 units for the period 05.03.2016 to 03.06.2016 (April 2016 to June 2016) was charged to the respondent @ 0.51 load factor of the connected load.

3. Being aggrieved, the respondent challenged the arrear bill amounting to Rs.419,621/- for August 2016 before POI vide the application dated 26.08.2016. Subsequently the arrear bill of Rs.7,398,029/- for October 2016 was also assailed by him before the same forum. In the mean while the respondent contested the same matter before the Sindh High Court, Karachi through CP No.5797/2016 dated 08.11.2016, which was disposed of by the honorable High Court vide its order dated 23.11.2016 with the direction to POI for the decision up-to 17.12.2016. As per K-Electric, a settlement was reached with the respondent, he made payment of three electricity bills for September 2016, October 2016 and November 2016 issued by K-Electric as per settled agreement. POI disposed of the matter vide its decision dated 16.01.2017 with the following conclusion:

“After conducting several number of hearings, giving fair opportunities to hear both the parties, scrutinizing the record, made available with this authority and in the light of relevant law and Regulations and above findings, this authority is of the view that opponent is directed to recover all legitimate dues of the applicant as per settled agreement except the irregular billing amounting to Rs.2,002,571/- for the period from

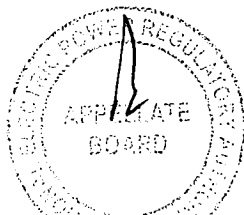




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April 2016 to June 2016, which is unjustified and liable to be cancelled. The opponents are directed to act in terms of above instructions, accordingly. The complaint of the complainant is disposed off with above remarks”

4. This appeal has been filed against the above referred decision dated 16.01.2017 (hereinafter referred to as the impugned decision) before NEPRA under Section 38 (3) of the NEPRA Act 1997. In its appeal, K-Electric contended that meter of the respondent was found defective (burnt out) during checking dated 13.05.2016, hence a detection bill amounting to Rs.2,002,563/- for 113,518 units for the period April 2016 to June 2016 was charged to the respondent on the basis of the connected load. K-Electric pleaded that the aforesaid detection bill was valid, justified and the respondent is liable to pay the same. K-Electric pleaded for setting aside the impugned decision.
5. A notice of the above appeal was issued to the respondent for filing reply/parawise comments, which were filed on 21.08.2017. In his reply, the respondent stated that neither any notice was served upon him nor he was associated during checking carried out by K-Electric on 13.05.2016, moreover the detection bill of Rs.2,002,563/- for 113,518 units for the period April 2016 to June 2016 was charged on the basis of the connected load instead of sanctioned load, which is unlawful, unjustified and liable to be cancelled. Subsequently the respondent filed another application dated 06.09.2017 during the hearing held on 06.09.2017, wherein he agreed for payment of the outstanding dues of Rs.6,300,000/- (Approximate) in easy installments each of

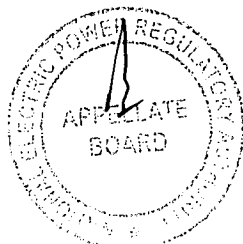




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Rs.300,000/- and further pleaded for the restoration of electric supply.

6. After issuing notice to both the parties, hearing of the appeal was conducted in NEPRA office Karachi on 22.09.2017, which was attended by both the parties. Ms. Tatheera Fatima Deputy General Manager (Distribution Legal) learned representative of K-Electric reiterated the same arguments as contained memo of the appeal and contended that the premises of the respondent was inspected by K-Electric on 13.05.2016 and the electricity meter was found faulty (burnt out), therefore the detection bill of Rs.2,002,563/- for 113,518 units for the period April 2016 to June 2016 charged on the basis of the connected is justified and should be paid by the respondent. K-Electric further averred that due to non-payment of regular electricity bills, the arrear accumulated to Rs.8,380,407/- along with the aforesaid detection bill till November 2016 and the same are liable to be paid by the respondent. On the contrary, the respondent reiterated the same arguments as contained in his reply/parawise comments and the application submitted during the course of hearing. The respondent contended that neither any notice was served to the respondent before and after alleged checking nor he was associated during the inspection of the premises, therefore the detection bill of Rs.2,002,563/- for 113,518 units for the period April 2016 to June 2016 charged on the basis of the connected is illegal and impugned decision for cancellation of the same is justified. Finally the respondent urged for the restoration of electricity and agreed for payment of the outstanding arrears except the aforesaid detection bill in easy installments and requested for the following mode of payment:





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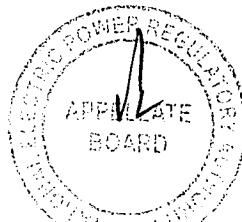
- Down payment = Rs. 1 million
- Monthly installment during season (April to October) = Rs. 300,000/-
- Monthly installment during off season (November to March) = Rs. 200,000/-

In response, K-Electric offered the following formula for payment:

- Down payment = Rs. 1.5 million
- Monthly installment during season (April to October) = Rs. 500,000/-
- Monthly installment during off season (November to March) = Rs. 300,000/-

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

- i. Meter of the respondent was found defective/burnt out during K-Electric checking dated 13.05.2016, hence a detection bill of Rs.2,002,563/- for 113,518 units for the period April 2016 to June 2016 was charged by K-Electric on the basis of the connected. However the respondent agitated the arrear bill of November 2016 amounting to Rs.8,380,407/-before POI, which includes the aforesaid detection bill.
- ii. Charging the detection bill for April 2016 to June 2016 (3 months) by K-Electric due to a defective meter is violation of Consumer Service Manual (CSM). Pursuant to clause 4.4 (e) of CSM, in case of a defective meter, the consumer is liable be charged maximum for two billing cycles on the DEF-EST code and the basis of charging will be 100% consumption of corresponding month of preceding year or average consumption of last 11 months, whichever is higher. In the instant case,





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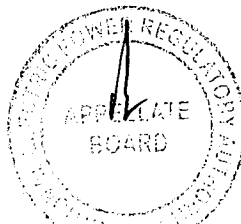
since the respondent was charged in assessed mode during the corresponding undisputed months of previous year and also during the last 11 months, therefore the calculation cannot be based on the above formula. Consumption table of the respondent as provided by K-Electric is given below:

Period	Normal Mode Average Units/Month	Assessed Mode Average Units/Month
Period before dispute October 2015 to April 2016 (7 months)	28,886	-
Disputed period May 2016 to June 2016 (2 months)	-	45,085

From the above table, it is obvious that the respondent was charged in assessed mode @ 45,085 units/month during the disputed period, which is higher than the average normal consumption of the period before dispute. As such there is no justification to further burden the respondent with a detection bill for the same period. Therefore the detection bill amounting to Rs.2,002,563/- for 113,518 units for the period April 2016 to June 2016 is not justified and liable to be cancelled as already determined in the impugned decision.

iii. As regards the legitimate arrears of Rs.6,377,836/- accumulated till November 2016, it would be judicious to charge the respondent as per method specified below:

- Down payment = Rs. 1.2 million
- Monthly installment during the season (April to October) = Rs. 400,000/-
- Monthly installment during the off season (November to March) =Rs. 250,000/-





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8. In view of foregoing consideration, It is concluded that:

- i. Detection bill of Rs.2,002,563/- for 113,518 units for the period April 2016 to June 2016 charged by K-Electric to the respondent is not justified, therefore cancelled as already determined by POI.
- ii. The respondent is obligated for payment of the arrear bill of Rs.6,377,836/- up-to November 2016 in accordance with the para 7 (iii) above.

9. The appeal is disposed of in above terms.

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Muhammad Qamar-uz-Zaman
Member

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Muhammad Shafique
Member

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Nadir Ali Khoso
Convener

Dated: 05.10.2017

