



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

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No. NEPRA/AB/Appeal-039/POI-2017/ 1227-1231

August 21, 2017

1. Muhammad Ismail,  
Sr. No. 51, NR,  
K-Electric Complaint Centre,  
Gharo, Thatta
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,  
3<sup>rd</sup> 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. Muhammad Ismail Against the Decision Dated 30.01.2017 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 18.08.2017, regarding the subject matter, for information and necessary action accordingly.

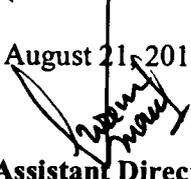
Encl: **As Above**

No. NEPRA/AB/Appeal-039/POI-2017/ 1232

Forwarded for information please.

(Ikram Shakeel)

August 21, 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-039/POI-2017

K-Electric Limited .....Appellant

Versus

Muhammad Ismail, Sr. No. 51 NR, K-Electric  
Complaint Center, Gharo, Thatta .....Respondent

### For the appellant

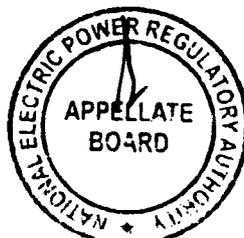
Ms. Tatheera Fatima Deputy General Manager (Legal Distribution)  
Mr. Zulfiqar Ali Azeemi Deputy General Manager  
Mr. Masahib Ali Manager  
Mr. Imran Hanif Deputy Manager  
Mr. Israr Ahmed RA

### For the respondent:

Mr. Nisar Ahmed Advocate  
Mr. Muhammad Ramzan Advocate

## DECISION

1. Through this decision, an appeal filed by K-Electric against the decision dated 30.01.2017 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 respondent is a commercial consumer (service station) of K-Electric bearing Ref No.LA-446467 having a sanctioned load of 14 kW under A-2C tariff. Premises of the respondent was inspected by K-Electric on 16.06.2016 and allegedly the respondent was found stealing electricity by





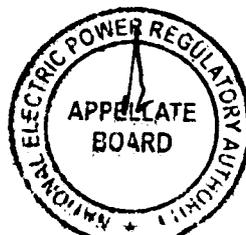
## National Electric Power Regulatory Authority

means of hook and the connected load was noticed as 15.298 kW, being higher than the sanctioned load. As per K-Electric, a notice dated 16.06.2016 was issued to the respondent regarding above discrepancy and a detection bill amounting to Rs.147,103/- for 5,382 units for the period 30.10.2015 to 27.05.2016 was charged to the respondent in August 2016 on the basis of connected load.

3. Being aggrieved, the respondent filed an application before POI, wherein he agitated the detection bill of Rs.147,103/- for 5,382 units for the period 30.10.2015 to 27.05.2016 charged by K-Electric. The matter was disposed of by POI vide its decision dated 30.01.2017 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 laws & Regulations as well as above findings, this authority is of the firm view that the detection bill amounting to Rs.147,103/- for the period from 30.10.2015 to 27.05.2016, issued by the opponents is hereby treated as cancelled and the opponents are required to correct their record by deleting the disputed amount along with any surcharges added in the bill thereon. The opponents are directed to act in terms of above instructions, accordingly."*

4. K-Electric was not satisfied with the POI decision dated 30.01.2017 (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

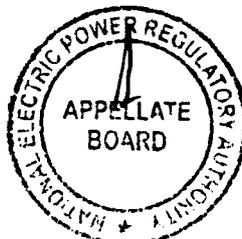




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appeal, K-Electric inter alia raised the preliminary objection regarding jurisdiction of POI being a case of theft of electricity through bypassing the meter as envisaged under PLD 2012 SC 371. As per K-Electric, the respondent was found stealing electricity through hook connection on 16.06.2016 and the connected load was observed above the sanctioned load. According to K-Electric, the detection bill of Rs.147,103/- for 5,382 units for the period 30.10.2015 to 27.05.2016 was charged to the respondent in August 2016 to recover the revenue loss sustained due to theft of electricity. K-Electric averred that a prior notice under Section 20 of the Electricity Act 1910 was issued to the respondent and procedure for theft of electricity under Consumer Service Manual (CSM) was followed in letter and spirit. K-Electric informed that FIR was not lodged against the respondent as he admitted theft of electricity and was ready to pay the aforesaid detection bill. K-Electric prayed for setting aside the impugned decision.

5. A notice for filing reply/parawise comments to the above appeal was issued to the respondent, which were filed on 31.05.2017. In his reply, the respondent refuted the allegation of theft of electricity levelled by K-Electric and contended that if theft established, why FIR was not lodged against him. As regards the jurisdiction of POI, the respondent submitted that the instant matter pertains to a billing dispute, therefore POI is empowered to decide the matter under Section 38 of NEPRA Act 1997.
6. Notice was issued and hearing of the appeal was conducted in Karachi on

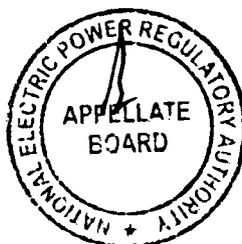




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07.08.2017 in which Ms. Tatheera Fatima Deputy General Manager (Distribution Legal) along with other officials represented the appellant K-Electric and Mr. Muhammad Ramzan advocate and Mr. Nisar Ahmed advocate appeared for the respondent. Learned representative of K-Electric repeated the same arguments as contained in memo of the appeal and contended that electricity connection of the respondent was inspected by K-Electric on 16.06.2016 and the respondent was found involved in dishonest abstraction of electricity through use of a hook and the connected load was noticed higher than the sanctioned load, therefore a detection bill amounting to Rs.147,103/- for 5,382 units for the period 30.10.2015 to 27.05.2016 was charged to the respondent in August 2016, which is justified and payable by the respondent. K-Electric informed that premises of the respondent was inspected by K-Electric in his presence but the respondent refused to sign the Site Inspection report (SIR) dated 16.06.2016. K-Electric pointed out that the increase in consumption was noticed after the elimination of 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. The learned counsel for the respondent argued that no specific illegality was pointed against the impugned decision, which is in accordance with facts and law and liable to be upheld.

7. 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





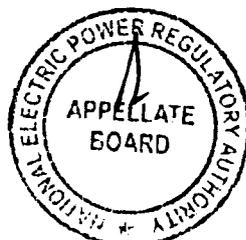
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other criminal proceedings as required under law and CSM were initiated by K-Electric. Further K-Electric could not give any cogent reason for its failure to adhere the provisions of CSM and other proceedings as required under the law. As no theft of electricity was established by K-Electric against the respondent, the objection regarding jurisdiction of POI is not valid, therefore 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:

Period	Normal Mode Average Units/Month	Detection Mode Average Units/Month
<b>Period before dispute</b> April 2015 to Nov-2015 (8 months)	407	-
<b>Disputed period</b> Dec-2015 to May-2016 (6 months)	420	1,317
<b>Period after dispute</b> Jun-2016 to Jan-2017 (8 months)	563	-

It is evident from the above table that the detection units charged @ 1,317 units/month for the disputed period are much higher than the normal consumption of 407 units/month and 563 units/month recorded in the undisputed periods prior and after respectively. Moreover charging the aforesaid detection bill for six month is violative of the provision of CSM. Therefore we are in agreement with the determination of POI that the detection bill amounting to Rs.147,103/- for 5,382 units for 30.10.2015 to 27.05.2016 (December 2015 to May 2016) charged to the respondent has no

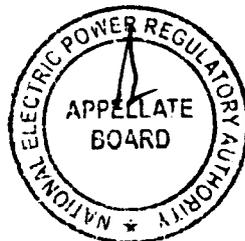




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justification and liable to be cancelled.

- 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. Since K-Electric disputed the consumption of the respondent recorded during the period before dispute i.e. April 2015 to November 2015, therefore it would be fair and appropriate to charge the detection bill @ 563 units/month for the disputed period i.e. March 2016 to May 2016 (3 months only) as recorded during the period after dispute i.e. June 2016 to January 2017. However the units charged in normal mode and payment made during the same months by the respondent by K-Electric are liable to be adjusted.
  - iv. Impugned decision regarding cancellation of Late Payment Surcharges (LPS) levied due to default in payment of the unjustified detection bill is correct, therefore liable to be upheld to this extent.
8. In view of foregoing consideration, it is concluded that:
- i. Detection bill of Rs.147,103/- for 5,382 units for December 2015 to May 2016 (6 months) 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.
  - ii. The respondent should be charged the detection bill @ 563 units/months for March 2016 to May 2016 (3 months only). Consumer account of the





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respondent should be overhauled after making the adjustment of normal units charged and payment made during the same period.

9. The impugned decision is modified in above terms.

Muhammad Qamar-uz-Zaman  
Member

Muhammad Shafique  
Member

Nadir Ali Khoso  
Convener

Date: 18.08.2017

