



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

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No. NEPRA/AB/Appeal-047/POI-2017/ 1239-1244

August 21, 2017

1. Babar Hussain,
S/o Bashir Hussain,
Plot No. 168-169,
Block "B", M. K. Colony,
Baldia Town, 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. Muhammad Aziz Siddiqui,
S/o Muhammad Ilyas,
311-316, Al-Falah Mobile Market,
Saddar, Karachi
6. 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 20.02.2017 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 18.08.2017, regarding the subject matter, for information and necessary action accordingly.

Encl: **As Above**

No. NEPRA/AB/Appeal-047/POI-2017/ 1245

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-047/POI-2017

K-Electric Limited

.....Appellant

Versus

Babar Hussain S/o Sabir Hussain, Plot No.168-169,
Block "B", M.K. Colony, Baldia Town, Karachi

.....Respondent

For the appellant

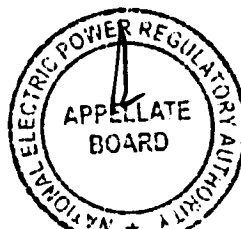
Ms. Tatheera Fatima Deputy General Manager (Legal Distribution)
Mr. Masahib Ali Manager
Mr. Imran Hanif Deputy Manager
Mr. Israr Ahmed RA

For the respondent:

Mr. Babar Hussain
Mr. Aziz Siddiqui

DECISION

1. Brief facts give rising to the instant appeal are that the respondent is an industrial consumer (power loom) of K-Electric bearing Ref No.AP-087286 having a sanctioned load of 4 kW under B-1 tariff. Premises of the respondent was inspected by K-Electric on 23.12.2015 and it was alleged that electricity meter of the respondent was found dead stop with neutral broken and the respondent was stealing electricity through an extra phase, besides the connected and running loads noticed as 31.255 kW and 13.99 kW respectively were much higher than



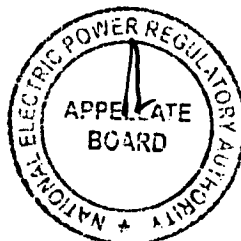


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the sanctioned load. As per K-Electric, a notice dated 23.12.2015 was issued to the respondent regarding above discrepancy and later on a detection bill amounting to Rs.455,095/- for 24,312 units for the period 09.06.2015 to 09.12.2015 (July 2015 to December 2015) was charged to the respondent on 11.06.2016.

2. Being aggrieved with the aforesaid detection bill, the respondent challenged the same before Sindh High Court, Karachi through CP No.D-255/2017, which was referred by the honorable High Court vide its order dated 17.01.2017 to Provincial Office of Inspection/Electric Inspector, Karachi Region-II, Karachi (hereinafter referred to as POI) for further adjudication. In pursuance of the order of the honorable High Court, the respondent filed an application before POI on 02.01.2017 and assailed the aforesaid detection bill, which was decided vide POI decision dated 20.02.2017 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 & Regulations and above findings, this authority is of the firm view that four detection bills amounting to Rs.455,095/- of 24312 units for the period from 09.06.2015 to 09.12.2015 issued by the opponent has no legal and technical grounds liable to be cancelled. The complainant is directed to regularize his unauthorized load as per codal formalities of the opponents. The opponents are directed to act in terms of above instructions accordingly. The complaint of the complainant is

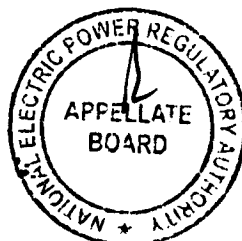




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disposed off with above remarks."

3. K-Electric was not satisfied with the POI decision dated 20.02.2017 (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 appeal, K-Electric contended that electricity meter of the respondent was found dead stop, neutral broken, electricity was being used illegally through an extra phase and the running and connected loads were observed much above the sanctioned load during K-Electric checking dated 23.12.2015. According to K-Electric, the detection bill amounting to Rs.455,095/- for 24,312 units for the period July 2015 to December 2015 was charged to the respondent on 11.06.2016 on the basis of running load. K-Electric submitted that as the case pertains to theft of electricity, therefore FIR was being lodged against the respondent but he admitted commencement of theft of electricity and promptly made payment of Rs.200,000/-. K-Electric pointed out that POI is not empowered to adjudicate upon the instant matter being a theft case, wherein meter was by-passed. K-Electric submitted that the impugned decision is not based on facts and law and pleaded for setting aside the same.
4. A notice for filing reply/parawise comments to the above appeal was issued to the respondent, which were filed on 21.04.2017. The respondent in his reply contended that neither any prior notice was served upon him nor any inspection was carried out during his presence. The respondent further contended that the

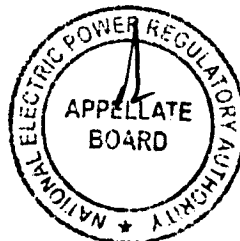




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payment of Rs.200,000/- on 30.12.2015 was made under protest due to pressure of K-Electric. The respondent pointed that the consumption before and after the disputed period remained unchanged, which proved that the actual consumption was recorded during the disputed period. The respondent stated that the impugned decision rendered by POI is in accordance with ground realities and provisions of CSM and prayed for upholding the same.

5. After issuing notice to both the parties, hearing of the appeal was held in NEPRA regional office Karachi on 07.08.2017, wherein both the parties made their attendance. Learned representative of K-Electric repeated the same arguments as contained in memo of the appeal and contended that meter of the respondent was found dead, the respondent was illegally abstracting the electricity through extra phase, hence a detection bill amounting to Rs.455,095/- for 24,312 units for the period July 2015 to December 2015 (6 months) was charged to the respondent on 11.06.2016 on the basis of running load which was higher than the sanctioned load. K-Electric admitted that no legal proceedings were initiated against the respondent as he agreed to pay the aforesaid detection bill. K-Electric objected the determination of POI on the basis of corresponding month's consumption of previous year i.e. 2014 and further informed that after removal of the said discrepancy, consumption of the respondent increased in the year 2016. Conversely, the respondent rebutted the stance of K-Electric and contended that if there was illegal abstraction of electricity through unfair means then why FIR was not registered against him by K-Electric. The respondent defended the





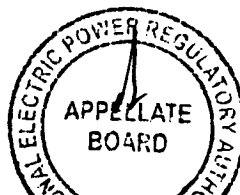
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impugned decision and prayed for its maintainability.

6. We have heard arguments of both the parties, it has been observed as under:
- 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. Objection of K-Electric regarding jurisdiction of POI is not valid, therefore dismissed
 - ii. A detection bill amounting to Rs.455,095/- for 24,312 units for the period July 2015 to December 2015 (6 months) was charged to the respondent on the basis of running load, which was agitated by the respondent vide an application before POI on 02.01.2017.
 - iii. In order to ascertain the justification of aforesaid detection bill, following comparison between the consumption of disputed and undisputed period is made:

Period	Normal Mode Average Units/Month	Detection Mode Average Units/Month
Corresponding period before dispute Jul-2014 to Dec-2014 (6 months)	460	-
Disputed period Jul-2015 to Dec-2015 (6 months)	1,826	5,878
Corresponding period after dispute Jul-2016 to Dec-2016 (6 months)	2,106	-

From the above table, it emerges that the average detection units charged during the disputed period i.e. July 2015 to December 2015 by K-Electric are considerably higher than the normal average consumption of corresponding





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undisputed periods before and after the dispute respectively which demonstrates that the meter was recording consumption correctly. We are inclined to agree with the determination of POI that the detection bill amounting to Rs.455,095/- for 24,312 units for the period July 2015 to December 2015 (6 months) charged to the respondent is illegal, unjustified, therefore liable to be cancelled.

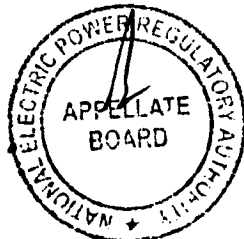
- iv. Since the period before the dispute is also agitated by K-Electric, it would be judicious to charge the detection bill @ 2,106 units per month for the disputed period July 2015 to December 2015 (6 months) as recorded during the corresponding undisputed period after the dispute i.e. July 2016 to December 2016.

Calculation of detection bill for the period July 2015 to December 2015 (06 months)		
Units to be charged	Units already charged	Net chargeable Units
$2,106 \times 6 = 12,636$	$1,826 \times 6 = 10,956$	$12,636 - 10,956 = 1,680$

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

- i. Detection bill of Rs.455,095/- for 24,312 units for the period July 2015 to December 2015 (6 months) charged to the respondent by K-Electric on 11.06.2016 is null and void as already declared in the impugned decision.
- ii. The respondent should be charged 1,680 net units for the period July 2015 to December 2015. Billing account of the respondent should be overhauled after making adjustment of payment already made by the respondent during the

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disputed period.

8. The impugned decision is modified in above terms.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Date: 18.08.2017

