



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

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No. NEPRA/AB/Appeal-041/POI-2017/ 1233-1237

August 21, 2017

1. Azia Muhammad,
Sr. No. 1, Aziz Bakery,
Gharo No. 2, 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,
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. Azia Muhammad 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 17.08.2017, regarding the subject matter, for information and necessary action accordingly.

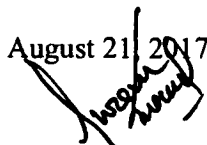
Encl: **As Above**

No. NEPRA/AB/Appeal-041/POI-2017/ 1238

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-041/POI-2017

K-Electric Ltd

.....Appellant

Versus

Azia Muhammad, Sr. No. 1,
Aziz Bakery Ghara No.2, Karachi

.....Respondent

For the appellant

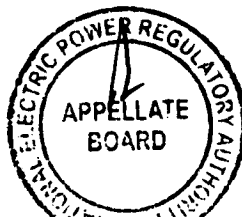
Ms. Tatheera Fatima Deputy General Manager (Legal Distribution)
Mr. Zulfiqar Ali Azeemi
Mr. Masahib Ali Manager
Mr. Imran Hanif Deputy Manager
Mr. Israr Ahmed RA

For the respondent:

Mr. Nisar Ahmed Advocate
Mr. Muhammad Ramzan Advocate

DECISION

1. This decision shall dispose of the 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).
2. Brief facts of the case are that the respondent is a commercial consumer of K-Electric bearing Ref No.AL-889301 with a sanctioned load of 4 kW under A-2C tariff. K-Electric alleged that premises of the respondent was inspected on 24.10.2016 and the respondent was found stealing electricity through a hook





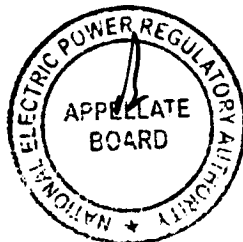
National Electric Power Regulatory Authority

connection and the connected load was noticed as 5.36 kW, therefore the detection bill of Rs.77,936/- for 2,886 units for the period 30.03.2016 to 28.09.2016(6 months) was charged to the respondent in November 2016 on the basis of connected load.

3. Being aggrieved, the respondent filed an application before POI on 22.11.2016 and challenged the aforesaid detection bill. POI disposed of the matter vide its decision dated 30.01.2017, 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 authority and in the light of relevant law and Regulations as well as above findings, this authority is of the view that the detection bill amounting to Rs.77,936/- for the period 30.03.2016 to 28.09.2016 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. Being dissatisfied with the POI decision dated 30.01.2017 (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 premises of the respondent was inspected by K-Electric on 24.10.2016 and the respondent was found consuming electricity directly through use of hook and the connected load was also higher than the

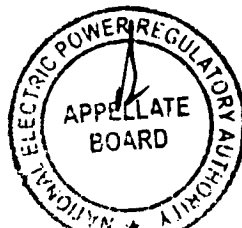




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sanctioned load. As per contention of K-Electric, the detection bill amounting to Rs.77,936/- for 2,886 units for the period 30.03.2016 to 28.09.2016 (6 months) charged to the respondent in November 2016 is legal, justified and the respondent is liable to pay the same. K-Electric raised the preliminary objection regarding jurisdiction of POI and contended that being a case of theft of electricity by bypassing the meter, POI was not authorized to adjudicate the instant complaint. K-Electric stated that a notice under Section 20 of the Electricity Act 1910 was issued prior the inspection and is well within the knowledge of the respondent. K-Electric explained that FIR was not lodged against the respondent as he conceded the offense and agreed for payment of the aforesaid detection bill. K-Electric informed that presence of witness at the time of conducting raid is not possible due of lack of cooperation by the public.

5. In response to the above appeal, the respondent was issued a notice for filing reply/parawise comments, 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 non registration of FIR by K-Electric against him proves that no theft was taking place. As regards the jurisdiction of POI, the respondent averred that the instant matter is not a theft of electricity case but a billing dispute, therefore POI is authorized to adjudicate the matter. The respondent supported the impugned decision and prayed 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 both the parties entered their appearance. Ms. Tatheera

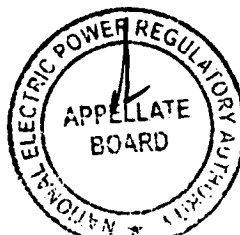




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Fatima Deputy General Manager (Distribution Legal), learned representative of K-Electric repeated the same arguments as earlier narrated in memo of the appeal and declared that the detection bill of Rs.77,936/- for 2,886 units for the period 30.03.2016 to 28.09.2016 (6 months) was charged to the respondent in November 2016 in order to recover the revenue loss sustained by K-Electric due to theft of electricity and the same is payable by the respondent. Learned representative for K-Electric averred that the consumption of the respondent increased after the removal of the discrepancy, which confirms the commission of theft of electricity. On the other hand, learned counsel for the respondent reiterated the same arguments as contained in his parawise comments/reply, denied allegation of theft of electricity and pleaded the aforesaid detection bill charged to the respondent was neither justified nor payable.

7. We have heard arguments of both the parties and examined the record placed before us. Following is observed:
 - 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 regarding theft of electricity. We are inclined to agree with the contention of the respondent that it is a billing dispute and falls under the jurisdiction of POI.
 - ii. The detection bill of Rs.77,936/- for 2,886 units for the period 30.03.2016 to 28.09.2016 (April 2016 to September 2016) charged by K-Electric in November 2016 was assailed by the respondent before POI on 30.01.2017.



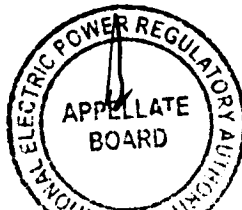


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- iii. Charging the aforesaid detection bill for six months to the respondent by K-Electric is inconsistent with provisions of CSM. According to clause 9.1 c (3) of CSM, the respondent is liable to be billed maximum for three billing cycles being a commercial consumer as nothing has been placed on record by K-Electric showing that approval for charging the detection bill beyond three 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. Under these circumstances, the detection bill of Rs.77,936/- for 2,886 units for the period April 2016 to September 2016 (6 months) charged to the respondent by K-Electric has no justification, therefore cancelled as already determined by POI.
- iv. Pursuant to clause 9.1 c (3) of CSM, the respondent is liable to be billed for three months only i.e. July 2016 to September 2016, if low consumption is established during the said months. In this regard, comparison of the consumption data between the disputed and undisputed periods as provided by K-Electric is tabulated below:

Period	Normal Mode Average Units/Month
Period before dispute October 2015 to March 2016 (6 months)	534
Disputed period July 2016 to September 2016 (3 months)	284
Period after dispute October 2016 to January 2017 (4 months)	650

Perusal of the above table transpires that the average consumption in normal mode during the disputed period is considerably lower than the average





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consumption of other two undisputed periods, which establishes that the actual consumption was not recorded by the meter during the disputed period. It would be fair and appropriate to charge 650 units/month for the disputed period July 2016 to September 2016 (3 months) as recorded during the undisputed period after dispute. Impugned decision is liable to be modified to this extent.

8. In view of foregoing consideration, it is concluded that:
- i. The detection bill of Rs.77,936/- for 2,886 units for the period 30.03.2016 to 28.09.2016 (6 months) charged to the respondent by K-Electric in November 2016 and late payment surcharges levied due to non-payment of the aforesaid detection bill are cancelled as already determined in the impugned decision.
 - ii. The respondent should be charged 650 units/month for July 2016 to September 2016 (3 months). Billing account of the respondent should be overhauled after the adjustment of units already charged in normal mode and payments made (if any) during the same period.
9. Impugned decision is modified in above terms.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Date: 17.08.2017

