



Before the Appellate Board
National Electric Power Regulatory Authority
(NEPRA)

Islamic Republic of Pakistan

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No. NEPRA/AB/Appeal-049/POI-2017/ *1369-1374*

September 20, 2017

1. Faiz Ahmed Faiz,
Director,
Islami Nizam-e-Taleem South,
"G" Sector, Manzoor Colony,
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 Aashiq Illahi,
Advocate High Court,
House No. 11/12, G-Sector,
Manzoor colony, Karachi
6. Electric Inspector,
Karachi Region-I,
Block No. 51, Pak Secretariat,
Shahra-e-Iraq, Saddar,
Karachi

Subject: Appeal Titled K-Electric Ltd Vs. Faiz Ahmed Faiz Against the Decision Dated 15.02.2017 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 19.09.2017, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(Ikram Shakeel)

No. NEPRA/AB/Appeal-049/POI-2017/ *1375*

September 20, 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-049/POI-2017

K-Electric Ltd

.....Appellant

Versus

Faiz Ahmed Faiz, Director Islami Nizam-e-Taleem South
Al Farooq Secondary School "G" Sector, Manzoor Colony, KarachiRespondent

For the appellant:

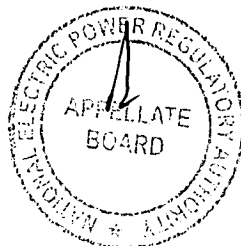
Mr. Masahib Ali Manager
Mr. Imran Hanif Deputy Manager
Mr. Ali Nisar Ahmed Assistant Manager

For the respondent:

Mr. Muhammad Ashiq Ellahi Advocate

DECISION

1. This decision shall dispose of the appeal filed by K-Electric against the decision dated 15.02.2017 of Provincial Office of Inspection, Karachi Region-I, Karachi (hereinafter referred to as POI) 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).
2. The respondent is a residential consumer of K-Electric bearing Ref No. AL-351800 having a sanctioned load of 1 kW under A-1R tariff. As per K-Electric, the respondent



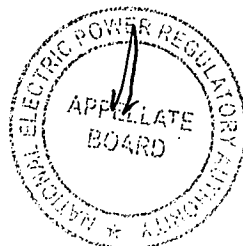


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was charged a detection bill amounting to Rs.77,315/- for 5,240 units for the period 04.04.2011 to 04.10.2011(6 months) on 17.12.2011 on the basis of connected load on the plea that the respondent was illegally abstracting the electricity through unfair means and the connected load was also noticed as 4.9 kW against the sanctioned load of 1 kW.

3. The respondent assailed the aforesaid detection bill before POI vide a complaint on 07.02.2013. In his complaint the respondent averred that the aforesaid detection bill has no justification and he is not liable to pay the same. The matter was disposed of by POI vide its decision dated 15.02.2017, which is concluded as under:

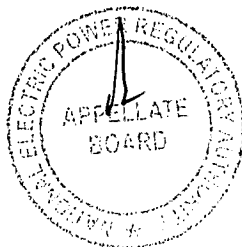
“After conducting several number of hearings, giving fair opportunities to hear both the parties, scrutinizing the record, made available with this office and in the light of above findings, this office is of the view that opponents have violated the mandatory requirements of Electricity Act 1910 and guide lines communicated through Consumer Service Manual (CSM) of NEPRA as pointed out in above findings. This office therefore direct the opponents to cancel the detection bill amounting to Rs.77,315/- of 5,240 units for the period from 04.04.2011 to 04.10.2011 as the same has no justification on technical and legal grounds. It is further directed the Opponents to waive all late payment surcharges and disconnection/reconnection charges which are outcome of the impugned detection bill and afterwards, as the complaint was not found at fault. The complaint is disposed off in terms of above for compliance by the opponents.”





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4. Being dissatisfied with the POI decision dated 15.02.2017 (hereinafter referred to as the impugned decision), K-Electric has filed the instant appeal under Section 38 (3) of the NEPRA Act 1997. In its appeal, K-Electric contended that the respondent was stealing electricity through unfair means and the connected load was also observed much above the sanctioned load. According to K-Electric, the detection bill amounting to Rs.77,315/- for 5,240 units for the period 04.04.2011 to 04.10.2011 (6 months) was charged to the respondent due to dishonest abstraction of electricity and the respondent is liable to pay the same. As per K-Electric, being a case of theft of electricity, POI was not empowered to decide the instant matter. K-Electric pleaded that the impugned decision was illegal, without jurisdiction, therefore liable to be set aside.
5. In response to the above appeal, the respondent was issued a notice for filing reply/parawise comments, which were filed on 23.05.2017. In his reply, the respondent refuted the allegation of theft levelled by K-Electric and contended that the detection bill of Rs.77,315/- for 5,240 units for the period 04.04.2011 to 04.10.2011 (6 months) is unjustified and he is not obligated to pay the same. The respondent defended the impugned decision and prayed for dismissal of the appeal.
6. After issuing notice, hearing of the appeal was conducted in Karachi on 06.09.2017 in which Mr. Masahib Ali Manager along with other officials represented the appellant K-Electric and Mr. Muhammad Ashiq Ellahi advocate appeared for the respondent. Representatives of K-Electric repeated the same arguments as narrated in memo of the appeal and contended that the respondent was stealing electricity directly and the





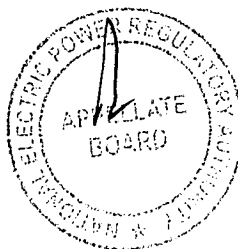
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connected load was above the sanctioned load. Representative of K-Electric averred that site inspection report (SIR) was prepared but the same is not available as it was destroyed in the fire. As per representative for K-Electric, the detection bill of Rs.77,315/- for 5,240 units for the period 04.04.2011 to 04.10.2011 (6 months) was charged to the respondent in December 2011 in order to recover the revenue loss sustained by K-Electric as the actual energy was not being recorded during the said period due to dishonest abstraction of electricity. K-Electric pleaded that the impugned decision was unjustified, therefore liable to be set aside. On the contrary, learned counsel for the respondent argued that neither any notice was served to the respondent nor allegation of theft levelled by K-Electric was proved against him. The respondent contradicted the version of K-Electric and asserted that the bills were charged by K-Electric as per actual consumption recorded by the meter during the disputed period, hence there is no justification for charging any detection bill due to theft of electricity. Learned counsel for the respondent defended the impugned decision and pleaded for its maintainability.

7. We have heard arguments of both the parties and examined the record placed before us.

It is observed as under:

- i. Theft of electricity by the respondent is alleged by K-Electric but no FIR and other legal proceedings and actions under CSM were initiated by K-Electric and moreover as observed by POI, no concrete proof was provided by K-Electric regarding theft of electricity. Therefore objection of K-Electric regarding





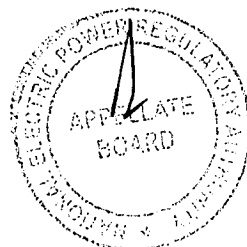
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jurisdiction of POI being a theft case is not sustainable in the eye of law and dismissed accordingly.

- ii. The respondent assailed the detection bill amounting to Rs.77,315/- for 5,240 units for the period 04.04.2011 to 04.10.2011 (6 months) charged in December 2011 before POI vide his application on 07.02.2013. In order to ascertain the justification of the detection bill of Rs.77,315/-, comparison between the disputed and corresponding undisputed periods is worked out below:

Period	Normal Mode Average Units/Month	Detection Mode Average Units/Month
Corresponding period before dispute April 2010 to September 2010	306	-
Disputed period April 2011 to September 2011	275	1,176
Corresponding period after dispute April 2012 to September 2012	108	-

From the above table it is revealed that the detection bill charged @ 1,176 units/month during the disputed period i.e. April 2011 to September 2011 is much higher than the normal average consumption recorded during the corresponding undisputed periods (before/after). Moreover K-Electric failed to provide any document i.e. SIR, notice etc, which could substantiate their stance that the respondent was dishonestly abstracting electricity through unfair means. Therefore we are inclined to agree with the determination of POI that the detection bill of Rs.77,315/- for 5,240 units for the period 04.04.2011 to 04.10.2011 (6 months)





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charged to the respondent in December 2011 and late payment surcharges levied due to non-payment of the aforesaid detection bill are unjustified and the same should be cancelled.

8. In view of what has been stated above, we do not find any reason to interfere with the impugned decision, the same is upheld and resultantly the appeal is dismissed.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Dated: 19.09.2017

