



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

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No. NEPRA/AB/Appeal-055/POI-2016/ *1442-1447*


September 26, 2017

1. Abdul Aziz,  
S/o Haji Gul Hassan,  
Amilano Tapo Darsano Chanoo,  
Kathore Gadap Town,  
Super High Way, Karachi
2. Chief Executive Officer,  
K-Electric,  
KE House, 39-B,  
Sunset Boulevard, DHA-II,  
Karachi
3. Karam Dad Khan Tanoli,  
Advocate High Court,  
Room No. 313, Third Floor,  
Sunny Plaza, Hasrat Mohany Road,  
Karachi
4. Asif Shajer,  
Deputy General Manager,  
K-Electric, KE House, 39-B,  
Sunset Boulevard, DHA-II,  
Karachi
5. Ms. Tatheera Fatima,  
Deputy General Manager,  
K-Electric Ltd,  
3<sup>rd</sup> floor, KE Block,  
Civic Centre, Gulshan-e-Iqbal,  
Karachi
6. Electric Inspector,  
Karachi Region-II,  
Block No. 51, Pak Secretariat,  
Shahra-e-Iraq, Saddar,  
Karachi

Subject: Appeal Titled K-Electric Ltd Vs. Abdul Aziz Against the Decision Dated 15.02.2017 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 25.09.2017, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

  
(Ikram Shakeel)

No. NEPRA/AB/Appeal-055/POI-2016/ *1448*

September 26, 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-055/POI-2016

K-Electric Ltd

.....Appellant

Versus

Abdul Aziz S/o Haji Gul Hassan, Deh Amilano Tapo Darsano Chanoo,  
Kathore Gadap Town, Super Highway, Karachi

.....Respondent

For the appellant:

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

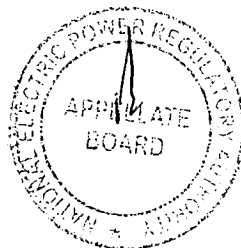
For the respondent:

Mr. Nazir Hussain

A.  
K.

## DECISION

1. This decision shall dispose of the appeal filed by K-Electric against the decision dated 15.02.2016 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 an agricultural consumer of K-Electric having connection bearing Ref No.AP-056631 with applicable tariff D-1. K-Electric issued an electricity bill on 22.10.2013, which contained an average bill of Rs.9,174/- for 2,370 units on DIAG tariff and arrears of Rs.712,675/- as on

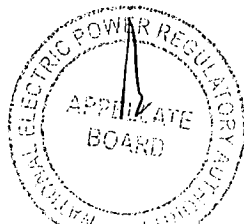




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22.10.2013. As per respondent, Electric Inspector vide its decision dated 28.07.2006 (hereinafter referred to as the first decision) held that the supplementary bill amounting to Rs.585,921/- for November 1999 to November 2002 (36 months) issued on commercial basis be revised for three months only i.e. September 2002 to November 2002 on the basis of agricultural tariff. The respondent stated that the first decision of Electric Inspector was not implemented by K-Electric till date, therefore the aforesaid arrears accumulated to this extent.

3. Subsequently the respondent received an arrear bill of Rs.1,304,994/- in February 2014, which was challenged by him before POI vide application dated 24.03.2014 (first application). Premises of the respondent was inspected by K-Electric on 18.04.2014 and allegedly the respondent was found involved in dishonest abstraction of electricity through unfair means, moreover the connected load was noticed as 11.19 kW. After issuing notice dated 18.04.2014 to the respondent, a detection bill amounting to Rs.79,115/- for 6,697 units for the period 11.09.2013 to 12.03.2014 (6 months) was charged by K-Electric to the respondent on the basis of connected load. A joint inspection was carried out by POI on 30.04.2015 and reportedly the meter was found dead stop, no electrical installation and any source of supply for dishonest abstraction of electricity was established. Respondent filed another application before POI on 10.01.2016 (second application) and challenged the accumulated arrears of Rs.2,418,359/- till December 2015.
4. POI disposed of the matter vide its decision dated 15.02.2016, which is concluded as



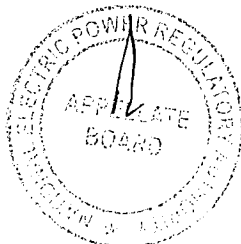


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under:

*“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 Irregular bills amounting to Rs.79,115/- of 6,697 units for the period from 11.09.2013 to 12.03.2014, issued by the opponents is liable to be cancelled as it is unjustified and without technical and legal grounds. That the arrear bill amounting to Rs.1,304,217/- for the month of February-2014, has no legal and technical grounds hence liable to be cancelled. The opponent is also directed to clear the amount as per decision dated 28.06.2016, which was passed by the Electric Inspector. The opponents are directed to act in terms of above instructions accordingly. The complaint of the complainant is disposed off with above remarks.”*

5. Being dissatisfied with the POI decision dated 15.02.2016 (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 inter alia, contended that the respondent indulged in dishonest abstraction through tampering of the meter, the said discrepancy was also confirmed by Assistant Electric Inspector during joint inspection dated 30.11.2002, hence a supplementary bill of Rs.585,921/- for the period November 1999 to November 2002 (36 months) was charged to the respondent in the year 2005, which however was cancelled by Electric

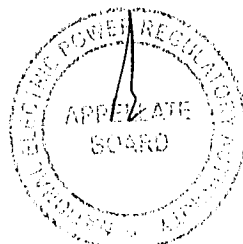




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Inspector vide its first decision dated 28.07.2006. K-Electric averred that 158 electricity bills for the period July 2000 to August 2013 were issued to the respondent by K-Electric against which he made payment for 7 electricity bills only, therefore the arrears accumulated due to default in payment. K-Electric alleged that the respondent is habitual in stealing electricity through unfair means and was disconnected time and again but he restored electric supply illegally by its own. K-Electric further submitted that another detection bill of Rs.79,115/- for 6,697 units for the period 11.09.2013 to 12.03.2014 (6 months) was debited to the respondent on the basis of site inspection report (SIR) dated 18.04.2014. K-Electric insisted not to rely on the POI joint inspection dated 30.04.2015 as it was conducted by force without their consent. As per K-Electric, being a case of theft of electricity, POI was not empowered to decide the instant matter. K-Electric prayed for cancellation of the impugned decision being without jurisdiction of POI.

6. The respondent was issued a notice for filing reply/parawise comments to the appeal, which were filed on 31.10.2016. In his reply, the respondent raised the preliminary objection regarding the maintainability of the appeal and contended that the decision dated 28.07.2006 was rendered by Electric Inspector under Section 24 and 26 of Electricity Act 1910, against which the appeal was competent before Secretary Energy Government of Sindh. As per respondent, the same was instead filed before the NEPRA Appellate Board after lapse of long time period, therefore the appeal is not maintainable being barred by time. The respondent further contended that neither any

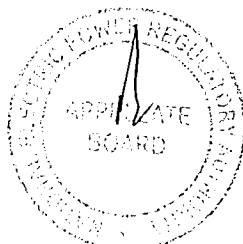




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prior notice was served upon him nor any inspection was carried out during his presence, moreover K-Electric failed to prove allegation of theft of electricity levelled against him, therefore there is no justification for charging the irregular bills. As regards the excessive billing, the respondent also contradicted the version of K-Electric and submitted that the electric supply was disconnected by K-Electric in May 2004 and thereafter it was neither restored by him nor used, which was also confirmed by POI during inspection dated 30.04.2015, therefore entire billing done by K-Electric is incorrect and fictitious.

7. After issuing notice to both the parties, hearing of the appeal was held in Karachi on 06.09.2017 in which both the parties made their attendance. Representatives of K-Electric repeated the same arguments as earlier narrated in memo of the appeal and contended that premises of the respondent was inspected by K-Electric on 18.04.2014 wherein he was found stealing electricity directly and the connected load was noticed as 11.19 kW. As per representative for K-Electric, the detection bill of Rs.79,115/- for 6,697 units for the period 11.09.2013 to 12.03.2014 (6 months) was charged by K-Electric to the respondent on the basis of connected load. K-Electric averred that a joint inspection was carried out by POI on 30.04.2015, which was opposed by K-Electric as the respondent is highly influential person but signed the site inspection report (SIR) under coercion being afraid of the respondent's influence. According to K-Electric, the supply of the respondent was disconnected in May 2004 but electricity was consumed by restoring it illegally. K-Electric pleaded that the impugned decision

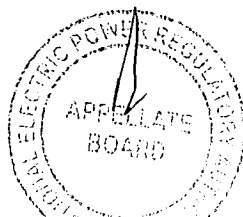




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was unjustified, therefore liable to be set aside. Conversely, the representative for the respondent denied the allegation of theft of electricity levelled by K-Electric and contended that if it is presumed that the respondent was using electricity through unfair means as to why action was not initiated by K-Electric as per provisions of Consumer Service Manual (CSM) and Criminal Law. Representative for the respondent pleaded that as to why K-Electric did not agitate the POI inspection dated 30.04.2015 before a Civil Court, if it was conducted without their consent and signed under coercion. The respondent supported the impugned decision and prayed that the same should be maintained.

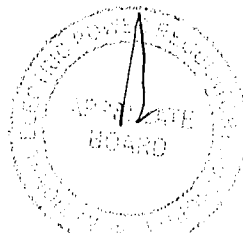
8. We have heard arguments of both the parties, examined the record placed before us. It is observed as under:
- i. Theft of electricity by the respondent is alleged by K-Electric but no FIR and other proceedings as required under law and CSM were initiated by K-Electric. Therefore objection of K-Electric regarding jurisdiction of POI being a theft case is not sustainable and dismissed.
  - ii. As regards the supplementary bill amounting to Rs.585,921/- for November 1999 to November 2002 (36 months) earlier issued by K-Electric on commercial tariff, it is observed that the said irregular bill was disputed by the respondent before Electric Inspector under the provisions of Electricity Act 1910 and the Electric Inspector vide its decision dated 28.07.2006 declared the same as null and void and revised for three months only i.e. September 2002 to November 2002 on the basis of





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- agricultural tariff. Since no appeal was filed by K-Electric against the said decision, which attained finality and should be implemented accordingly.
- iii. Admittedly the respondent was consuming electricity till May 2004. Perusal of billing statement reveals that the respondent did not make the payment of electricity bills regularly till May 2004, when the supply was disconnected. The respondent is liable to pay the arrears as per actual meter reading for the period July 2000 to May 2004.
- iv. We do not agree with the contention of K-Electric that the respondent restored supply after its disconnection in May 2004 as no documentary proof was given by K-Electric in this regard. K-Electric failed to initiate criminal proceedings under law or take appropriate action under the provision of CSM for the alleged dishonest abstraction of electricity. Therefore the assessed/average bills charged by K-Electric to the respondent during the disputed period i.e. June 2004 to December 2015 are unjustified and liable to be cancelled.
- v. As regards the detection bill of Rs.79,115/- for 6,697 units for the period 11.09.2013 to 12.03.2014 (6 months) charged to the respondent on the basis of SIR dated 18.04.2014, we agree with the findings of POI that no theft of electricity was being committed as the electrical connection and the electrical equipment were not existing at site as confirmed during the POI inspection dated 30.04.2015. The argument of K-Electric that the aforesaid inspection was carried out without their consent and signed under coercion has no force as there is no document placed







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before us to substantiate K-Electric version. Therefore the detection bill of Rs.79,115/- for 6,697 units for the period 11.09.2013 to 12.03.2014 (6 months) charged to the respondent has no justification and liable to be cancelled as already determined in the impugned decision.

9. In view of foregoing discussion, we have reached to the conclusion that:

- i. Detection bill of Rs.79,115/- for 6,697 units for the period 11.09.2013 to 12.03.2014 (6 months) and the assessed/average bills charged during the disputed period i.e. July 2004 to December 2015 are unjustified, therefore cancelled accordingly.
- ii. The respondent is obligated to pay the electricity bills charged as per actual meter reading for the period July 2000 to May 2004.

10. The impugned decision is modified in above terms.

Muhammad Qamar-uz-Zaman  
Member

Muhammad Shafique  
Member

Nadir Ali Khoso  
Convener

Dated: 25.09.2017

