



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

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No. NEPRA/AB/Appeal-129//POI-2016/ 382-388

March 21, 2017

1. M/s Remedial Centre Hospital & Nursing Home,
Plot No. D-9, Block-I,
North Nazimabad, 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. Electric Inspector,
Karachi Region-II,
Block No. 51, Pak Secretariat,
Shahra-e-Iraq, Saddar,
Karachi

Subject: **Appeal Titled K-Electric Ltd Vs. M/s Remedial Centre Hospital & Nursing Home Against the Decision Dated 26.05.2016 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 17.03.2017, regarding the subject matter, for information and necessary action accordingly.


Encl: **As Above**

(Ikram Shakeel)

No. NEPRA/AB/Appeal-129/POI-2016/ 387

March 21, 2017

Forwarded for information please.


Assistant Director
Appellate Board

1. Registrar
2. Director (CAD)

CC:

1. Member (CA)



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-129/POI-2016

K-Electric Ltd

.....Appellant

Versus

M/s. Remedial Centre Hospital & Nursing Home,
Plot No.D-9, Block-I, North Nazimabad, Karachi

.....Respondent

For the appellant:

Ms. Tatheera Fatima Deputy General Manager (Distribution-Legal)
Mr. Faisal Shafat Manager
Mr. Salman Rajan Deputy Manager (Regulations)
Mr. Imran Hanif Assistant Manager

For the respondent:

Mr. Muhammad Latif Advocate

DECISION

1. This decision shall dispose of the appeal filed by K-Electric against the decision dated 26.05.2016 of Provincial Office of Inspection/Electric Inspector, Karachi Region-II, 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-202392 with a sanctioned load of 5kW under A-2c tariff. Premises of the respondent was inspected by K-Electric on 03.01.2015 and allegedly the respondent was found involved in dishonest abstraction of electricity through neutral





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break and the connected load was noticed as 9.175kW, including two split AC units, much higher than the sanctioned load. As stated by K-Electric, after issuing notices dated 03.01.2015 and 14.01.2015 to the respondent regarding above discrepancy, a detection bill amounting to Rs.355,780/- for 13,980 units for the period 19.06.2014 to 18.12.2014 (July 2014 to December 2014) was charged to the respondent in March 2015 on the basis of connected load.

3. The respondent filed an application dated 20.05.2015 before POI and challenged the detection bill of Rs.355,780/-. Meanwhile the respondent also challenged the same detection bill before Sindh High Court, Karachi vide CP No.2997/2015 and the honorable High Court remanded the case to POI for further adjudication vide its Order dated 10.12.2015. The matter was disposed of by POI vide its decision dated 26.05.2016, 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 and above findings, this authority is of the firm view that the detection bill amounting to Rs.355,780/- of 13,980 units for the period from 19.06.2014 to 18.12.2014 issued by the opponents has no justification on legal and technical grounds, therefore direct the opponents to cancel the said bill.. The Opponents are directed to act in terms of above instructions accordingly. The complaint of the complainant is disposed off with above remarks."

4. Feeling aggrieved with the POI decision dated 26.05.2016 (hereinafter referred to as the





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impugned decision), K-Electric has filed the instant appeal. In its appeal, K-Electric contended that the premises of the respondent was inspected on 03.01.2015 and discrepancy of neutral break was observed for stealing electricity and the connected load of the respondent was much higher than the sanctioned load. According to K-Electric, the detection bill of Rs.355,780/- for 13,980 units for the period July 2014 to December 2014 charged to the respondent in March 2015 is justified and the respondent should pay the same. K-Electric pointed out that in-spite of order dated 10.12.2015 of the honorable High Court, POI failed to decide the matter within 60 days, hence the impugned decision became null and void. K-Electric explained that as the respondent agreed for payment of the aforesaid detection bill, FIR was not registered against him. K-Electric further submitted that being a case of theft of electricity, the matter falls beyond the jurisdiction of POI.

5. In response of notice of the appeal, the respondent filed reply/parawise comments. The respondent raised the preliminary objection regarding limitation and contended that the appeal against the impugned decision dated 26.05.2016 was filed before NEPRA on 11.07.2016, which is barred by time 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). The respondent refuted the allegation of dishonest abstraction of electricity and contended that neither he received any notice nor any inspection was carried out by K-Electric in his presence. The respondent prayed for maintainability of the impugned decision.





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6. Notice issued and hearing of the appeal was conducted in Karachi on 23.02.2017 in which Ms. Tatheera Fatima Deputy General Manager (Distribution- Legal) along with other officials represented the appellant K-Electric and Mr. Muhammad Latif Advocate appeared for the respondent. K-Electric reiterated the same arguments as contained in memo of the appeal and contended that premises of the respondent was inspected on 03.01.2015, the respondent was found involved in theft of electricity and his connected load was much higher than the sanctioned load. As per representative for K-Electric, the detection bill amounting to Rs.355,780/- for 13,980 units for the period July 2014 to December 2014 charged to the respondent on the basis of connected load is in accordance with the provisions of Consumer Service Manual (CSM) and should be paid by the respondent. According to the representatives for K-Electric, the impugned decision announced after 60 days i.e. beyond the time limit as prescribed by the honorable Sindh High Court Karachi is void ab-initio and liable to be dismissed. On the contrary, learned counsel for the respondent rebutted the stance of K-Electric and denied the involvement in theft of electricity and averred that there is no justification for charging the detection bill of Rs.355,780/- for 13,980 units for the period July 2014 to December 2014. He pleaded for dismissal of the appeal on the ground of limitation as well as on merit.

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

It is observed as under:

i. Copy of the impugned decision dated 26.05.2016 was admittedly obtained by





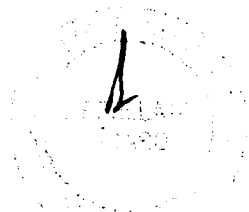
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K-Electric on 03.06.2016 and the appeal against the same was filed before the NEPRA on 11.07.2016, which is obviously time barred by 8 days under Section 38 (3) of NEPRA Act 1997. Moreover there is no application filed by K-Electric for condonation of the delay.

- ii. There is no force in the stance of K-Electric regarding lack of jurisdiction of POI being a theft case as no formalities as required under CSM and law were completed for proving the theft of electricity. Moreover this objection was also not pressed during the arguments, the objection is invalid.
- iii. As regards announcement of the impugned decision after 60 days as specified by the Sindh High Court, Karachi order dated 10.12.2015, it is noticed that the same is of directory and not mandatory in nature as no consequences have been defined. The objection of K-Electric being devoid of force is rejected.
- iv. Analysis of consumption of the disputed meter as provided by K-Electric is given below:

Period	Normal Mode Average Units/Month	Average Units/Month in Detection Mode
Corresponding period before dispute July 2013 to December 2013(6 months)	1,559	-
Disputed period July 2014 to December 2014(6 months)	1,633	3,963
Corresponding period after dispute July 2015 to December 2015 (6 months)	1,608	

From the above table, it emerges that there is no considerable difference of





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consumption between the disputed and undisputed periods as claimed by K-Electric.

It is concluded that the detection bill amounting to Rs.355,780/- for 13,980 units for the period July,2014 to December 2014 to the respondent is unjustified and should be withdrawn as already decided by POI.

8. Forgoing in view, the appeal is dismissed.

Muhammad Qamar-uz-Zaman
Member

Nadir Ali Khoso
Convener

Muhammad Shafique
Member

Date: 17.03.2017