



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

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No. NEPRA/AB/Appeal-136/POI-2016/ 317-321

March 07, 2017

1. Sarwar Khan,
(Anjuman Moti Masjid),
Plot No. 32, J-Block-6,
PECHS, 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-I,
Block No. 51, Pak Secretariat,
Shahra-e-Iraq, Saddar,
Karachi

Subject: Appeal Titled K-Electric Ltd Vs. Sarwar Khan Against the Decision Dated 17.06.2016 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 07.03.2017, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

No. NEPRA/AB/Appeal-136/POI-2016/ 322

Forwarded for information please.

(Ikram Shakeel)

March 07, 2017


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-136/POI-2016

K-Electric Ltd

.....Appellant

Versus

Sarwar Khan (Anjuman Moti Masjid) Plot No.32,
J Block-6, PECHS, Karachi

.....Respondent

For the appellant:

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

For the respondent:

Nemo

DECISION

1. This decision shall dispose of the appeal filed by K-Electric against the decision dated 17.06.2016 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 a commercial consumer of K-Electric bearing Ref No. LA-125462 with a sanctioned load of 1 kW under A2-C tariff. Premises of the respondent was inspected by K-Electric twice (November 2011 and 07.08.2012) and on both the occasions allegedly, the respondent was found involved in dishonest abstraction of electricity through use of an extra phase and the connected load was noticed as 3.59 kW and 4.226 kW respectively. As per K-Electric, after



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issuing notices to the respondent regarding above discrepancy, the detection/assessed bills were charged to the respondent due to theft of electricity, detail of which is tabulated below:

Bill Type	Period	Units	Amount (Rs.)
First detection bill	12.05.2011 to 12.11.2011 (June 2011 to November 2011)	5,829	100,446/-
Second detection bill	11.02.2012 to 11.08.2012 (March 2012 to August 2012)	5,824	95,247/-
Assessed bill	January 2013	400	8,239/-
Assessed bill	February 2013	500	10,135/-
Assessed bill	March 2013	500	10,135/-

3. Being aggrieved with the aforementioned irregular bills, the respondent filed an application dated 30.04.2013 before POI and challenged the first detection bill of Rs.100,446/- for 5,829 units for the period June 2011 to November 2011 (6 months) charged by K-Electric. In his application, the respondent further prayed for correction of all inflated bills. During the pendency of case before POI, more assessed bills amounting to Rs.4,275/- for 200 units, Rs.2,280/- for 33 units and Rs.5,152/- for 200 units were charged by K-Electric to the respondent for July 2013, September 2013 and May 2014 respectively. The matter was disposed of by POI i.e. its decision dated 17.06.2016 with the following conclusion:

"After conducting several number of hearings, giving fair opportunities to hear both



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the parties, scrutinizing the record, made available with this authority and in the light of above findings, this authority is of the firm view that Opponents have violated the mandatory requirements of Electricity Act-1910 and guide lines communicate through Consumer Service Manual (CSM) of NEPRA as pointed out in above findings, therefore conclude the matter with following directions to opponents: a) To cancel the detection bill amounting to Rs.100,446/- of 5,829 units for the period from 12.05.2011 to 12.11.2011 as it has no justification on technical and legal grounds. b) To cancel the detection bill amounting to Rs.95,547/- of 5,284 units for the period from 11.02.2012 to 11.08.2012 and needs to be revised on rational basis for three months only i.e. from 11.05.2012 to 11.08.2012 only. c) To cancel the X-code/assessed bills for the month of October 2012 amounting to Rs.6,195/- (gross), Rs.8,240 units of 400 units for the month January 2013, Rs.10,135/- for 500 units for February 2013, Rs.10,135/- for 500 units for March 2013, Rs.4,275/- of 200 units for the month of July 2013, Rs.2,280/- of 33 units for the month of September 2013 & Rs.5,152/- of 200 units for the month of May 2014 and revise the same on actual meter consumption recorded by energy meter. d) To adjust already paid amount by the applicant and waive the Reconnection charges & late payment surcharges levied after initiating the impugned billing as applicant has already suffered a lot with mental and financial torture caused by the respondents. e) To take necessary steps in the light of above findings and issued directions to its lower formation for strict compliance regarding the instructions conveyed through



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Consumer Service Manual (CSM) issued by NEPRA. The application is disposed off in terms of above for compliance by the respondents”

4. Being dissatisfied with the POI decision dated 15.07.2016 (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 contended that premises of the respondent was inspected by K-Electric twice and on both the occasions, respondent was found involved in dishonest abstraction of electricity through an extra phase, moreover the connected load was also observed much above the sanctioned load. According to K-Electric, the detection/assessed bills were issued to the respondent due to illegal abstraction of electricity as per detail given below:

Bill Type	Period	Units	Amount (Rs.)
First detection bill	June 2011 to November 2011	5,829	100,446/-
Second detection bill	March 2012 to August 2012	5,824	95,247/-
Assessed bill	January 2013	400	8,239/-
Assessed bill	February 2013	500	10,135/-
Assessed bill	March 2013	500	10,135/-
Assessed bill	July 2013	200	4,275/-
Assessed bill	September 2013	33	2,280/-
Assessed bill	May 2014	200	5,152/-

As per K-Electric only first detection bill of Rs.100,446/- was disputed by the respondent but POI also decided the undisputed detection/assessed bills,



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which is beyond his jurisdiction. K-Electric pleaded that the aforesaid detection/assessed bills were valid, justified and the respondent is liable to pay the same. Regarding filing of FIR and other actions as prescribed in Consumer Service Manual (CSM), K-Electric pleaded that same could not be taken due to practical difficulties in the field. In its appeal, K-Electric raised the preliminary objection regarding jurisdiction and contended that being a case of theft of electricity, the jurisdiction of POI is barred. A notice of the above appeal was issued to the respondent for filing reply/parawise comments, which however were not filed.

5. After issuing notice to both the parties, 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 no one entered appearance for the respondent. Representatives of K-Electric reiterated the same arguments as earlier narrated in memo of the appeal and contended that the premises of the respondent was inspected by K-Electric twice and on both the occasions, the respondent was found stealing electricity. According to K-Electric, first detection bill of Rs.100,446/- for 5,829 units for the period June 2011 to November 2011, second detection bill of Rs.95,247/- for 5,284 units for the period March 2012 to August 2012 and the assessed bills for October 2012, January 2013, February 2013, March 2013, July 2013, September 2013 and May 2014 charged to the respondent are justified and should be paid by the respondent. K-Electric pointed out that POI has also decided the bills for the months, which were not disputed by the respondent and

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provided relief to the respondent beyond his plea.

6. Arguments of K-Electric heard, the record perused, following are our observations:
- i. Theft of electricity by the respondent is alleged by K-Electric but no FIR and other steps as required under law and CSM were initiated by K-Electric. We are not convinced with the stance of K-Electric that due to some reasons procedure laid down by CSM could not be followed. Moreover the objection of K-Electric regarding jurisdiction of POI being a theft case was not pressed before us and therefore liable to be dismissed.
 - ii. First detection bill of Rs.100,446/- for 5,829 units for the period June 2011 to November 2011, second detection bill of Rs.95,247/- for 5,284 units for the period March 2012 to August 2012 and the assessed bills for October 2012, January 2013, February 2013, March 2013, July 2013, September 2013 and May 2014 were charged by K-Electric to the respondent. In fact the inflated bills till April 2013 were challenged by the respondent before POI vide his application dated 30.04.2013 but impugned decision includes bills for July 2013, September 2013 and May 2014 which were not agitated.
 - iii. K-Electric has charged the first detection bill amounting to Rs.100,446/- for 5,829 units for the period June 2011 to November 2011 to the respondent on the plea that the respondent was involved in dishonest abstraction of electricity. K-Electric could not produce any document Site Inspection Report i.e., (Site Inspection



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Report/notice prior to inspection) to prove its allegation, moreover it is observed that the aforesaid first detection bill charged to the respondent is also inconsistent with the provisions of CSM. We are inclined to agree with the findings of POI that the first detection bill amounting to Rs.100,446/- for 5,829 units for the period June 2011 to November 2011 charged to the respondent has no justification and therefore liable to be cancelled.

iv. Second detection bill of Rs.95,247/- for 5,284 units for the period March 2012 to August 2012 was charged by K-Electric to the respondent. Pursuant to clause 9.1(c)(3) of CSM, the respondent being a domestic consumer is liable to be charged for maximum three months only. POI has rightly determined in the impugned decision that the second detection bill of Rs.95,247/- for 5,284 units for the period March 2012 to August 2012 charged by K-Electric is not justified and liable to be cancelled. However the respondent should be charged the second detection bill for the period June 2012 to August 2012 (3 months) only as concluded by POI.

v. As regards the assessed bills for October 2012, January 2013, February 2013, March 2013 charged to the respondent. Comparison of disputed and undisputed periods is tabulated below:

Period	Average units charged in Normal mode	Average units charged in assessed mode
Period before dispute November 2011 to September 2012 (11 months)	70	-
Disputed months October 2012, January 2013, February 2013, March 2013	-	566



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From the above table, it emerges that the assessed bill charged @ 566 units/month for the disputed months (October 2012, January 2013, February 2013 & March 2013) is much higher than the average consumption of 70 units/month recorded in normal during the period before dispute. This established that the assessed bills for October 2012, January 2013, February 2013 & March 2013 charged to the respondent are unjustified and liable to be cancelled. The respondent is liable to be charged @ 70 units/months for the same disputed months. Impugned decision is liable to be modified to this extent.

- vi. As regards the assessed bills for July 2013, September 2013 and May 2014, we are convinced with the contention of K-Electric that the aforesaid assessed bills were not challenged by the respondent and determination of POI in this regard is beyond the prayer of the respondent and liable to be withdrawn.

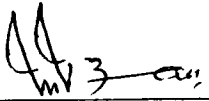
7. In view of foregoing discussion, we have reached to the conclusion that:

- i. Objection of K-Electric regarding lack of jurisdiction of POI being a case of illegal abstraction of electricity has no force and therefore over ruled.
- ii. First detection bill of Rs.100,446/- for 5,829 units for the period June 2011 to November 2011 (6 months), second detection bill of Rs.95,247/- for 5,284 units for the period March 2012 to August 2012(6 months) and the assessed bills for October 2012, January 2013, February 2013 and March 2013 charged by K-Electric to the respondent are not justified, therefore cancelled as already




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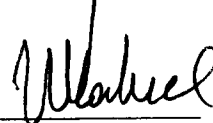
- determined in the impugned decision.
- iii. The respondent should be charged the second detection bill for June 2012 to August 2012 (3months) and the assessed bills @ 70 units/month for October 2012, January 2013, February 2013 & March 2013.
 - iv. Late payment surcharges (LPS) imposed due to default in payment of the disputed detection/assessed bills should be waived off as decided by POI.
 - v. Impugned decision to the extent of cancelation of assessed bills for July 2013, September 2013 and May 2014 by POI is illegal and therefore cancelled.
8. The impugned decision is modified in above terms.



Muhammad Qamar-uz-Zaman
Member



Muhammad Shafique
Member



Nadir Ali Khoso
Convener

Dated: 07.03.2017