



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

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No. NEPRA/AB/Appcal-140/POI-2016/ *1308-1313*

August 31, 2017

- | | |
|--|---|
| 1. Arif Abdul Razzak,
S/o Abdul Razzak,
M/II E, 23/10, St. No. 2,
Block-B, Akbar Road, Sher Shah,
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. Tathcra Fatima,
Deputy General Manager,
K-Electric Ltd,
3 rd floor, KE Block,
Civic Centre, Gulshan-e-Iqbal,
Karachi |
| 5. Karam Dad Khan Tanoli,
Advocate High Court,
Room No. 313, Third Floor,
Sunny Plaza, Hasrat Mohani Road,
Karachi | 6. Electric Inspector,
Karachi Region-II,
Block No. 51, Pak Secretariat,
Shahra-e-Iraq, Saddar,
Karachi |

Subject: Appeal Titled K-Electric Ltd Vs. Arif Abdul Razzak Against the Decision Dated 19.07.2016 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 30.08.2017, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

No. NEPRA/AB/Appcal-140/POI-2016/ *1314*

Forwarded for information please.

(Ikram Shakeel)

August 31, 2017

(Signature)
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-140/POI-2016

K-Electric Ltd

.....Appellant

Versus

Arif Abdul Razzak, M/II, E, 23/10, Street No.2,
Block-B, Akbar Road, Sher Shah, Karachi

.....Respondent

For the appellant:

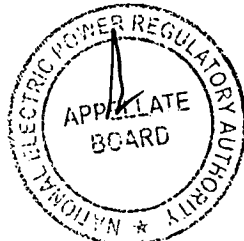
Ms. Tatheera Fatima Deputy General Manager (Distribution Legal)
Mr. Zulfiqar Ali Azeemi Deputy General Manager
Mr. Obaid H Qureshi Manager
Mr. Masahib Ali Manager
Mr. Imran Hanif Deputy Manager
Mr. Israr Ahmed RA

For the respondent:

Mr. Karam Dad Advocate

DECISION

1. Through this decision, an appeal filed by K-Electric against the decision dated 19.07.2016 of Provincial Office of Inspection/Electric Inspector, Karachi Region-II, Karachi (hereinafter referred to as POI) is being disposed of.
2. The respondent is an industrial consumer of K-Electric bearing Ref No. AP-061802 with a sanctioned load of 54 kW under B-2 tariff. As per facts of the case, an arrear bill of Rs.626,085/- for the period August 1999 to March 2000 was charged to the respondent by K-Electric in April 2001 against which the respondent made a payment of Rs.100,000/-. However subsequently the respondent challenged the said arrear bill before Civil Court vide Civil Suit No.690/2001, which was





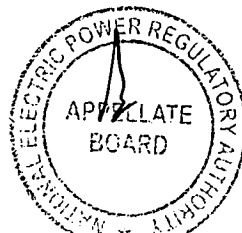
National Electric Power Regulatory Authority

referred to POI for adjudication. The matter was decided by POI vide its decision dated 30.05.2005 and accordingly K-Electric issued a revised bill of Rs.214,256/- to the respondent on 26.08.2005, which however was not paid by him. Afterward the respondent challenged the revised bill of Rs.214,256/- before 5th Additional Judge (West), Karachi against the non-adjustment of Rs.100,000/- already paid by him, which is still subjudice. Premises of the respondent was inspected by K-Electric time and again, detail of which is tabulated below:

SIR	Dated	Connected load (kW)	Discrepancy	MCO
First	24.05.2010	32.92	First meter burnt, no display	15.11.2010
Second	12.08.2010	44.48		
Third	25.01.2011	34	Direct theft, second meter display washed	14.02.2011
Fourth	06.05.2013&16.05.2013	-	Third meter was 43% slow with yellow phase dead	Same meter remained at site for 03/13 to 04/14
Fifth	05.09.2013	-		

Detail of detection and normal electricity bills charged to the respondent by K-Electric is given below:

Bill type	Period	Units	Amount (Rs.)	Charged on
First detection on the basis of first and second SIRs	24.05.2010 to 12.08.2010 (12 months)	18,654	167,435/-	28.02.2011
Normal	1 month		61,523/-	March 2011
Second detection	01.20013 to 04.2013 (4 months)	9,563	139,548/-	14.05.2013
Normal	1 month	3,226	46,822/-	May 2013
Normal	1 month	3,832	62,310/-	June 2013
Normal	1 month	4,141	95,514/-	May 2014
Third detection on the basis of fourth and fifth SIRs	12.04.2013 to 11.04.2014 (12 months)	29,188	483,571/-	16.06.2014
Normal	1 month	1,427	43,858/-	June 2014



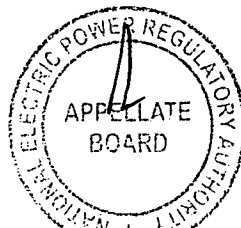


National Electric Power Regulatory Authority

3. Being aggrieved with the irregular billing, the respondent challenged the aforesaid bills before POI vide multiple applications, which were decided vide POI decision dated 06.12.2016 with the following conclusion:

"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 irregular bills amounting to Rs.483,571/- of 29,185 units for the period from 12.04.2013 to 11.04.2014 issued by the opponents is liable to be cancelled and revised bill be issued for 02 months instead of 12 months as per Consumer Service Manual. >The 2nd supplementary bill amounting to Rs.167,136/- of 18,654 units issued in the month of February 2011 for the period from December 2009 to December 2010 is also cancelled and revised up to 3 months instead of 12 months. >The irregular bill (IRB) for 4 months issued on 14.05.2013 amounting to Rs.139,548/- has no legal and technical grounds, hence to be cancelled. > The bill issued on normal mode for the month of March 2011 amounting to Rs.61,523/- May 2013 amounting to Rs.46,822/- and June 2013 amounting to Rs.62,310/-, May 2014 amounting to Rs.95,514/- and June 2014 amounting to Rs.43,858/- are justified and liable to be paid. > The opponents are directed to restore the Electricity of the Applicant's above meter after completion of codal formalities immediately."

4. Being dissatisfied with the POI decision dated 19.07.2016 (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

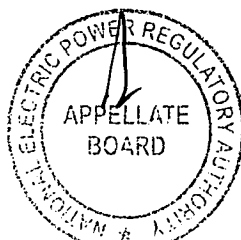




National Electric Power Regulatory Authority

Act 1997 (hereinafter referred to as the NEPRA Act 1997). In its appeal, K-Electric inert alia, contended that a detection bill amounting to Rs.626,085/- was issued to the respondent in April 2001 and later on revised to Rs.214,256/- as per POI decision dated 30.05.2005. As per K-Electric, the said bill was assailed by the respondent before Sindh High Court, Karachi and still sub-judice before the honorable High Court. K-Electric averred that the respondent is habitual in stealing electricity through unfair means, therefore three detection bills total amounting to Rs.790,554/- charged during the years 2011 to 2014 are justified and payable by the respondent. K-Electric pointed out that being a case of theft of electricity, POI was not authorized legally to decide the instant matter.

5. In response to the notice issued for filing reply/parawise comments, the respondent filed reply on 20.03.2017 and contended that the appeal is not maintainable before NEPRA as the impugned decision was announced by the Electric Inspector under Electricity Act 1910 (not as POI), that the appeal was filed by an authorized person, that the arrear bill of Rs.214,256/- is subjudice before the 5th ADJ (West)Karachi and cannot be agitated before this forum. The respondent refuted the allegation of theft of electricity levelled by K-Electric and contended that the first detection bill of Rs.167,435/- for the period January 2010 to December 2010 (12 month) was unjustified and the impugned decision for revision of the same for three months is correct and liable to be upheld. As per respondent, Site Inspection Reports (SIRs) dated 24.05.2010, 12.08.2010 and 25.01.2011 were prepared by K-Electric unilaterally without associating him or his representative, therefore the detection bills charged to him on the basis of aforesaid SIRs have no basis. As regards the second

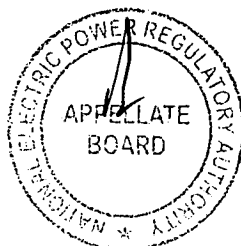




National Electric Power Regulatory Authority

detection bill of Rs.139,548/- the respondent stated that neither any mandatory notice was served nor he was associated during alleged checking dated 06.05.2013, therefore the second detection bill of Rs.139,548/- is illegal, unjustified and against the provision of law. The respondent pleaded that the third detection bill of Rs.483,571/- for twelve months charged to him is unjustified and same should be revised for maximum two billing cycles. The respondent defended the impugned decision and pleaded for upholding the same.

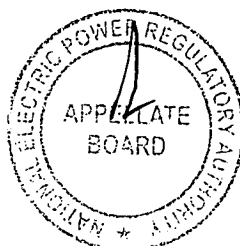
6. After issuing notice, hearing of the appeal was conducted in Karachi on 07.08.2017 in which both the parties made their attendance. Representatives of K-Electric repeated the same arguments as earlier narrated in memo of the appeal and contended that the respondent indulged in theft of electricity as confirmed during various site inspections and liable to pay the three detection bills. K-Electric averred that theft is proved as the consumption of the respondent increased considerably after the site inspections. On the contrary, learned counsel for the respondent denied the allegation of theft and stated that neither any site inspection was carried out in the presence of respondent or his representative nor any notice in this regard was ever issued, therefore the detection bills charged on the basis of conjectures are not justified and he is not liable to pay the same.
7. We have heard arguments of both the parties, examined the record placed before us and it is observed as under:
 - i. There is no force in the objection of K-Electric regarding the jurisdiction of POI being a theft case, as K-Electric failed to follow the procedure prescribed in the





law as well as in CSM for dishonest abstraction of electricity and moreover no theft was proved.

- ii. Since the decision was rendered by the officer as POI under Section 38 of NEPRA Act 1997 for which an appeal is competent before NEPRA and not before the provincial government. The objection of the respondent in this regard is unjustified, therefore rejected.
- iii. As regards objection of the respondent that the appeal is not filed through an authorized person, it is observed that the appeal was filed by Ms. Tatheera Fatima Deputy General Manager (Distribution Legal), being an authorized person of K-Electric. This objection has no validity, therefore over ruled.
- iv. As regards the arrear bill of Rs.214,256/- charged by K-Electric, it is observed that pursuant to the POI decision dated 30.05.2005, a revised bill of Rs.214,256/- was issued to the respondent on 26.08.2005. The said arrear bill was challenged by the respondent before 5th Additional Judge (West), Karachi, which is still sub-judice.
- v. First detection bill amounting to Rs.167,435/- for 18,654 units for January 2010 to December 2010 (12 months) charged by K-Electric was agitated by the respondent before POI in March 2011. It is noticed that K-Electric could not follow the procedure as prescribed in CSM. Pursuant to clause 9.1c (3) of CSM, the respondent being an industrial consumer is liable to be charged maximum for six months. Under these circumstances the aforesaid first detection bill charged by K-Electric has no justification and liable to cancelled as already

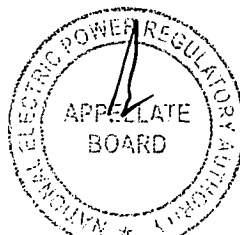




National Electric Power Regulatory Authority

determined in the impugned decision.

- vi. Pursuant to clause 9.1c(3) of CSM, the respondent is liable to be charged the first detection bill for six months only i.e. July 2010 to December 2010. However the units already charged in normal mode and payment already made against the first detection bill during the same period are liable to be adjusted. Impugned decision is liable to be modified to this extent.
- vii. 43% slowness of the meter of the respondent was observed by K-Electric on 06.05.2013 but there was no participation of the respondent and moreover no verification of such slowness was made through POI. Therefore the second detection bill of Rs.139,548/- for 9,563 units for the period January 2014 to April 2014 (4 months) charged to the respondent by K-Electric is illegal, unjustified and liable to be cancelled as already decided by POI.
- viii. Similarly third detection bill of Rs.483,571/- for the period 12.04.2013 to 11.04.2014 (twelve months) due to 43% slowness was charged to the respondent in violation of provision of CSM, which is liable to be cancelled as decided by POI. Since 43% slowness of the meter was not confirmed by POI, therefore the determination of POI for revision of third detection bill for two months on the basis of said slowness has no basis and the impugned decision is liable to be withdrawn to that extent.
- ix. Perusal of billing statement as provided by K-Electric has revealed that the electricity bills for March 2011, May 2013, June 2013, May 2014 and June 2014 are justified and the respondent is liable to pay the same as already determined





National Electric Power Regulatory Authority

by POI.

8. In view of foregoing consideration, it is concluded that:

- i. Impugned decision for cancellation of the first detection bill of Rs.167,435/- for 18,654 units for January 2010 to December 2010, second detection bill of Rs.139,548/- for 9,563 units for the period January 2014 to April 2014 and third detection bill Rs.483,571/- for the period 12.04.2013 to 11.04.2014 is justified and maintained to that extent accordingly.
- ii. The respondent is responsible to pay the bill for July 2010 to December 2010 (six months only) against the first detection bill and also the current bills of March 2011, May 2013, June 2013, May 2014 and June 2014. Billing account of the respondent should be overhauled after making the adjustment of normal units already charged and the payments made against the aforesaid disputed bills.

9. Impugned decision is modified in above terms.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Dated: 30.08.2017

