



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

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No. NEPRA/AB/Appeal-141/POI-2016/ 323-327

March 07, 2017

1. Rahim Dad Brohi,
House No. 1, ST-I,
Block 19, Mohallah KESC Staff Colony,
Gulshan-e-Iqbal, 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. Rahim Dad Brohi Against the Decision Dated 15.07.2016 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 03.03.2017, regarding the subject matter, for information and necessary action accordingly.

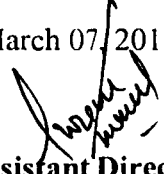
Encl: As Above

No. NEPRA/AB/Appeal-141/POI-2016/ 328

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-141/POI-2016

K-Electric Ltd

.....Appellant

Versus

Rahim Dad Brohi, A-3, Street No.15, KESC Survey No.1302,
Jahando Para, Dalmia Mujahid Colony, Karachi

.....Respondent

For the appellant:

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

For the respondent:

Mr. Rahim Dad Brohi

DECISION

1. This decision shall dispose of the appeal filed by K-Electric against the decision dated 15.07.2016 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 domestic consumer of K-Electric bearing Ref No. LA-307560 with a sanctioned load of 2kW under A1-R tariff. Premises of the respondent was inspected by K-Electric on 01.10.2013 and as per Site Inspection Report (SIR) dated 01.10.2013, the meter was found tampered

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(terminal strip damaged) and the connected load was noticed as 7.62 kW. Defective meter of the respondent was sent to metering laboratory, whereby it was declared tampered as a shunt was found inside it for stealing the electricity. As per K-Electric, after issuing notice dated 01.10.2013 to the respondent regarding above discrepancy, first detection bill amounting to Rs.130,293/- for 8,156 units for the period 25.07.2013 to 06.01.2014 (August 2013 to January 2014) was charged to the respondent on the basis of connected load. Defective meter of the respondent was changed by K-Electric on 13.12.2013.

3. Being aggrieved with the detection bill, the respondent filed first application before POI on 25.02.2014 and challenged the first detection bill amounting to Rs. 130,293/- for 8,156 units for the period August 2013 to January 2014 charged by K-Electric. During the pendency of case before POI, K-Electric conducted another site inspection on 18.06.2014 and allegedly the respondent was found stealing electricity with the help of hook and the connected load was noticed as 4.339 kW. A notice dated 18.06.2014 was issued to the respondent and the second detection bill of Rs.13,090/- for 1,115 units for the period 07.01.2014 to 05.06.2014 (February 2014 to June 2014) was charged to the respondent on the basis of connected load. Besides second detection bill, another assessed bill of Rs. 6,859/- for 548 units was charged by K-Electric to the respondent for July 2014. The respondent filed the second application dated 21.08.2014 before POI and assailed all the aforesaid detection/assessed bills. The matter was disposed of by POI vide its decision dated 15.07.2016 with the following conclusion:



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“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 above findings, this authority is of the 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. The office therefore, direct the Opponents to cancel the supplementary bills amounting to Rs.130,293/- of 8,155 units for the period 25.07.2013 to 06.01.2014 and amounting to Rs.13,089/- of 1115 units for the period 07.01.2014 to 05.06.2014, as the same have no justification on technical and legal grounds. It is also directed the Opponents to cancel the assessed bill for the month of July 2014 of 548 units amounting to Rs.6,859/= (gross) and revise the same on actual meter readings/consumption, recorded by the energy meter. It is further directed the Opponents to waive all late payment surcharges and disconnection/reconnection charges, which are outcome of the impugned assessed/supplementary bills and afterwards, as the complaint was not found at fault. The complaint is disposed off in terms of above for compliance by the Opponents”

4. K-Electric has assailed the POI decision dated 15.07.2016 (hereinafter referred to as the impugned decision) in 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 on 01.10.2013 and 18.06.2014 and on both the occasions, respondent was found involved in dishonest abstraction of electricity



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through unfair means with the use of shunt inside the meter and hook, moreover the connected load was also observed much above the sanctioned load. According to K-Electric, first detection bill of Rs.130,293/- for 8,156 units for the period August 2013 to January 2014, second detection bill of Rs.13,090/- for 1,115 units for the period February 2014 to June 2014 and the assessed bill of Rs.6,859/- for July 2014 were charged to the respondent. 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 adhered to due to practical difficulties in the field. In its appeal, K-Electric raised the preliminary objection regarding jurisdiction of POI on the plea that being a case of theft of electricity, it does not fall in the jurisdiction of POI. A notice of the above appeal was issued to the respondent for filing reply/parawise comments, which however were not submitted.

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 the respondent appeared in person. Representatives of K-Electric reiterated the same arguments as earlier given 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 through unfair means, therefore the first detection bill of Rs. 130,293/- for 8,156 units for the period August 2013 to January 2014, second

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detection bill of Rs. 13,090/- for 1,115 units for the period February 2014 to June 2014 and the assessed bill of Rs. 6,859/- for July 2014 charged to the respondent are justified and should be paid by the respondent. Representatives for K-Electric argued that the conditions provided in CSM were not followed due to ground difficulties. K-Electric further pleaded that the impugned decision was unjustified and liable to be set aside. Conversely, the respondent refuted the allegation of theft of electricity leveled by K-Electric and contended that neither any notice was served to the respondent before and after alleged checkings nor the respondent was associated during inspections of the premises. As per respondent, his consumption of electricity did not increase after alleged checkings and K-Electric has charged aforesaid detection/assessed bills illegally. The respondent submitted that the impugned decision pronounced by POI was as per facts and law and liable to be maintained.

6. Arguments of both the parties 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 proceedings as required under law and CSM were initiated by K-Electric and moreover as observed by POI, no concrete proof was provided by K-Electric regarding theft of electricity. We are not convinced with the stance of K-Electric that due to some reasons procedure laid down by CSM could not be followed. Therefore the objection of K-Electric regarding jurisdiction of POI being a theft case is not sustainable and liable to be dismissed.

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- ii. Both the detection bills were charged uninterruptedly for the period August 2013 to June 2014 by K-Electric to the respondent on the basis of the connected load, which were assailed by the respondent before POI. Detail of which is tabulated below:

Bill Type	Period	Months	Units	Amount (Rs.)
First detection bill	August 2013 to January 2014	6	8,156	130,293/ -
Second detection bill	February 2014 to June 2014	5	1,115	13,090/-

Charging of the detection bill is restricted for three months, pursuant to clause 9.1 c (3) of CSM as K-Electric could not produce any document to the effect of approval for maximum six months and action against the responsible K-Electric officials. Since K-Electric failed to follow the procedure of CSM, all the above detection bills charged for the period August 2013 to June 2014 (11 months) to the respondent have no justification and liable to be cancelled. In the instant case, the respondent could be charged the detection bill for three months only i.e. April 2014 to June 2014, if justified.

- iii. Comparison of the consumption recorded between the disputed and undisputed periods as per data provided by K-Electric is tabulated as under:

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Period	Normal Mode Average Units/Month = $\frac{\text{Total normal units}}{\text{months}}$	Detection Mode Average Units/Month = $\frac{\text{Total detection units}}{\text{months}}$
Period before dispute September 2012 to July 2013(11 months)	$\frac{2,376}{11} = 216$	-
Disputed period August 2013 to January 2014(11 months)	$\frac{1,661}{11} = 151$	$\frac{10,923}{11} = 993$
Period after dispute August 2014 to June 2015 (11 months)	$\frac{2,332}{11} = 212$	-

It is evident from the above table that the detection units charged @ 993 units/month for the disputed period August 2013 to January 2014 are much higher than the average consumption 216 units/month and 212 units/month recorded in normal mode during the periods before and after dispute respectively. However the average consumption of 151 units/months recorded in normal mode during the disputed period is remarkably lesser than the average consumptions of undisputed periods (prior/after), which established that the actual consumption was not being recorded by the meter during the disputed period. Therefore it would be fair and appropriate to charge the detection bill @ 216 units/month for three months only i.e. April 2014 to June 2014.

- iv. K-Electric has charged the assessed bill amounting to Rs. 6,859/- for 548 units to the respondent for July 2014 on the plea that the respondent was involved in dishonest abstraction of electricity. K-Electric could not produce any document to prove its

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allegation. We are inclined to agree with the findings of POI that the assessed bill of Rs. 6,859/- for 548 units charged to the respondent in July 2014 is liable to be withdrawn and the respondent should be charged the revised bill on the basis of actual consumption.

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 dismissed.
- ii. Both the detection bills charged during the disputed period 25.07.2013 to 05.06.2014 (11 months) to the respondent as per detail given below are not justified and therefore cancelled as held in the impugned decision.

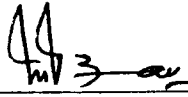
Bill Type	Period	Months	Units	Amount (Rs.)
First detection bill	August 2013 to January 2014	6	8,156	130,293/-
Second detection bill	February 2014 to June 2014	5	1,115	13,090/-

- iii. The respondent should be charged the detection bill of 648 units (216 units per month x 3 months) for the period April 2014 to June 2014 after deduction of units already charged in normal mode during the same period.

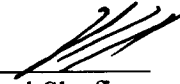


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- iv. Assessed bill of Rs. 6,859/- for 548 units charged to the respondent in July 2014 is void and to be revised as per actual meter reading as adjudged by POI.
- v. Late payment surcharges (LPS) if any, levied by K-Electric due to non-payment of the disputed detection/assessed bills should be waived off as decided by POI.
8. The impugned decision is modified in above terms.



Muhammad Qamar-uz-Zaman
Member



Muhammad Shafique
Member



Nadir Ali Khoso
Convener

Dated: 03.03.2017