

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

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No. NEPRA/AB/Appeal-146/POI-2016/430-433

March 31, 2017

1. Syed Mahfooz Ali,
S/o Syed Maqsood Ali,
House No. L-118, Sector 4-B,
Surjani Town, North Karachi
Karachi

2. The 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

Registrar
By No. ... 5747
Dated... 24/04/17

Subject: Appeal Titled K-Electric Ltd Vs. Syed Mahfooz Ali Against the Decision Dated 28.07.2016 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 29.03.2017, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(Ikram Shakeel)

No. NEPRA/AB/Appeal-146/POI-2016/434

March 31, 2017

Forwarded for information please.

Assistant Director
Appellate Board

1. Registrar
2. Director (CAD)

CC:

1. Member (CA)

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National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-146/2016

K-Electric Ltd

.....Appellant

Versus

Syed Mahfooz Ali S/o Syed Maqsood Ali,
House No.1118, Sector 4-B, Surjani Town,
North Karachi, Karachi

.....Respondent

For the appellant:

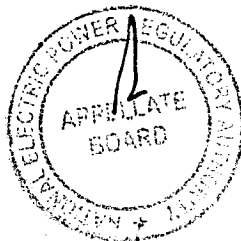
Ms. Tatheera Fatima Deputy General Manager (Legal Distribution)
Mr. Ali H. Bashir Deputy General Manager (CA)
Mr. Masahib Ali Manager
Mr. Imran Hanif Deputy Manager

For the respondent:

Nemo

DECISION

1. This decision shall dispose of the appeal filed by K-Electric against the decision dated 28.07.2016 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-647305 with a sanctioned load of 1 kW and the applicable tariff is A1-R. Premises of the respondent was inspected by K-Electric on



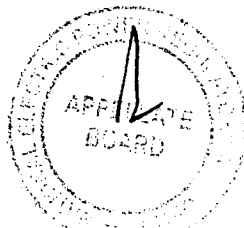


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02.01.2014 and allegedly the electricity was being used illegally through hook and the connected load was noticed as 3.086 kW being much higher than the sanctioned load. After issuing notice dated 02.01.2014 to the respondent regarding above discrepancy, a detection bill amounting to Rs.5,579/- for 405 units for the period 04.08.2013 to 06.01.2014 was charged by K-Electric to the respondent in January 2014 on the basis of connected load.

3. Being aggrieved with the irregular billing, the respondent filed an application dated 31.01.2014 before POI and challenged the arrears accumulated to Rs.55,066/- for September 2013. POI disposed of the matter vide its decision dated 28.07.2016, operative portion of which is reproduced below:

“After conducting 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 provisions of law/Regulations and above findings, this authority is of the firm view that the detection bill amounting to Rs.5,679/- of 405 units for the period 04.08.2013 to 06.01.2014, has no legal and technical ground hence to be cancelled. The Opponent is directed to cancel the assessed/X-code billing and the revised the same on actual meter reading basis. The Opponent is directed to recover the remaining amount from the complainant in easy installments. The opponent is also directed to take meter reading on every month as per procedure. The complaint of the complainant is disposed of with above remarks. The opponents are directed to act in terms of above instructions accordingly.”





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4. Being dissatisfied with the POI decision dated 28.07.2016 (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 on 02.01.2014 and the respondent was found stealing electricity through use of hook, therefore the detection bill of Rs,5,579/- for 405 units for the period 04.08.2013 to 06.01.2014 was charged to the respondent in January 2014 on the basis of connected load. K-Electric submitted that the respondent is habitual in using electricity through unfair means, therefore supply of the respondent was disconnected numerous times but it was restored illegally by the respondent. K-Electric further explained that the actual consumption of electricity could not be ascertained due to illegal abstraction of electricity, therefore the bills were charged in assessed mode to the respondent. As per K-Electric, the respondent is defaulter in payment of electricity bills, therefore the arrears accumulated to Rs.51,064/- prior to September 2013 were justified and payable by the respondent. K-Electric further elaborated that the procedure prescribed in the Consumer Service Manual (CSM) for theft of electricity by a registered consumer could not be implemented due to practical difficulties. K-Electric pleaded that POI is not authorized to decide the cases of theft of electricity and as such the impugned decision is without lawful authority and liable to be set aside. Notice was issued to the respondent for filing reply/parawise

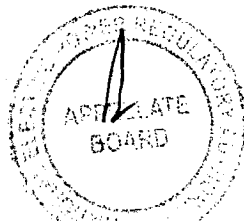




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comments, which however were not filed.

5. After issuing notice to both the parties, hearing of the appeal was conducted in NEPRA regional office, Karachi on 20.03.2017 in which Ms. Tatheera Fatima Deputy General Manager (Distribution Legal) along with her team appeared for the appellant K-Electric and no one entered appearance for the respondent. Learned representatives of K-Electric reiterated the same arguments as narrated in memo of the appeal and contended that premises of the respondent was checked by K-Electric several times and on all occasions, the respondent was found consuming electricity through use of extra phase/hook and the connected load was also observed much higher than the sanctioned load. According to K-Electric, the assessed/detection bills charged to the respondent are legal, valid, justified and payable by the respondent.
6. We have heard arguments of K-Electric, perused 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 or other proceedings as required under law and Consumer Service Manual were initiated by K-Electric and moreover theft of electricity was also not established. The objection of K-Electric regarding jurisdiction of POI is not valid and therefore rejected.
 - ii. Due to disputed irregular billing, the arrears accumulated to Rs.55,066/- till





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September 2013, which were challenged by the respondent before POI vide his application dated 31.01.2014. We are inclined to agree with the contention of K-Electric that the aforesaid arrears accumulated due to non-payments of electricity bills by the respondent since long. POI has rightly determined in the impugned decision that the respondent is liable to pay the aforesaid arrears in easy monthly installments.

- iii. As regards the impugned decision regarding cancellation of the detection bill amounting to Rs.5,679/- for 405 units for the period 04.08.2013 to 06.01.2014 charged to the respondent, it is observed that the aforesaid detection bill was not challenged by the respondent before POI and the determination of POI in this regard is beyond the prayer of the respondent, therefore invalid.
- iv. Besides impugned decision regarding cancellation of other assessed/X-code bills is irrelevant and liable to be withdrawn as such issue was not raised by the respondent before POI in his complaint.

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

- i. The respondent should pay the arrears of Rs.55,066/- up-to September 2013 in easy installments. Impugned decision to this extent is maintained.
- ii. Impugned decision regarding cancellation of the detection bill amounting to Rs.5,679/- for 405 units for the period 04.08.2013 to 06.01.2014 is beyond the complaint of the respondent and should be withdrawn to this extent.





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iii. Impugned decision to the extent of cancellation of assessed/X-code is declared null and void.

8. Impugned decision is modified in above terms.

Muhammad Qamar-uz-Zaman
Member

Nadir Ali Khoso
Convener

Muhammad Shafique
Member

Dated: 29.03.2017

