



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

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No. NEPRA/AB/Appeal-162/POI-2016/ 1079-1084

July 19, 2017

1. Waqar Hussain,
Director,
Sindh Environmental Protection Agency,
Flat No. 8/II, Oyster Tower,
FL-4, Block No. 1, Clifton,
Karachi
2. Service General Administration & Coordination Department
(SGA&CD), Through its Secretary,
Government of Sindh, First Floor,
Sindh Secretariat, Karachi
3. Chief Executive Officer,
K-Electric,
KE House, 39-B,
Sunset Boulevard, DHA-II,
Karachi
4. Asif Shajer,
Deputy General Manager,
K-Electric, KE House, 39-B,
Sunset Boulevard, DHA-II,
Karachi
5. Ms. Tatheera Fatima,
Deputy General Manager,
K-Electric Ltd,
3rd floor, KE Block,
Civic Centre, Gulshan-e-Iqbal,
Karachi
6. Electric Inspector,
Karachi Region-I,
Block No. 51, Pak Secretariat,
Shahra-e-Iraq, Saddar,
Karachi

Subject: Appeal Titled K-Electric Ltd Vs. Waqar Hussain Against the Decision Dated 17.08.2016 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 18.07.2017, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

No. NEPRA/AB/Appeal-162/POI-2016/ 1085
Forwarded for information please.

(Ikram Shakeel)

July 19, 2017


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-162/POI-2016

K-Electric LimitedAppellant

Versus

Waqar Hussain Director Environmental Protection Agency,
Flat No.8/II, Oyster Tower, FL-4, Block No.01,

Clifton KarachiRespondent No.1

Previous Occupant(s), Flat No.8/II, Oyster Tower,
FL-4, Block No.01, Clifton KarachiRespondent. 2

Service General Administration & Coordination Deptt.
(SGA&CD) through its Secretary, Government of Sindh,
First Floor, Sindh Secretariat, KarachiRespondent No. 3

For the appellant:

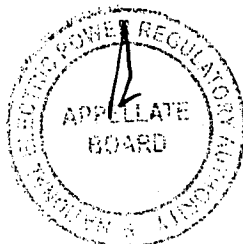
Ms. Tatheera Fatima Deputy General Manager (Distribution-Legal)
Ch. Ehteshamullah Senior Coordinator
Mr. Masahib Ali Manager
Mr. Imran Hanif Deputy Manager
Mr. Ali Nisar Assistant Manager

For the respondent(s):

Mr. Shah Jahan EPA Inspector

DECISION

1. This decision shall dispose of an appeal filed by K-Electric against the decision dated 17.08.2016 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 No.1 is a government servant and



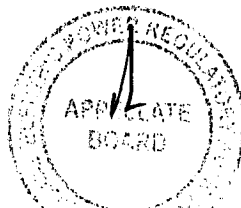


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occupant of Flat No.8/II, Oyster Tower, FL-4, Block No.01, Clifton Karachi, which is the property of government of Sindh. The connection is bearing Ref No.AL-649038 with a sanctioned load of 7 kW under A-1R tariff. The respondent No.1 has occupied the premises since August 2011 and as per respondent No.1, at that time nothing was outstanding against the premises. K-Electric issued regular electricity bills to the respondent No.1 till January 2012, which were paid accordingly. However the electricity bill issued by K-Electric to the respondent No.1 in February 2012 contained the arrears of Rs.218,696/- and per respondent No. 3, K-Electric explained that the suspended arrears pertaining to Year 2000 were restored..

3. Being aggrieved, the respondent No.1 filed an application before POI on 16.04.2013 and challenged the arrears of Rs.218,696/- added in the bill for February 2012. The matter was decided by POI vide its decision dated 17.08.2016 and concluded as under:

"In view of above findings, it is decided that the arrears along with late payment surcharges need to be suspended immediately by the Opponents and separate bill be prepared with details of dues as of August 2011 and provided to SGA&CD Department, Government of Sindh through Estate Officer for payment and recovery from the old allottees. The present occupier/complainant is only responsible for payment of K-Electric limited bill on the basis of monthly consumption as per reading of the energy meter installed at the said Sindh Government's flat."

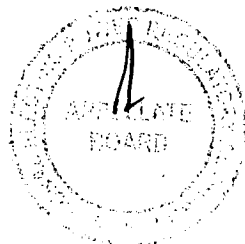




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4. Instant appeal has been filed by K-Electric against the POI decision dated 17.08.2016 (hereinafter referred to as the impugned decision) under Section 38 (3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (NEPRA Act 1997). In its appeal, K-Electric raised the preliminary objection against jurisdiction of POI and contended that POI is not empowered to decide the instant case being a dispute of arrears of actual consumption of electricity. On merits, K-Electric averred that the electricity bill were issued to the occupant(s) of the premises on the basis of actual consumption of the meter but due to default of payment, the dues accumulated to Rs.139,880/- up-to August 2016, which are correct and payable. K-Electric explained that since SGA&CD Department, Government of Sindh (hereinafter referred to as the Government of Sindh) failed to effect recovery and make payment of the previous dues in violation of findings of Ombudsman dated 12.09.2002 in the matter "Riaz Ahmed v/s Estate Office, Karachi", therefore present occupant is responsible to clear the same in terms of Section 2(C) of Electricity Act 1910 and Section 2 (iv) of NEPRA Act 1997. K-Electric finally prayed for setting aside the impugned decision.

5. Notice of the above appeal was issued to the respondent No.1 for filing reply/parawise comments, which were filed on 15.12.2016. Regarding the preliminary objection of K-Electric for jurisdiction of POI, the respondent No.1 in his reply maintained that POI is empowered to adjudicate the instant matter being a billing dispute. The respondent No.1 contended that he had occupied the

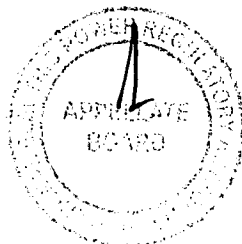




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premises since August 2011, he made payment of electricity bills issued by K-Electric regularly till January 2012 and nothing was outstanding against the premises. As per respondent No.1, the electricity bill issued by K-Electric for February 2012 included the arrears of Rs.218,696/-, which are not justified. According to the respondent No.1, on query, it was informed by K-Electric that the aforesaid arrears pertain to year 2000, which were suspended and have been restored. Respondent No.1 pleaded that since K-Electric was responsible to recover the said dues from the concerned occupant(s) of that time, for their failure to do so he is not responsible and liable to pay the same. The respondent No.1 pointed out that an amount of Rs.78,951/- was paid in excess, which is liable to be recovered from K-Electric. Besides this, the respondent No.1 challenged the imposition of late payment surcharges. The respondent pleaded for maintainability of the impugned decision.

6. Hearing of the appeal was conducted in Karachi on 04.07.2017 in which Ms. Tatheera Fatima Deputy General Manager (Distribution- Legal) along with other officials represented the appellant K-Electric. Mr. Shah Jahan appeared for the respondent No.1 but he failed to produce any authority in this behalf. No one entered appearance for the respondent No.2 and respondent No.3. K-Electric reiterated the same arguments as contained in memo of the appeal and contended that the arrears of Rs.139,880/- up-to August 2016 pertain to the premises owned by Government of Sindh and presently occupied by the respondent No.1. Primarily Government of Sindh is responsible to clear the said





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dues in terms of findings of Ombudsman dated 12.09.2012 but Government of Sindh failed to do so despite their repeated requests. Therefore as per K-Electric, the existing occupant is responsible to clear the dues being the consumer in terms of Section 2(C) of Electricity Act 1910 and Section 2 (iv) of NEPRA Act 1997 and if the dues are not cleared, electricity supply to the defaulting premises will be disconnected.

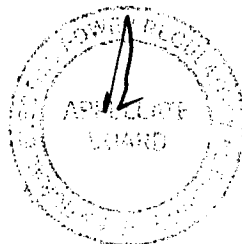
7. We have heard arguments of K-Electric and examined the record placed before us. It is observed as under:

i. The respondent No.1 has agitated the arrears of Rs.218,696/- contained in the bill for February 2012. Obviously it is a billing dispute and POI is the competent forum to adjudicate upon the matter under Section 38 of NEPRA Act 1997. Objection of K-Electric regarding jurisdiction of POI is not valid, therefore rejected.

ii. As regards the recovery of arrears of Rs.218,696/- from the respondent No.1, it may be noted that pursuant to the findings of Wafaqi Muhtasib dated 12.09.2002, Government of Sindh is responsible to arrange payment of outstanding dues by itself or from the previous occupant (s). We are in agreement with the contention of K-Electric that if the dues pertaining to the premises are not cleared, K-Electric inter alia, is justified to disconnect the electric supply to the defaulting premises.

8. Forging in view, it is concluded that the Government of Sindh is primarily

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responsible to make the clearance of dues of Rs.218,696/- added in the bill for February 2012 and if the dues are not paid, then K-Electric may take further action in accordance with law.


9. The appeal is disposed of in above terms.



Muhammad Qamar-uz-Zaman
Member



Nadir Ali Khoso
Convener



Muhammad Shafique
Member

Dated: 18.07.2017

