



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

NEPRA Office, Atta Turk Avenue (East), G5/1, Islamabad
Tel. No. +92 051 2013200 Fax No. +92 051 2600030
Website: www.nepra.org.pk E-mail: office@nepra.org.pk

No. NEPRA/AB/Appeal-165/POI-2016/ 435-438 March 31, 2017

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|---|--|
| <p>1. Haji Muhammad Anwar,
S/o Haji Sikandar Khan (Late),
R/o Haji Hashim Manzil,
Shah Wali Ullah Road,
Flat No. 401, Street No. 05,
Nawababad, Block-B,
Layari, Karachi</p> <p>3. Asif Shajer,
Deputy General Manager,
K-Electric, KE House, 39-B,
Sunset Boulevard, DHA-II,
Karachi</p> | <p>2. The Chief Executive Officer,
K-Electric,
KE House, 39-B,
Sunset Boulevard, DHA-II,
Karachi</p> <p>4. Ms. Tatheera Fatima,
Deputy General Manager,
K-Electric Ltd,
3rd floor, KE Block,
Civic Centre, Gulshan-e-Iqbal,
Karachi</p> |
|---|--|

Subject: Appeal Titled K-Electric Ltd Vs. Haji Muhammad Anwar Against the Decision Dated 15.08.2016 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 29.03.2017, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

No. NEPRA/AB/Appeal-165/POI-2016/ 439

Forwarded for information please.

(Ikram Shakeel)

March 31, 2017

(Signature)
Assistant Director
Appellate Board

Registrar
Director (CAD)

1. Member (CA)

By No. 3745
Dated 24-04-17
CC:

FOR u/r
- DD (IT)
- MR
24/4.



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-165//POI-2016

K-Electric Ltd

.....Appellant

Versus

Haji Muhammad Anwar (H. Saleh Muhammad),
KESC S. No. 65. AR-7A 25 24, Shah Wali Ullah Road,
P-12, Layari, Karachi

.....Respondent

For the appellant:

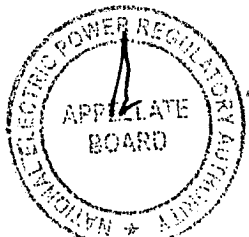
Ms. Tatheera Fatima Deputy General Manager (Distribution-Legal)
Mr. Masahib Ali Manager
Mr. Muhammad Rizwan Manager
Mr. Imran Hanif Deputy Manager

For the respondent:

Haji Muhammad Anwar

DECISION

1. This decision shall dispose of the appeal filed by K-Electric against the decision dated 15.08.2016 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 having two connections bearing RefNo. AL-820397 and AL-386291 with a sanctioned load of 1kW under A2-C tariff. Premises of the respondent was inspected by K-Electric on 16.10.2014 and allegedly, the respondent was found involved in dishonest abstraction of electricity through use of an extra phase and the



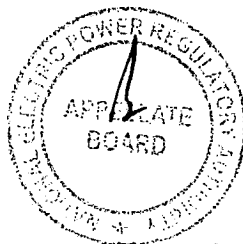


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connected load was noticed as 6.24 kW including one split AC unit. As per K-Electric, after issuing notice dated 16.10.2014 to the respondent regarding above discrepancy, the detection bill amounting to Rs.288,799/- for 11,255 units for the period 11.04.2014 to 13.10.2014 (May 2014 to October 2014) was charged to the respondent on the basis of connected load.

3. Being aggrieved, the respondent challenged the aforesaid detection bill of Rs.288,799/- before POI on 25.11.2014. The same bill was also disputed by the respondent before Sindh High Court, Karachi vide CP No. D-6121/2014, which was referred by the honorable High Court to POI for further adjudication vide its order dated 28.09.2015. During the pendency of case before POI, the assessed bills amounting to Rs.14,810/- & Rs.16,028/- were also charged by K-Electric to the respondent for February 2015 and March 2015 respectively. Premises of the respondent was inspected by POI on 18.11.2015 in presence of both the parties and reportedly the usage of electricity was found through the meter installed on the premises. The matter was disposed of by POI vide its decision dated 15.08.2016 with the following conclusion:

"After conducting several number of hearings, giving fair opportunities to hear both the parties and finally on 19.07.2014, scrutinizing the record, made available with this Office and in the light of above findings, this Office is of the firm view that Opponents have violated the mandatory requirements of Electricity Act-1910 and

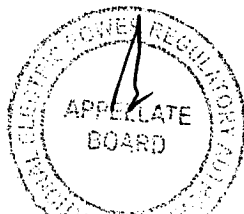




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guide lines communicate through Consumer Service Manual (CSM) of NEPRA as pointed out in above findings. Therefore, Provincial Office of Inspection, direct the Opponents to cancel the detection bill amounting to Rs.288,799/- of 11225 units for the period from 11.04.2014 to 13.10.2014 as the same has no justification on technical and legal grounds. b) It is further directed to the Opponents to cancel the assessed bills for the month of February 2015 and March 2015, issued during the pendency of case before this office and revise the same on actual meter reading recorded by the energy meter with all late payment surcharges after issuance of the impugned detection bill and afterwards, as complaint was not found at fault. The complaint is disposed off in terms of above for compliance by the Opponents."

4. K-Electric was dissatisfied with the POI decision dated 15.08.2016 (hereinafter referred to as the impugned decision) and has filed the instant appeal under section 38 (3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997. It is contended that premises of the respondent was inspected by K-Electric on 16.10.2014 and the respondent was found involved in theft of electricity through an extra phase in Net Cafe, moreover the connected load was also observed much above the sanctioned load. According to K-Electric, the detection bill amounting to Rs.288,799/- for 11,255 units for the period May 2014 to October 2014 (6 months), the assessed bills of Rs.14,810/- for February 2015 and Rs.16,028/- for March 2015 were charged to the respondent in order to recover the revenue loss sustained by K-Electric due to illegal abstraction of electricity. K-Electric pleaded

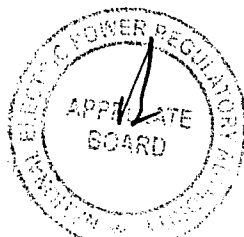




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that the aforesaid detection/assessed bills were valid, justified and the respondent is liable to pay the same. Regarding filing of FIR and other actions as prescribed in Consumer Service Manual (CSM), K-Electric averred that same could not be taken 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.

5. A notice of the above appeal was issued to the respondent for filing reply/parawise comments, which were filed on 15.12.2016. In his reply/parawise comments, the respondent contended that the impugned decision rendered by POI is in accordance with facts and law and liable to be upheld. The respondent refuted the allegation of theft of electricity leveled by K-Electric and pointed out that no evidence of theft of electricity through extra phase was established during joint inspection carried out by POI on 18.11.2015. As per respondent, the detection bill of Rs.288,799/- for 11,255 units for the period May 2014 to October 2014 is unjustified and he is not liable to pay the same. The respondent finally prayed for dismissal of the appeal.
6. Notice was issued and hearing of the appeal was conducted in Karachi on 20.03.2017 in which Ms. Tatheera Fatima Deputy General Manager (Distribution Legal) along with other officials represented the appellant K-Electric and Haji Muhammad Anwar the respondent appeared in person. Representatives of K-Electric reiterated the same arguments as earlier narrated in memo of the appeal and contended that the premises



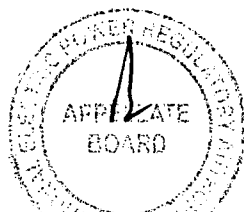


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of the respondent was inspected by K-Electric on 16.10.2014 and the respondent was found stealing electricity. As per K-Electric, connected load of the respondent noticed as 5.64 kW during joint inspection dated 18.11.2015 of POI was also higher than the sanctioned load. According to K-Electric, the detection bill amounting to Rs.288,799/- for 11,255 units for the period May 2014 to October 2014, the assessed bills of Rs.14,810/- for February 2015 and Rs.16,028/-for March 2015 charged by K-Electric 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 provided relief to the respondent beyond his prayer. Conversely the respondent refuted the allegation of theft of electricity through extra phase and pointed out that why FIR was not lodged by K-Electric against him if there was theft of electricity. As per respondent, he made payment of the electricity bills till October 2014 but K-Electric issued a detection bill amounting to Rs.288,799/- added in the bill for November 2014. According to the respondent, the bills for February 2015 and March 2015 were also charged by K-Electric to him in assessed mode, which were also assailed by him before POI. The respondent finally pleaded for upholding the impugned decision.

7. 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 steps as required under law and CSM were initiated by K-Electric. We are



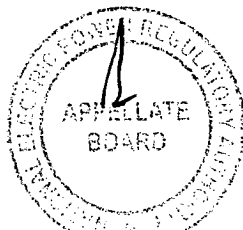


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not convinced with the stance of K-Electric that due to some reasons procedure laid down by CSM could not be followed. Moreover the objection of K-Electric regarding jurisdiction of POI being a theft case was not pressed before us and therefore liable to be dismissed.

- ii. K-Electric has charged the detection bill amounting to Rs.288,799/- for 11,255 units for the period May 2014 to October 2014 to the respondent on the plea that the respondent was involved in dishonest abstraction of electricity. It is observed that the aforesaid detection bill charged to the respondent for six months is inconsistent with the provisions of CSM. We are inclined to agree with the findings of POI that the detection bill amounting to Rs.288,799/- for 11,255 units for the period May 2014 to October 2014 charged to the respondent has no justification and therefore liable to be cancelled.
- iii. Since the consumption data prior to disputed period was also disputed by K-Electric therefore the period after dispute has been chosen for comparison of the consumption between the disputed and undisputed periods tabulated as under:

Period	Average units per month charged in normal mode	Average units per month charged in detection mode
Disputed period April 2014 to October 2014 (6 months)	74	1,945
Period after dispute April 2015 to February 2016 (11 months)	206	





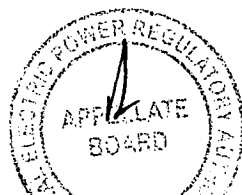
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From the above table, it emerges that the detection units charged @ 1,945 units/month are much higher and the average consumption of 74 units/month recorded in normal mode during the disputed period is much lesser than the average consumption of 206 units/month recorded in normal mode during the period after dispute, hence both are not justified. Pursuant to clause 9.1 c (3) of CSM, the respondent being a general supply consumer i.e. A-II is liable to be billed maximum for three billing cycles. Therefore it would be fair and appropriate to charge the detection bill @ 206 units/month to the respondent for August 2014 to October 2014 (three months) only as recorded during the undisputed period after dispute. Impugned decision to this extent is liable to be modified.

iv. As regards the assessed bills for February 2015 and March 2015, there is force in 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.

8. 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. Detection bill amounting to Rs.288,799/- for 11,255 units for the period May 2014 to October 2014 charged by K-Electric to the respondent is not





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justified, therefore cancelled as already determined in the impugned decision.

iii. The respondent should be charged the detection bill @ 206 units/month for August 2014 to October 2014 (three months) only.

iv. Impugned decision regarding the cancellation of the assessed bills amounting to Rs.14,810/- and Rs.16,028/- for February 2015 and March 2015 respectively is declared null and void and the respondent is under obligation to pay the same.

9. The impugned decision is disposed of in above terms.

Muhammad Qamar-uz-Zaman
Member

Nadir Ali Khoso
Convener

Muhammad Shafique
Member

Dated: 29.03.2017

