



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

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No. NEPRA/AB/Appeal-003/POI-2018/ *1127-1131*

July 06, 2018

1. Abdul Rahim
S/o Zahooruddin,
Plot No. 29/21, Sector 5-D,
North Karachi, 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, First Floor,
Block F, Elander Complex,
Elander Road, Karachi
5. Electric Inspector,
Karachi Region-II,
Block No. 51, Pak Secretariat,
Shahra-e-Iraq, Saddar,
Karachi

Subject: Appeal Titled K-Electric Ltd Vs. Abdul Rahim Against the Decision Dated 28.11.2017 of the Provincial Office of Inspection to Government of the Sindh Karachi Region-II, Karachi

Please find enclosed herewith the decision of the Appellate Board dated 03.07.2018, regarding the subject matter, for information and necessary action accordingly.

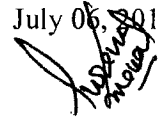
Encl: As Above

(Ikram Shakeel)

No. NEPRA/AB/Appeal-002/POI-2018/ *1132*

Forwarded for information please.

July 06, 2018


Assistant Director
Appellate Board

✓ 1. Registrar



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. 003/2018

K-Electric Limited

.....Appellant

Versus

Abdul Rahim S/o Zahooruddin Plot No.29/21,
Sector 5-D, North Karachi, Karachi

.....Respondent

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,
TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997
AGAINST THE DECISION DATED 28.11.2017 PASSED BY PROVINCIAL
OFFICE OF INSPECTION KARACHI REGION-II, KARACHI**

For the appellant:

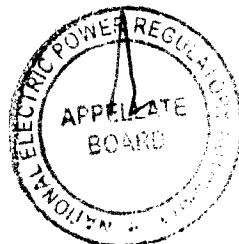
Ms. Tatheera Fatima Deputy General Manager (Legal Distribution)
Mr. Masahib Ali Manager

For the respondent:

Nemo

DECISION

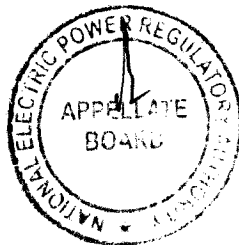
1. Brief facts of the case are that the respondent is a domestic consumer of K-Electric bearing Ref No. LA-035040 with a sanctioned load of 1 kW under A1-R tariff. Premises of the respondent was inspected by K-Electric on 02.09.2016 and allegedly the respondent was found stealing electricity through use of hook connection and the connected load was observed as 13.332 kW, being much higher than the sanctioned load. Hence the detection bill of Rs.147,450/- for 6,609 units for the period 21.02.2016





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2. Being aggrieved, the respondent filed a complaint dated 20.06.2017 before Provincial Office of Inspection (POI) and challenged the arrears amounting to Rs.638,960/- reflected in the bill for May 2017. POI disposed of the matter vide its decision dated 28.11.2017 and held that the detection bill of Rs.147,450/- for 6,609 units for the period 21.02.2016 to 22.08.2016 and all the assessed bills charged by K-Electric are cancelled. The respondent is responsible for making payment of detection bill for two billing cycles and the assessed bills on the basis of actual meter reading.
3. K-Electric was dissatisfied with the POI decision dated 28.11.2017 (impugned decision), therefore filed the instant appeal, wherein K-Electric contended that the respondent was found stealing electricity through the use of hook connection and the connected load was noticed much higher than the sanctioned load, therefore the detection bill of Rs.147,450/- for 6,609 units for the period 21.02.2016 to 22.08.2016 was charged to respondent. As per contention of K-Electric, the respondent is habitual in stealing the electricity through the unfair means, therefore the assessed bills were charged to the respondent to recover loss sustained due to theft of electricity. K-Electric further informed that the respondent defaulted the payment of monthly electricity bills, which resulted in the accumulation of arrears to the tune of Rs.638,960/- till May 2017. K-Electric prayed for setting aside the impugned decision on the grounds that POI afforded the relief to the respondent beyond three years, which is barred under Limitation Act, 1908 that POI has no jurisdiction to adjudicate the instant case being theft case by bypassing the meter. The

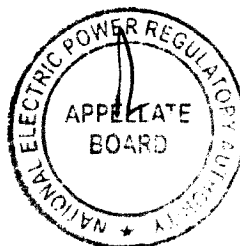




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respondent was issued the notice for filing reply/parawise comments to the appeal, which however were not submitted.

4. After issuing notice to both the parties, hearing of the appeal was held in Karachi on 11.06.2018 wherein Ms. Tatheera Fatima Deputy General Manager (Distribution Legal) along with other officials appeared for the appellant K-Electric and no one entered appearance for the respondent. Learned representative of K-Electric reiterated the same arguments as contained in memo of the appeal and pleaded that the respondent is habitual in stealing the electricity and made payment of only three bills only in last seventeen years. As per learned representative for K-Electric, electric supply of the respondent was disconnected time and again but it was restored illegally, therefore actual consumption was not recorded by the meter, consequently the respondent was billed in assessed mode. According to learned representative for K-Electric, the respondent was found dishonestly abstracting the electricity during checking dated 02.09.2016, therefore the detection bill of Rs.147,450/- for 6,609 units for the period 21.02.2016 to 22.08.2016 was charged to respondent. Learned representative for K-Electric agreed to revise the detection bill for three months. Learned representative averred that POI decided the fate of assessed bills beyond three years in violation of Limitation Act, 1908, which is incorrect and liable to be withdrawn.
5. Arguments heard and examined the record placed before us. K-Electric raised the objection on the jurisdiction of POI, it is observed that theft of electricity was alleged by



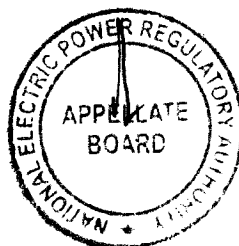


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K-Electric but neither the legal proceedings were initiated against the respondent nor the provisions of Consumer Service Manual (CSM) were followed. Objection of K-Electric in this regard is devoid of force, therefore rejected. On merits, the respondent disputed the arrears of Rs.638,960/- accumulated till May 2017 before POI vide complaint dated 20.06.2017. The aforesaid arrears contain the detection bill of Rs.147,450/- for 6,609 units for the period 21.02.2016 to 22.08.2016 and other assessed bills. As regards the impugned decision for assessed bills, we are convinced with the contention of K-Electric that the complaint was filed before POI in June 2017, hence POI has jurisdiction to decide the billing dispute up-to three years of the filing of the complaint before POI. In this regard, reliance is placed on the Lahore High Court, judgment dated 30.11.2015 in respect of writ petition No.17314-2015 titled "Muhammad Hanif v/s NEPRA and others", which is reproduced below:

"-the period of three years for filing an application applies when the right to apply accrues as prescribed in the Article 181 of Limitation Act, 1908."

Hence the impugned decision to the extent of cancellation of the entire assessed bills is unjustified and the same is liable to be declared null and void. Analysis of the record disclosed that the respondent was charged in assessed mode during the period July 2014 and onwards on the plea that the respondent was stealing electricity. We have to rely on the connected load as observed during the inspection dated 02.09.2016 for evaluation of the assessed bills as given below:



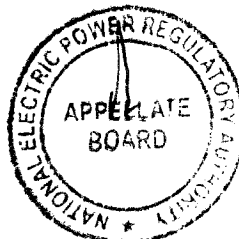


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Period: July 2014 to October 2015, December 15, February 2016 to July 2016, October 2016, December 2016, February 2017 to March 2017, July 2017 to September 2017 (30 months)	
Average units charged per month in assessed mode	520
Average units= Load in kW x Load factor x No. of Hours chargeable per month = 13.322 x 0.16 x 730	1,525

From above, it is evident that the assessed bills charged @ 520 units/month during the disputed months are less as compared to the average units calculated on the basis of connected load. As there is no rebuttal from the respondent's side against the contention of K-Electric, therefore the assessed bills charged by K-Electric for the periods i.e. July 2014 to October 2015, December 15, February 2016 to July 2016, October 2016, December 2016, February 2017 to March 2017, July 2017 to September 2017 (30 months) are justified and the respondent is responsible for making payments of the same. Impugned decision to this extent is liable to be modified.

Charging the detection bill for the period 21.02.2016 to 22.08.2016 (March 2016 to August 2016) is violative of clause 9.1c (3) of CSM, which allows to charge the detection bill to a general supply consumer i.e. A-I maximum for three billing cycles. During the arguments, K-Electric agreed to curtail the period of detection bill for three billing cycles in accordance with foregoing clause of CSM. As such the detection bill of Rs.147,450/- for 6,609 units for the period March 2016 to August 2016 is cancelled as determined by POI and the respondent is liable to be charged @ 520 units/month for June 2016 to August 2016 as calculated in above table. The impugned decision for





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revision of the detection bill for two billing cycles is liable to be modified.

6. In view of foregoing discussion, we have reached to the conclusion that:

- i. The detection bill of Rs.147,450/- for 6,609 units for the period 21.02.2016 to 22.08.2016 charged by K-Electric is unjustified and declared null and void. The respondent may be charged the detection bill @ 520 units/month for the period June 2016 to August 2016.
- ii. The assessed bills for the period July 2014 to October 2015, December 2015, February 2016 to May 2016, October 2016, December 2016, February 2017 to March 2017, July 2017 to September 2017 already charged by K-Electric are justified and payable by the respondent.
- iii. The consumer's account of the respondent should be overhauled after making adjustment of electricity bills paid and revised bills be issued accordingly. However the arrears may be recovered in six installments.

7. The impugned decision is modified in above terms.

Muhammad Qamar-uz-Zaman
Member

Nadir Ali Khoso
Convener

Muhammad Shafique
Member

Dated: 03.07.2018

