



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

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No. NEPRA/AB/Appeal-028/POI-2018 / 2205-22/0

December 14, 2018

1. Sardar Muhammad Kashif Khan  
S/o. Muhammad Sharif Khan,  
House No. R-27, Block-A,  
Rizwan Housing Society, Scheme-33,  
University Road, 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. Iqbal Ahmed Qureshi  
Advocate High Court  
Suit No. 4, Fareed Chambers,  
Abdullah Haroon Road,  
Beside Hotel Jabeer, Saddar, Karachi
6. Electric Inspector,  
Karachi Region-II,  
Block No. 51, Pak Secretariat,  
Shahra-e-Iraq, Saddar,  
Karachi

Subject: **Appeal Titled K-Electric Vs. Sardar Muhammad Kashif Khan Against the Decision Dated 28.12.2017 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 13.12.2018, regarding the subject matter, for information and necessary action accordingly.

Encl: **As Above**

No. NEPRA/AB/Appeal-028/POI-2018 / 22/11

Forwarded for information please.

(Ikram Shakeel)

December 14, 2018

Assistant Director  
Appellate Board

✓ 1. Registrar



**Before Appellate Board**

In the matter of

**Appeal No.028/2018**

K-Electric Limited

.....Appellant

Versus

Sardar Muhammad Kashif Khan S/o Muhammad Sharif Khan,  
House No.R-27, Block-A, Rizwan Housing Society,  
Scheme-33, University Road, Karachi

.....Respondent

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,  
TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997  
AGAINST THE DECISION DATED 28.12.2017 PASSED BY PROVINCIAL  
OFFICE OF INSPECTION KARACHI REGION-II, KARACHI**

For the appellant:

Ms. Tatheera Fatima Deputy General Manager (Legal Distribution)

Mr. Asif Shajer Deputy General Manager

Mr. Masahib Ali Manager

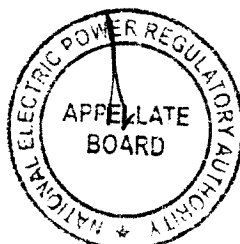
For the respondent:

Mr. Iqbal A. Qureshi Advocate

Mr. Mahmood Hashmi Advocate

**DECISION**

1. Brief facts leading to the filing of instant appeal are that the respondent is a domestic consumer of K-Electric bearing Ref No.LA-816777 with a sanctioned load of 9 kW and the applicable tariff is A1-R. K-Electric alleged that the respondent was found stealing

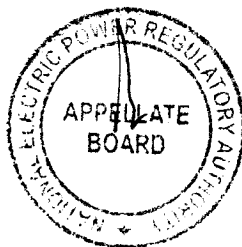




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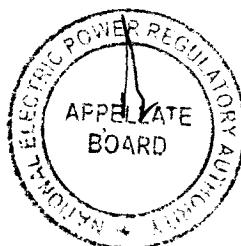
electricity through an extra phase and the connected load was noticed as 13.526 kW, hence the detection bill (hereinafter referred to as the first detection bill) of Rs.133,093/- for 7,662 units for the period 09.12.2014 to 09.06.2015 (6 months) was charged to the respondent in June 2015. Premises of the respondent was again visited by K-Electric on 07.05.2016, wherein the respondent was found dishonestly abstracting electricity through an extra phase and the connected load found was 13.974 kW. Another detection bill (hereinafter referred to as the second detection bill) amounting to Rs.119,122/- for 3,861 units for the period 05.12.2015 to 04.06.2016 (6 months) was charged to the respondent by K-Electric in May 2016. Above referred both the detection bills were initially challenged before the Federal Ombudsman by the respondent, the honorable Federal Ombudsman vide its order dated 03.10.2016 declared both the above detection bills as illegal. K-Electric filed an appeal before the President of Pakistan, which was accepted and the order dated 03.10.2016 of Federal Ombudsman was set aside vide order dated 27.03.2017 against which the respondent filed CP No. D-2680/2017 before the Sindh High Court, Karachi. The honorable High Court vide order dated 02.06.2017 dismissed the petition with the direction to the respondent to approach Provincial Office of Inspection (POI) for redressal of his grievance. Subsequently, the respondent filed a complaint before POI against both the detection bills of Rs.133.093/- and Rs.119,122/-. POI disposed of the matter vide its decision dated 28.12.2017, the operative portion of which is reproduced below:

*“After conducting several number of hearings, giving fair opportunities to hear both*



*the parties, scrutinizing the record, made available with this office and in the light of relevant law & Regulations and above findings, this office is of firm view that both the detection bills, amounting to Rs.119,122/- for the period from 05.12.2015 to 04.06.2016 and amounting to Rs.133,093/- for the period from 09.12.2014 to 09.06.2015 are no legal and technical grounds hence to be canceled. If the complainant paid any excess amount in this regard it should be adjusted in future billing accordingly. The opponents are directed to act in terms of the above instructions accordingly. The complaint of the applicant is disposed of with the above remarks.”*

2. Through the instant appeal, K-Electric assailed the above decision dated 28.12.2017 of POI (hereinafter referred to as the impugned decision), wherein it is averred that the premises of the respondent was inspected by K-Electric twice and on both the occasions, the respondent was found consuming electricity illegally through an extra phase. As per contention of K-Electric, the first detection bill of Rs.133,093/- for 7,662 units for the period 09.12.2014 to 09.06.2015 and the second detection bill of Rs.119,122/- for 3,861 units for the period 05.12.2015 to 04.06.2016 were charged to the respondent due to theft of electricity. K-Electric objected the jurisdiction of POI on the ground that the matter was decided by Wafaqi Mohtasib, hence no Court or Authority can entertain the same as per Establishment Order 1983 of Wafaqi Mohtasib. K-Electric stated that FIR was not lodged against the respondent as he admitted the theft of electricity and agreed to pay the above detection bills. According to K-Electric, there is no binding upon the licensee to lodge the FIR against the consumer involved in the theft of electricity under section 26-A of Electricity Act 1910. K-Electric pointed out that POI was not authorized to adjudicate

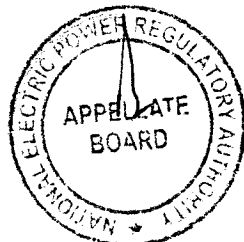




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the instant complaint of the respondent being a case of theft of electricity by bypassing the meter. K-Electric finally prayed for setting aside the impugned decision.

3. The notice was issued to the respondent for filing reply/para-wise comments to the appeal, which were filed on 22.10.2018. In his reply, the respondent refuted the allegation of theft of electricity through the extra phase-levelled by K-Electric and pleaded that both the detection bills i.e. Rs.133,093/- and Rs.119,122/- are illegal, unjustified as already declared by POI.
4. After issuing the notice to both the parties, hearing of the appeal was held in Karachi on 22.10.2018 in which both the parties made their attendance. Ms. Tatheera Fatima Deputy General Manager (Distribution Legal), learned representative of K-Electric explained that the premises of the respondent was inspected by K-Electric time and again and every time the respondent was found abstracting electricity illegally. According to K-Electric, both the detection bills i.e. 133,093/- and Rs.119,122/-were charged to the respondent in order to recover the revenue loss sustained by K-Electric due to the dishonest abstraction of electricity by the respondent but he made payment of Rs.20,000/- only against the first detection bill. K-Electric explained that Wafaqi Mohtasib vide its order dated 03.10.2016 declared both the above detection bills as illegal, that the said order was set aside by the representative of President of Pakistan vide order dated 27.03.2017. K-Electric further elaborated that the decision of Wafaqi Mohtasib could not be challenged before any forum including High Court as per Establishment Order 1983 of Wafaqi Mohtasib. According to K-Electric, the order dated 02.06.2017 of the Sindh High Court, Karachi





was not legal as such the impugned decision announced by POI in pursuance of order dated 02.06.2017 of the Sindh High Court, Karachi may be declared illegal. Conversely, the learned counsel for the respondent reiterated the same contentions as contained in the reply/para-wise comments to the appeal, refuted the allegation of theft of electricity leveled by K-Electric and pleaded for maintainability of the impugned decision.

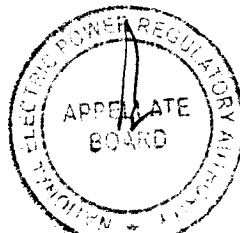
5. Arguments heard and record perused. We cannot entertain the preliminary objection of K-Electric regarding the order dated 02.06.2017 of the Sindh High Court, Karachi and hold that POI has rightly assumed the jurisdiction on the order dated 02.06.2017 of the Sindh High Court, Karachi. The objection of K-Electric in this regard is invalid, therefore dismissed.

Objection of K-Electric regarding the lack of jurisdiction of POI in theft of electricity case, it is observed that theft of electricity by the respondent was alleged by K-Electric but no FIR and other proceedings as required under law and Consumer Service Manual (CSM) were initiated by K-Electric and no concrete proof was provided by K-Electric regarding the theft of electricity. Hence the objection of K-Electric regarding jurisdiction of POI is devoid of force and should be rejected.

The respondent assailed two detection bills before POI, detail of which is given below:

SIRs dated	Detection Bill	Period	Units	Amount (Rs.)
04.07.2015	First	09.12.2014 to 09.06.2015	7,662	133,093/-
07.05.2016	Second	05.12.2015 to 04.06.2016	3,861	119,122/-

As far as the first detection bill of 133,093/- for the period 09.12.2014 to 09.06.2015





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(January 2015 to June 2015) is concerned, the comparison of the consumption data is done below:

Period	Normal Mode Average Units/Month	Detection Mode Average Units/Month
<b>Period before dispute</b> July 2014 to December 2014	570	-
<b>First disputed period</b> January 2015 to June 2015	570	1,847
<b>Period after dispute</b> July 2015 to December 2015	730	-

It emerges from the above table that the detection bill charged @ 1,847 units/month during the first disputed period is higher than the normal average consumption of the periods before and after the first dispute. Furthermore, the detection bill of Rs.133,093/- for 7,662 units for the period January 2015 to June 2015 charged in violation of clause 9.1c(3) of CSM, which allows charging the detection bill maximum for three months as no approval beyond three billing cycles was solicited from Chief Executive Officer K-Electric, hence the same is liable to be declared null and void as already determined in the impugned decision. As regards charging of units during the first disputed period, it is noted that 570 units/month for the first disputed period are much lesser than the normal average consumption of the period after the first dispute. Obviously, the correct consumption was not recorded during the first detection bill period. Therefore it would be appropriate to charge the first detection bill @ 730 units/month for three months only i.e. April 2015 to June 2015 on the basis of consumption of the period after the first dispute i.e. July 2015 to December 2015.

In order to ascertain the justification for charging the second detection bill of 119,122/-





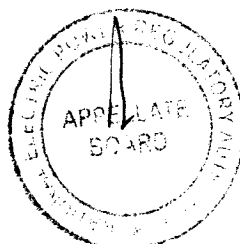
for the period 05.12.2015 to 04.06.2016 (January 2016 to June 2016), following comparison of consumption is done:

Period	Normal Mode Average Units/Month	Detection Mode Average Units/Month
<b>Period before dispute</b> July 2015 to December 2015	730	-
<b>Second disputed period</b> January 2016 to June 2016	538	1,146
<b>Period after dispute</b> July 2016 to December 2016	503	-

Perusal of the above table indicates that the second detection bill charged @ 1,146 units/month during the second disputed period is much higher than the normal average consumption of the periods before and after the second dispute. Furthermore, the detection bill of Rs.119,122/- for 3,861 units for the period January 2016 to June 2016 charged in violation of clause 9.1c(3) of CSM, which allows charging the detection bill maximum for three months as no approval beyond three billing cycles was solicited from Chief Executive Officer K-Electric. Hence the second detection bill of Rs.119,122/- for 3,861 units for the period January 2016 to June 2016 is illegal, unjustified and liable to be cancelled as already determined in the impugned decision. The respondent is liable to be charged the second detection bill @ 730 units/month for the period April 2016 to June 2016 as recorded during the period before the second dispute.

6. Forgoing in consideration, it is concluded that:

i. First detection bill of Rs.133,093/- for 7,662 units for the period January 2015 to







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June 2015 and the second detection bill of Rs.119,122/- for 3,861 units for the period January 2016 to June 2016 are cancelled as already decided by POI.

- ii. The respondent should be charged the first and second detection bills @ 730 units/month for the periods April 2015 to June 2015 (3 months) and April 2016 to June 2016 (3 months) respectively.
- iii. Billing account of the respondent should be overhauled after making the adjustment of units already charged and the payment made (if any) against both the above mentioned detection bills.

7. The impugned decision is modified in above terms.

Muhammad Qamar-uz-Zaman  
Member

Muhammad Shafique  
Member

Nadir Ali Khoso  
Convener

Dated: 13.12.2018

