



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

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No. NEPRA/AB/Appeal-044/POI-2018/2218-2222

December 14, 2018

1. Aziz Khan
House No. 98-B, Block-2,
Shah Faisal Colony,
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-I,
Block No. 51, Pak Secretariat,
Shahra-e-Iraq, Saddar,
Karachi

Subject: **Appeal Titled K-Electric Vs. Aziz Khan Against the Decision Dated 15.01.2018 of the Provincial Office of Inspection to Government of the Sindh Karachi Region-I, 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-044/POI-2018/2223

Forwarded for information please.

(Ikram Shakeel)

December 14, 2018

**Assistant Director
Appellate Board**

✓ 1. Registrar



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No.044/2018

K-Electric Ltd

..... Appellant

Versus

Aziz Khan, House No. 98-B, Block -2,
Shah Faisal colony Karachi

..... Respondent

**APPEAL UNDER SECTION 38 (03) OF REGULATION OF GENERATION,
TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997
AGAINST THE DECISION DATED 15.01.2018 PASSED BY PROVINCIAL
OFFICE OF INSPECTION KARACHI REGION KARACHI.**

For the appellant:

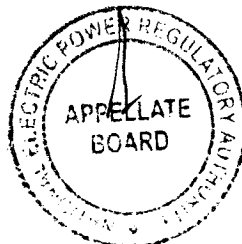
Ms. Tatheera Fatima Deputy General Manager (Legal Distribution)
Mr. Masahib Ali Manager
Asif Shajar Deputy Manager

For the respondent:

Nemo

DECISION

1. Through this decision, an appeal filed by K-Electric against the decision dated 15.01.2018 of Provincial Office of Inspection, Karachi Saddar, Karachi (hereinafter referred to as POI) is being disposed of.
2. Brief facts of the case are that respondent is a domestic consumer of K-Electric

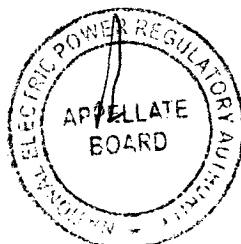




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bearing Ref. No. LA-056054 with a sanctioned load of 1kW under A1-R tariff. The site visit inspection was carried out on 23.06.2013 and allegedly the respondent was found involved in dishonest abstraction of electricity through hook, total connected load was found as 6.711 kW against the sanctioned load 1kW therefore, a detection bill of Rs. 49,206/- for 3,534 units for February 2013 to June 2013 i.e. 5 months (first detection bill) was charged to the respondent on the basis of connected load. The site of the respondent was again checked by K-Electric on 27.03.2013 and reportedly the respondent was found using electricity through extra phase with 5.820 kW connected load. A detection bill of Rs. 47,699/- for 3,846 units for the period from October 2013 to March 2014 i.e. 6 months (second detection bill) was charged to the respondent on the basis of connected load. However no payment against the said detection bills was made by the respondent. Being aggrieved the respondent filed a complaint before POI on 05.05.2014 and challenged the assessed / arrears bill of Rs. 92,441/- charged in 04/2014, which obviously included both the abovementioned detection bills. The complaint was decided by POI vide its decision dated 15.01.2018 with the following conclusion:

“After conducting several numbers of hearings, giving fair opportunities to hear both the parties, scrutinizing the record, made available with this office and in the light of above findings, the undersigned is of the firm view that opponent have violated the mandatory requirements of Electricity Act-1910 and guide lines communicated through consumer service Manual (CSM) of NEPRA as pointed out





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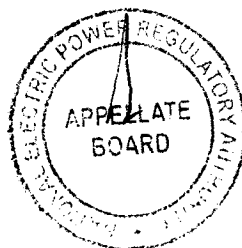
in above findings. The provincial office of Inspection therefore, direct the Opponents to cancel the detection bills amounting to 1st detection bill amounting to Rs. 49,215/= from 24.01.2013 to 25.06.2013, 2nd detection bill amounting to Rs 47,699/= of 3876 units for the period from 25.09.2013 to 25.03.2014, 3rd detection bill amounting to Rs 33,654/= of 2858 units for the period from 27.05.2014 to 22.11.2014, 4th detection bill amounting to Rs 45,458/= of 2912 units for the period from 25.06.2015 to 26.12.2015 and 5th detection bill amounting to Rs 26,444/= of 1662 units for the period from 26.01.2016 to 25.07.2016, as the same have no justification on technical and legal grounds.

The assessed bills for the month of June 2013 amounting to Rs. 6025/- (gross) of 500 units, Rs. 7835/- (gross) of 608 units for the month of May 2015, Rs. 3393/- (gross) of 296 units for the month of June 2016 and Rs. 2514/- (gross) of 225 units for the month of November 2016, should also be canceled and revised the same on actual meter reading recorded by the energy meter.

It is further directed the opponents to waive all late payment surcharges and disconnection/ reconnection charges after issuance of the impugned detection & assessed billing and afterwards, as the complainant was not found at fault.

The complaint is disposed off in terms of above for compliance by the opponents.

3. Being dissatisfied with the POI decision dated 15.01.2018 (hereinafter referee to as impugned decision) the appellant has filed the instant appeal before NEPRA. In its appeal K-Electric stated that during various site visit inspections, the respondent was found using electricity illegally by means of direct hook connection. As per K-Electric the detection bills raised against the respondent are justified and payable by the respondent. KE raised the preliminary objection and averred that being a case



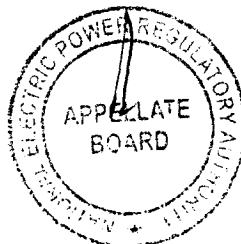


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of theft of electricity; POI has no jurisdiction as per the decision of apex court. K-Electric also pointed out that only two detection bills i.e. Rs. 49,215/= from February 2013 to June 2013 and Rs 47,699/= of 3,876 units for the period from October 2013 to March were challenged by the respondent before POI, whereas the POI has decided all five detection bills and four assessed bills which is beyond the prayer of the respondent.

4. In response to the above appeal, the respondent was issued a notice for filing reply/parawise comments, which however were not submitted.
5. Notice was issued to both the parties for hearing and the appeal was heard in Karachi in 22.10.2018. There was no representation for the respondent. The learned counsel for K-Electric reiterated the arguments as earlier given in memo of the appeal and contended that the premises of the respondent was repeatedly inspected by KE and on every occasion he was found stealing electricity through an extra phase/kunda. According to K-Electric five detection bills of various amount were charged to the respondent , out of which only following two were challenged by the respondent before POI:

- First detection Bill of Rs. 49,215/= from 24.01.2013 to 25.06.2013
- Second detection bill amounting to Rs 47,699/= of 3876 units for the period from 25.09.2013 to 25.03.2014.





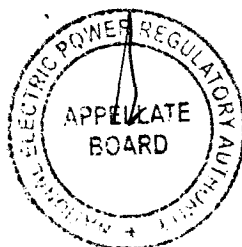
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K-Electric mentioned that the above detection bills were debited to the respondent to recover the energy lost due to theft of electricity, which are legal and payable by the respondent. K-Electric reiterated its preliminary objection regarding cancellation of the following detection bill on the ground that the same were not disputed by the respondent before POI:

- Detection bills of Rs 33,654/= of 2858 units for the period from May 2014 to November 2014, Rs 45,458/= of 2912 units for the period from June 2015 to December 2015, Rs. 26.444/= of 1662 units for the period from January 2016 to July 2016.
- The assessed bills of Rs .6025/-for the month of June 2013, Rs. 7835/- for the month of May 2015, Rs. 3393/- for the month of June 2016 and Rs. 2514/- for the month of November 2016

As per K-Electric cancellation of the above bills by POI is not justified and relief granted beyond the prayer may be declared null and void.

6. Arguments heard and record placed was examined. It has been observed as under:-
 - i. Preliminary objection of K-Electric regarding jurisdiction of POI being theft case is not valid as no legal and departmental procedure was followed to prove theft against the respondent. Obviously it is a metering and billing dispute and falls under the jurisdiction of POI.
 - ii. Complaint was filed before POI on 05.05.2014 regarding assessed/arrears bill of



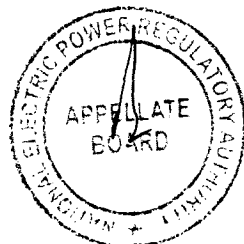


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Rs. 92,441/- charged in 04/2014 which included the detection bills of Rs. 49,215/= from February 2013 to June 2013 and detection bill of Rs 47,699/= of 3,876 units for the period from October 2013 to March 2014. We agree with the contentions of K-Electric that the detection bill of Rs. 33,654/= for the period from 27.05.2014 to 22.11.2014, detection bill of Rs. 45,458/= for the period from 25.06.2015 to 26.12.2015 and detection bill of Rs. 26,444/= for the period from 26.01.2016 to 25.07.2016 were not challenged by the respondent as such the decision regarding the same is without lawful authority. Similarly impugned decision for cancellation of assessed bill for the month of June 2013 amounting to Rs. 6,025/- of 500 units, Rs. 7,835/- for the month of May 2015, Rs. 3,393/- for the month of June 2016 and Rs. 2,514/- for the month of November 2016 is not justified and liable to be withdrawn as the same were also not agitated before POI.

iii. Pursuant to chapter 9 of the Consumer Service Manual, maximum bill chargeable to the respondent would not be more than three months in each case being a domestic consumer as no approval of Chief Executive Officer was sought for extending the detection period up to six months.

iv. Hence first and second detection bills which have been charged each for six months is violation of Consumer Service Manual and liable to be declared null and void as decided by POI. However the detection bill in each case may be charged to the





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respondent for the period of three months, if justified.

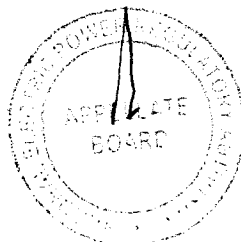
- v. The comparison of the electricity consumption between the disputed and undisputed period as per consumption data provided by K-Electric is as under :

First detection bill

Period	Normal Mode Average Units/Month	Detection Mode Average Units/Month	Remarks
Disputed period: February 2013 to June 2013 (05 months)	133	866	It transpires that average 133 units per month during the disputed period are higher than average 68 units per month for the period after dispute. Hence no justification for charging any detection bill .
Undisputed Period after detection bill: July 2013 to September 2013 (03 months)	68	

Second detection bill:

Period	Normal Mode Average Units/Month	Detection Mode Average Units/Month	Remarks
Undisputed Period before detection bill: July 2013 to September 2013 (03 months)	68	...	Average 68 units per month may be chargeable for the period Jan 2014 to March 2014 (i.e. 3 months) .
Disputed Period: October 2013 to March 2014 (06 months)	25	670.5	

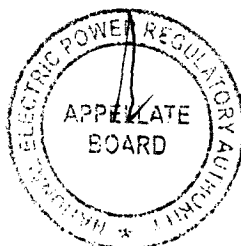




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7. Upshot of above discussion is as under:

- i. Detection bills of Rs. 49,206/- for 3,534 units for the period February 2013 to June 2013 (5 months) and bill of Rs. 47,699/- for 3,846 units for the period October 2013 to March 2014 (6 months) are illegal and not payable by the respondent, as decided by POI.
- ii. K-Electric should charge detection bill @ 68 units per month for the period January 2014 to March 2014.
- iii. Impugned decision regarding cancellation of the detection bills of Rs. 33,654/= of 2,858 units for the period from 27.05.2014 to 22.11.2014, Rs. 45,458/= of 2,912 units for the period from 25.06.2015 to 26.12.2015 and Rs. 26,444/= of 1,662 units for the period from 26.01.2016 to 25.07.2016 is given without lawful authority, therefore declared null and void to this extent.
- iv. Similarly impugned decision for cancellation of assessed bills of Rs. 6,025/- of 500 units for June 2013, Rs. 7835/- for 608 units for the month of May 2015, Rs. 3,393/- of 296 units for the month of June 2016 and Rs. 2,514/- of 225 units for the month of November 2016 is not justified hence withdrawn to this extent.





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v. Late payment surcharges levied due to non payment of first and second detection bills are set aside.

7. Impugned decision is modified in above terms.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Dated: 13.12.2018

