



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

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No. NEPRA/AB/Appeal-086/POI-2018/2236-2240

December 14, 2018

1. Mehboob Azam
House No. 668/17,
Incholi Society, Federal "B" Area,
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 Vs. Mehboob Azam Against the Decision Dated 06.03.2018 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-086/POI-2018/2241

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.086/2018

K-Electric Limited

.....Appellant

Versus

Mehboob Azam, Plot No.616, Block 17, Federal B Area, Karachi

.....Respondent

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,
TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997
AGAINST THE DECISION DATED 06.03.2018 PASSED BY PROVINCIAL
OFFICE OF INSPECTION KARACHI REGION-II, KARACHI**

For the respondent:

Ms. Tatheera Fatima Deputy General Manager

Mr. Asif Shajer Deputy General Manager

Mr. Masahib Ali Manager

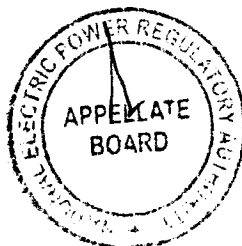
For the respondent:

Mr. Mahboob Azam

Mr. Mahmood Hamid

DECISION

1. Brief facts leading to the filing of instant appeal are that the respondent is a consumer of K-Electric bearing Ref No.AL-163046 having a sanctioned load of 1 kW and the applicable tariff is A-1R. As per Site Inspection Report (SIR) dated 03.05.2017, the respondent was stealing electricity through the tampered meter (shunt found installed inside the meter) and the connected load was noticed as 7.164 kW, being much higher than the sanctioned load. Notice dated 04.05.2017 was served to the respondent and a

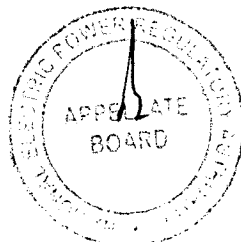




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detection bill amounting to Rs.60,443/- for 2,697 units for the period 06.11.2016 to 05.05.2017(6 months) was debited by K-Electric on the basis of connected load and added in May 2017, which was challenged by the respondent before POI on 07.09.2017. The matter was decided by POI vide its decision dated 06.03.018, wherein the detection bill of Rs.60,443/- for 2,697 units for the period 06.11.2016 to 05.05.2017 was cancelled.

2. The appeal in hand has been filed against the POI decision dated 06.03.2018 (the impugned decision) by K-Electric, wherein it is contended that the meter was inspected by K-Electric on 03.05.2017 and allegation of theft of electricity through the tampering of the meter was leveled; that K-Electric debited the detection bill of Rs.60,443/- for 2,697 units for the period 06.11.2016 to 05.05.2017 as the actual consumption was not recorded during the disputed period due to theft of electricity; that the association of two citizens is not possible due to ground realities; that POI has no power to exercise its jurisdiction; and that the impugned decision be set aside being illegal.
3. Notice for filing reply/para-wise comments to the appeal was served to the respondent, which were filed on 17.10.2018. In his reply, the respondent objected the maintainability of the appeal on the grounds that the impugned decision was rendered by POI Karachi Region-II, Karachi, but the instant appeal has been filed by K-Electric against the decision of POI, Karachi Region-I, Karachi; that the NEPRA failed to decide the matter within 60 days; that K-Electric failed to file the appeal against the impugned decision till to date; and that the impugned decision has attained finality and the same is

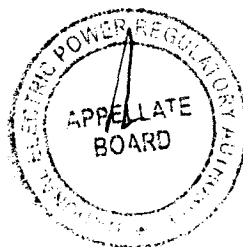




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liable to be maintained.

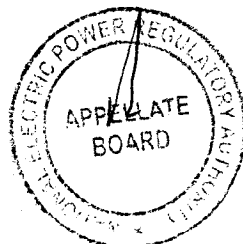
4. Hearing of the appeal was conducted in Karachi on 22.10.2018, which was attended by both the parties. Ms. Tatheera Fatima Deputy General Manager, learned representative for K-Electric reiterated the same arguments as contained in the memo of the appeal and contended that premises of the respondent was inspected on 03.05.2017, wherein he was found dishonestly abstracting the electricity through the tampered meter and the connected load was noticed as 7.164 kW. As per K-Electric, the detection bill of Rs.60,443/- for 2,697 units for the period 06.11.2016 to 05.05.2017 was charged to the respondent in order to recover the revenue loss sustained due to theft of electricity, which was paid by the owner with consent. Conversely, the respondent appearing in person raised the preliminary objection on the maintainability of the appeal on the grounds that neither the impugned decision was challenged by K-Electric through the instant appeal nor NEPRA decided the matter within the prescribed time limit of 60 days. The respondent repudiated the version of K-Electric for charging the detection bill of Rs.60,443/- and contended that neither the premises was inspected in his presence nor the shunt was found in the disputed meter. The respondent further contended that no significant change was noticed in consumption between the disputed and undisputed periods and the payment against the above detection bill was made by the owner of the premises under coercion to avoid disconnection of electric supply.
5. Arguments heard and the record placed before us perused. Following are our observations:





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- i. Theft of electricity by the respondent is alleged by K-Electric but no FIR and other legal proceedings as required under law and Consumer Service Manual (CSM) were initiated by K-Electric. Therefore, the objection of K-Electric regarding jurisdiction of POI being a theft case is not sustainable and rejected.
- ii. The respondent opposed the maintainability of the appeal on the ground that the impugned decision was not challenged before NEPRA. In this regard, it is observed that K-Electric impugned the decision dated 06.03.2018 of POI before NEPRA, however made a typo-error and mentioned POI, Karachi Region-I instead of Region-II, which has no legal consequence. The said objection of the respondent is not sustainable in the eye of law.
- iii. Objection of respondent regarding the pendency of case beyond 60 days before NEPRA is not valid as the Regulation 15(3) of NEPRA Appeal Filing Procedure, Regulations 2012 is of directory nature and not of mandatory nature, which provides the restriction of 60 days to decide the appeal but no consequences in case of failure in decision within prescribed limits are mentioned.
- iv. Respondent disputed the detection bill of Rs.60,443/- for 2,697 units for the period 06.11.2016 to 05.05.2017 (November 2016 to April 2017) before POI on 07.09.2017. In order to arrive a judicious decision, a comparison of the consumption is done below:





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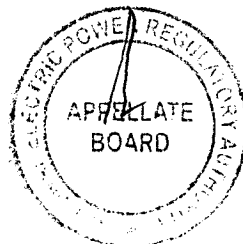
Period	Normal Mode Average Units/Month	Detection Mode Average Units/Month
Period before dispute May 2016 to October 2016	463	-
Disputed period November 2016 to April 2017	269	718
Period after dispute May 2017 to October 2017	375	-

It is evident from the above table that the detection bill charged @ 718 units/month during the disputed period November 2016 to April 2017 is much higher than the consumption recorded @ 463 units/month and 375 units/month during the periods before and after the dispute. Therefore the detection bill amounting to Rs.60,443/- for 2,697 units for the period November 2016 to April 2017 debited to the respondent has no justification and the respondent is not liable to pay the same. The impugned decision to this extent is liable to be maintained.

However, the consumption recorded @ 269 units/month during the disputed period November 2016 to April 2017 is lesser than the consumption recorded @ 463 units/month and 375 units/month during the periods before and after the dispute, which proves that the actual consumption was not recorded during the disputed period. It would be fair and appropriate to charge the detection bill @ 463 units/month to the respondent as recorded during the period before the dispute. However the period is restricted to three months only i.e. February 2017 to April 2017 in pursuance of clause 9.1 c (3) of CSM.

6. Forgoing in consideration, we have reached the conclusion that:

i. The detection bill of Rs.60,443/-for 2,697 units for the period 06.11.2016 to





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05.05.2017 is null & void as already concluded by POI.

ii. The respondent should be charged the detection bill @ 463 units/month for the period February 2017 to April 2017.

7. The appeal is disposed of in above terms.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Dated: 13.12.2018

