



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

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No. NEPRA/AB/Appeal-116/POI-2017/ 067-071

January 19, 2018

1. Tahir Javed,  
S/o Fateh Muhammad,  
House No. N-208, Sector 5-J,  
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. Tahir Javed Against the Decision Dated 31.05.2017 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 17.01.2018, regarding the subject matter, for information and necessary action accordingly.

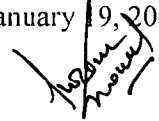
Encl: As Above

(Ikram Shakeel)

No. NEPRA/AB/Appeal-116/POI-2017/ 072

January 19, 2018

Forwarded for information please.

  
Assistant Director  
Appellate Board

✓ 1. Registrar

CC:

1. Member (CA)



# National Electric Power Regulatory Authority

## Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-116/POI-2017

K-Electric Ltd

.....Appellant

Versus

Tahir Javed S/o Fateh Muhammad Javed, House No.N-208,  
Sector-5-J, North Karachi, Karachi

.....Respondent

For the appellant:

Ms. Tathcra Fatima Deputy General Manager (Distribution-Legal)

Mr. Asif Shajar Deputy General Manager

Mr. Imran Hanif Deputy Manager

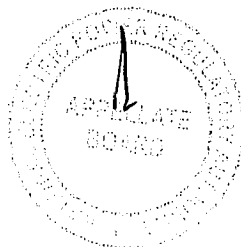
For the respondent:

Mr. Ashar Jamal Siddiqui Advocate

Mr. Tariq Javeed

## DECISION

1. Brief facts give rising to the filing of the instant appeal are that the respondent is a commercial consumer of K-Electric bearing Ref No.AL-578520 with a sanctioned load of 1 kW under A-2C tariff. Premises of the respondent was inspected by K-Electric on 14.03.2012 and allegedly the discrepancy of polarity change for theft of electricity was noticed and his connected load was observed as 4.61kW. After issuing notice dated 14.03.2012 to the respondent, a detection bill of Rs.73,119/- for 4,177 units for the period 24.10.2011 to 23.04.2012 was charged to the respondent in May 2012 on the basis of connected load. The respondent was further charged for the period May 2012 to





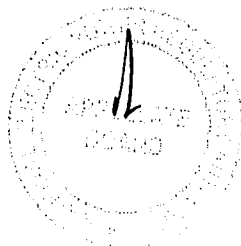
## National Electric Power Regulatory Authority

October 2012 by K-Electric in assessed mode.

2. Being dissatisfied with the action of K-Electric, the respondent filed an application before Provincial Office of Inspection, Karachi Region-II, Karachi (hereinafter referred to as POI) in May 2015 and challenged the arrears of Rs.268,503/-. The complaint of the respondent was disposed of by POI vide its decision dated 31.05.2017, 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 authority and in the light of relevant law and Regulations and above findings, this authority is of the firm view that the irregular bill amounting to Rs.73,119/- of 4177 units for the period from 24.10.2011 to 23.04.2012 has no justification on technical and legal grounds. It is also directed the Opponents to cancel the entire Assessed bills and revise the same on actual metered consumption. The opponents are directed to act in terms of above instructions accordingly. The complaint of the applicant is disposed off with above remarks.”*

3. Being aggrieved with the POI decision dated 31.05.2017 (hereinafter referred to as the impugned decision), K-Electric has filed the instant appeal against under Section 38 (3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (the NEPRA Act 1997). In its appeal, K-Electric contended that the premises of the respondent was inspected on 14.03.2012 and the discrepancy of polarity change was noticed, therefore the detection bill amounting to Rs.73,119/- for 4,177 units for the period 24.10.2011 to 23.04.2012 (November 2011 to April 2012) was charged to the

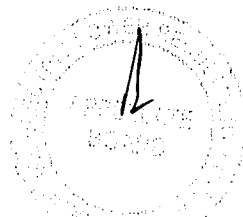




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respondent in May 2012. K-Electric further contended that the respondent defaulted in making payments against the monthly bills since long, therefore the electric supply of the respondent was disconnected time and again, which was illegally restored by him. As per K-Electric, the respondent is habitual in stealing electricity through the proscribed means, therefore the electricity bills for the period May 2012 to October 2012 were charged by K-Electric in assessed mode in order to recover the revenue loss sustained due to theft of electricity. K-Electric explained that as the respondent agreed for payment of the aforesaid detection bill, FIR was not registered against him. K-Electric raised the objection regarding jurisdiction of POI to adjudicate the case of theft of electricity.

4. Notice of the above appeal was issued to the respondent for filing reply/parawise comments, which were filed on 06.10.2017. It is observed that the reply/parawise comments to the appeal submitted by the respondent bears no signatures, therefore the same will not be considered for the rebuttal.
5. Notice issued and hearing of the appeal was conducted in Karachi on 29.12.2017 in which Ms. Tatheera Fatima Deputy General Manager (Distribution- Legal) along with other officials represented the appellant K-Electric and Mr. Ashar Jamal Siddiqui along with Mr. Tariq Javed appeared for the respondent. K-Electric reiterated the same arguments as contained in memo the appeal and stated that premises of the respondent was inspected by K-Electric on 14.03.2012 and the respondent was found stealing electricity by changing the polarity of the meter, therefore the detection bill of





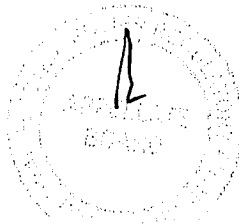
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Rs.73,119/- for 4,177 units for the period November 2011 to April 2012 charged to the respondent in May 2012 was justified and the respondent should pay the same. K-Electric pointed out that the respondent was charged in the assessed mode for the period May 2012 to October 2012 due to theft of electricity, which were assailed by him before POI on 19.05.2015. K-Electric further argued that POI has no jurisdiction to adjudicate upon the matter as the claim of the respondent was barred by time under Limitation Act, 1908. On the other hand, the learned counsel for the respondent opposed the stance of K-Electric regarding the jurisdiction of POI and contended that the same grounds were even taken by K-Electric before POI, which were not taken into consideration while deciding the matter. The learned counsel for the respondent finally prayed for upholding the impugned decision.

6. We have heard arguments of both the parties and examined the record placed before us.

Following is observed:

- i. Preliminary objection of K-Electric regarding lack of jurisdiction of POI being a case of theft of electricity was raised in the appeal but not pressed during the arguments therefore the same is not liable to be considered.
- ii. The respondent filed an application before POI on 19.05.2015 and agitated the detection bill of Rs.73,119/- for 4,177 units for the period November 2011 to April 2012 along with the assessed bills for the period May 2012 to October 2012.
- iii. As regards the detection bill of Rs.73,119/- for the period November 2011 to





April 2012, we are convinced with the contention of K-Electric that the instant dispute pertains to the billing prior to May 2012 and does not fall within the jurisdiction of POI being beyond the period of three years of the filing of the complaint before POI on 19.05.2015. 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", operative portion of which is reproduced below:

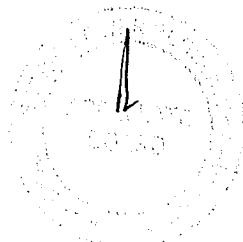
*"-the period of three years for filing an application applies when the right to apply accrues as prescribed in the Article 181 of Limitation Act, 1908."*

Hence the impugned decision to the extent of cancellation of the aforesaid detection bill is unjustified and liable to be withdrawn.

- iv. As regards the assessed bills for the period May 2012 to October 2012 charged to the respondent by K-Electric, it would be judicious to revise the aforesaid assessed bills as per meter reading as already decided by POI.

7. In view of above, it is concluded that:

- i. Claim of the respondent regarding the charging of the detection bill of Rs.73,119/- for the period November 2011 to April 2012 is barred by time and the impugned decision to the extent of cancellation of the aforesaid detection bill is incorrect and declared null and void.
- ii. K-Electric is further directed to cancel the assessed bills for the period May 2012





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to October 2012 charged to the respondent and revise the same on actual meter reading as already determined in the impugned decision.

8. The impugned decision is modified in above terms.

Muhammad Qamar-uz-Zaman  
Member

Muhammad Shafique  
Member

Nadir Ali Khoso  
Convener

Dated: 17.01.2018

