



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

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No. NEPRA/AB/Appeal-139/POI-2017/ 117-122

January 19, 2018

1. Mr. Tehseen,  
S/o Abdul Sattar,  
R/o Flat No. 8, 4<sup>th</sup> Floor,  
Bashir Chandio Mension Masjid,  
Street Gari Khatta, Cycle Market,  
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. Muhammad Aziz Siddiqui,  
310, Al-Falah Mobile Market,  
Saddar, Karachi
6. Electric Inspector,  
Karachi Region-II,  
Block No. 51, Pak Secretariat,  
Shahra-e-Iraq, Saddar,  
Karachi

Subject: Appeal Titled K-Electric Ltd Vs. Mr. Tehseen Against the Decision Dated 20.07.2017 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 18.01.2018, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(Ikram Shakeel)

No. NEPRA/AB/Appeal-139/POI-2017/ 123

January 19/2018

Forwarded for information please.

  
Assistant Director  
Appellate Board

4. Registrar

CC:

1. Member (CA)



# National Electric Power Regulatory Authority

## Before Appellate Board

In the matter of

### Appeal No. NEPRA/Appeal-139/2017

K-Electric Limited

.....Appellant

Versus

Mr. Tehseen S/o Abdul Sattar, R/o Flat No.8,  
4<sup>th</sup> Floor, Bashir Chandio Mension Masjid,  
Street Gari Khatta, Cycle Market, Karachi

.....Respondent

#### For the appellant:

Ms. Tatheera Fatima Deputy General Manager (Legal Distribution)

Mr. Asif Shajer Deputy General Manager

Mr. Abdul Ghani Manager

Mr. Imran Hanif Deputy Manager

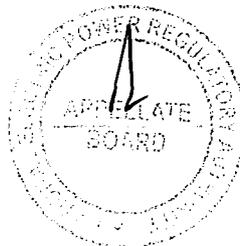
#### For the respondent:

Mr. Tehseen

Mr. M. Iqbal

### DECISION

1. This decision shall dispose of the appeal filed by K-Electric against the decision dated 20.07.2017 of Provincial Office of Inspection, Karachi Region-II, Karachi (hereinafter referred to as POI).
2. Brief facts of the case are that the respondent is a commercial consumer of K-Electric bearing Ref No.AL-810785 having a sanctioned load of 5kW under A-2C tariff. The respondent filed a complaint before Wafaqi Mohtasib on 24.05.2016 and challenged the disputed amount of Rs.320,936/-, which was set aside by the honorable



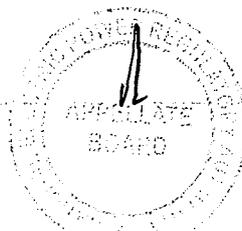


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Wafaqi Mohtasib vide its order dated 01.07.2016. Against which, K-Electric made a representation before the President of Pakistan on 08.09.2016 and the honorable President of Pakistan vide its order dated 15.03.2017 set aside the order dated 01.07.2016 of the Wafaqi Mohtasib. Subsequently the respondent filed a complaint before POI on 06.04.2017 and assailed the arrears of Rs.335,372/- accumulated till March 2017. As per version of K-Electric, the respondent has defaulted the payment of electricity bills and paid only four electricity bills against the 37 electricity bills, which caused accumulation of the aforesaid arrears. The same matter was also referred by the Sindh High Court, Karachi vide CP No.D-3561/2017 to POI for the decision. POI disposed of the matter vide its decision dated 20.07.2017 with the following conclusion:

*“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 & Regulations and above findings, this authority is of the firm view that Opponents is directed to cancel all assessed billing and revised entire billing (last 03 years) for the period from April 2014 to date as per meter reading basis. The opponents are directed to act in terms of above instructions accordingly. The compliant of the applicant is disposed off with above remarks.”*

3. Being dissatisfied with the POI decision dated 20.07.2017 (hereinafter referred to as the impugned decision), K-Electric has filed the instant appeal under Section 38 (3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (hereinafter referred to as the NEPRA Act 1997). In its appeal, K-Electric raised the preliminary objection for the jurisdiction of POI on the plea that the same matter was already decided by the Wafaqi Mohtasib and no court or authority may entertain the cases already decided by the Wafaqi Mohtasib. K-Electric further objected that the case





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was filed through an unauthorized person instead of a registered consumer. On merits, K-Electric explained that the respondent defaulted the payment of electricity bills and paid only 5 electricity bill against the 54 electricity bills issued to him. As per K-Electric, due to non-payment of electricity dues, the electric supply of the respondent was disconnected time and again, which was restored by him illegally through the LT network. According to K-Electric, as the actual consumption was not recorded due to theft of electricity, therefore the respondent was charged in assessed mode in order to recover the revenue loss sustained by K-Electric due to illegal consumption of electricity. K-Electric finally pleaded for setting aside the impugned decision.

4. In response to the above appeal, the respondent was issued a notice for filing reply/parawise comments, which were filed on 06.12.2017. The respondent rebutted the contention of K-Electric regarding the jurisdiction of POI and contended that the impugned decision rendered by POI is justified and the same is liable to be upheld on the grounds that neither 7 days' notice as required under Section 26 of Electricity Act, 1910 was served nor he was associated during the alleged inspection of K-Electric. The respondent averred that the electricity supply remained disconnected during the period April 2014 to June 2016 and the sui gas connection was also not in use during the said period, therefore there is no justification for charging the assessed bills of Rs.335,372/- accumulated till June 2016 being contrary to the provisions of Consumer Service Manual (CSM). The respondent submitted that the impugned decision may be upheld in the light of law and provisions of CSM.





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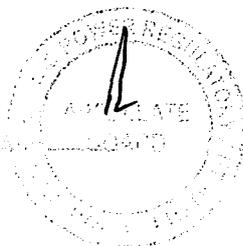
5. Hearing of the appeal was held in Karachi on 29.12.2017 in which Ms. Tatheera Fatima Deputy General Manager (Distribution Legal) along with her team made appearance for the appellant K-Electric and Mr. Tehseen the respondent appeared in person along with Mr. M. Iqbal. Learned representative of K-Electric repeated the same arguments as earlier given in memo of the appeal and pleaded for setting aside the impugned decision being illegal, unjustified. On the other hand, the respondent defended the impugned decision and prayed for upholding the same.

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

Following are our observations:

i. There is no force in the contention of K-Electric regarding the jurisdiction of POI on the plea that the matter was already decided by honorable Wafaqi Mohtasib vide its order dated 01.07.2016. From the record, it is evident that honorable President of Pakistan in its order dated 15.03.2017 held that the complaints before the Wafaqi Mohtasib regarding the metering, billing and collection of tariff are not maintainable and fell within the authority of dispute resolution mechanism provided under NEPRA Act, 1997. Since complaint of the respondent pertains to the dispute of billing, metering and collection of tariff and POI has the jurisdiction to decide the same under Section 38 of NEPRA Act, 1997. Objection of K-Electric in this regard is not valid, therefore rejected.

ii. The objection of respondent as to issuing some notice under the provisions of





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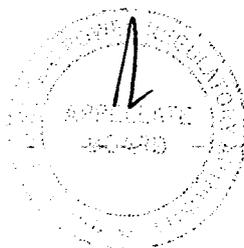
Electricity Act, 1910 is also irrelevant since the provisions of said Act are not applicable for instant case which needs to be dealt with under NEPRA Laws.

iii. There is no force in the objection of K-Electric that the respondent is not authorized to contest the instant dispute. It is observed that same person was representing as the complainant before POI but no such objection regarding the legal status of the respondent was raised by K-Electric. As such raising this objection at the belated stage is not sustainable in the eye of law.

iv. The respondent disputed the arrears of Rs.335,372/- accumulated till March 2017 before POI on 06.04.2017. Perusal of the record has disclosed that the respondent was charged mostly in assessed mode during the period April 2014 to March 2017 on the plea that the respondent was stealing electricity through the proscribed means. In order to evaluate the justification of the afore-mentioned assessed bills, analysis is made below:

Period	Average units charged in normal Mode	Average units charged in assessed mode
<b><u>Disputed months:</u></b> April 2014 to December 2015 and June 2016 to July 2016(23 months)	-	300
<b><u>Undisputed months:</u></b> April 2017 to July 2017 (4 months)	267	-

From the above table, it is evident that the assessed bills charged @ 300 units/month during the disputed months are higher than the normal average consumption of 267 units/month recorded during the undisputed months, which establishes that the





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assessed bills charged during the said months are unjustified and liable to be cancelled. It would be judicious to charge the electricity bills @ 267 units/month for these months i.e. April 2014 to December 2015 and June 2016 to July 2016 (23 months) as recorded during the undisputed months i.c. April 2017 to July 2017. Impugned decision to this extent is liable to be modified.

7. In view of foregoing discussion, we have reached to the conclusion that:
  - i. Assessed bills for the periods April 2014 to December 2015 and June 2016 to July 2016 (23 months) charged by K-Electric are unjustified and declared null and void. However the respondent should pay the electricity bills @ 267 units/month for these months.
  - ii. The consumer's account of the respondent should be overhauled by making adjustment of electricity bills paid and revised bills be issued accordingly.
8. The impugned decision is modified in above terms.

Muhammad Qamar-uz-Zaman  
Member

Muhammad Shafique  
Member

Nadir Ali Khoso  
Convener

Dated: 18.01.2018

