



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

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No. NEPRA/AB/Appeal-140/POI-2017/ 124-129

January 19, 2018

1. Mr. Tehseen,
S/o Abdul Sattar,
R/o Flat No. 8, 4th 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

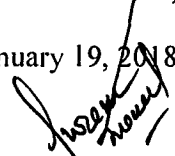
Please find enclosed herewith the decision of the Appellate Board dated 18.01.2018, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

No. NEPRA/AB/Appeal-140/POI-2017/30
Forwarded for information please.

(Ikram Shakeel)

January 19, 2018


Assistant Director
Appellate Board

✓ Registrar

CC:

1. Member (CA)



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-140/2017

K-Electric Limited

.....Appellant

Versus

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

.....Respondent

For the appellant:

Ms. Tathcra 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. Tehscen
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-779943 having a sanctioned load of 1kW under A-2C tariff. The respondent filed a complaint before Wafaqi Mohtasib on 24.05.2016 and assailed





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the arrears of Rs.374,157/-. Wafaqi Mohtasib vide its order dated 12.07.2016 cancelled the entire assessed billing and ordered the same be revised as per meter reading. The said order of Wafaqi Mohtasib was set aside by the President Secretariat vide its order dated 15.03.2017 on the ground that NEPRA Act, 1997 exists to provide the remedy. The respondent filed a complaint before POI on 18.04.2017 and disputed the arrears of Rs.376,446/-accumulated till March 2017. The matter was disposed of by POI 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 assessed as per meter reading basis (last 03 years) for the period from April 2014 to date. The opponents are directed to act in terms of above instructions accordingly. The compliant of the applicant is disposed off with above remarks.”

3. The appeal in hand has been filed by K-Electric against the POI decision dated 20.07.2017 (hereinafter referred to as the impugned decision) under Section 38 (3) of the NEPRA Act 1997. In its appeal, K-Electric raised the preliminary objection for the jurisdiction of POI on the plea that the 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 was filed through an unauthorized person instead of a registered consumer. On merits, K-Electric stated that the respondent defaulted the payment of electricity bills and paid only 5 electricity bill against the 54 electricity bills charged to him. As per K-Electric, due to non-payment of

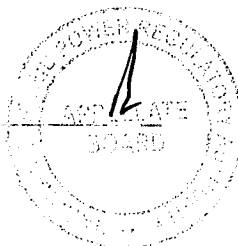




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electricity dues, the electric supply of the respondent was disconnected time and again, which was restored by him illegally through the LT network. According to K-Electric, as the actual consumption was not recorded due to direct use of electricity, therefore the respondent was charged in assessed mode in order to recover the revenue loss sustained by K-Electric due to illegal abstraction of electricity. K-Electric finally pleaded for setting aside the impugned decision.

4. The respondent was issued a notice for filing reply/parawise comments to the above appeal, which were filed on 06.12.2017. In his reply, the respondent contended that POI has the jurisdiction in the instant matter. According to the respondent, the impugned decision is justified and the same is liable to be upheld on the grounds that neither seven 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 neither the electricity (which was disconnected) nor the sui gas was used during the period April 2014 to June 2016, as such charging of the assessed bills of Rs.363,648/- till June 2016 is not justified, which is also violative of Consumer Service Manual (CSM). The respondent prayed for upholding the impugned decision.
5. Hearing of the appeal was held in Karachi on 29.12.2017 in which Ms. Tathcra 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





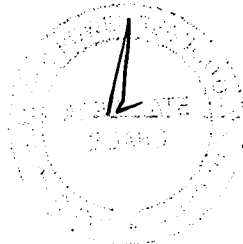
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earlier given in memo of the appeal and pleaded for setting aside the impugned decision being illegal, unjustified. On the other hand, the respondent defended the impugned decision and prayed for upholding the same.

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 set aside the Wafaqi Mohtasib Order dated 01.07.2016 and held that the complaints before the Wafaqi Mohtasib regarding the metering, billing and collection of tariff are not maintainable and fall within the authority of dispute resolution mechanism provided under NEPRA Act, 1997. The 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.
- ii. As regards the objection of K-Electric that the respondent is not authorized to contest the instant billing 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.



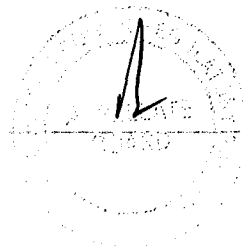


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- iii. The objection of respondent as to issuing some notice under the provisions of Electricity Act, 1910 is also irrelevant since the provisions of said Act are not applicable for instant case which needs to be dealt with under NEPRA Laws.
- iv. The respondent disputed the arrears of Rs.376,446/- accumulated till March 2017 before POI on 18.04.2017. Admittedly electric supply of the respondent remained disconnected during the disputed period i.e. April 2014 to March 2017, however it was alleged by K-Electric that the respondent used electricity directly from the mains. The respondent denied the allegation of theft of electricity but did not provide the gas bills in support of his version, therefore we are inclined to agree with the contention of K-Electric that the residence could not be remain without electricity for such a long period. In order to assess the consumption of electricity during the disputed months, reliance is made on the formula given in Annexure-VIII of CSM:

Disputed months: April 2014 to December 2015 and June 2016 to July 2016 (23 months)	
Units assessed per month	= Load x load factor x No. of Hrs. = 1 kW x 0.2x 730 = 146 units/month
Units already charged in assessed mode per month	= Total units charged ÷ No. of Months = 5,890 ÷ 23 = 256 units/month

From the above, it is evident that the assessed bills charged @ 256 units/month during the disputed months are higher than the consumption of 146 units/month assessed as per formula given in Annexure-VIII of CSM, which establishes that the assessed bills charged during the said months by K-Electric are unjustified and





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liable to be cancelled. The respondent is liable to be charged the electricity bills @ 146 units/month for these months i.e. April 2014 to December 2015 and June 2016 to July 2016(23 months). 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 @ 146 units/month for these months.
- ii. The consumer's account of the respondent should be overhauled by making adjustment of electricity bills paid/units charged during the disputed period April 2014 to December 2015 and June 2016 to July 2016 (23 months) and revised bill 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

