



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

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No. NEPRA/AB/Appeal-125/POI-2018/ 692-196

March 29, 2019

1. Muhammad Jawaid
S/o. Muhammad Siddique,
Plot No. R-1474, Block-03,
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. Muhammad Jawaid Against the Decision Dated 17.05.2018 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 28.03.2019, regarding the subject matter, for information and necessary action accordingly.

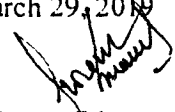
Encl: As Above

(Ikram Shakeel)

No. NEPRA/AB/Appeal-125/POI-2018/ 697

March 29, 2019

Forwarded for information please.


Assistant Director
Appellate Board

✓
1 Registrar



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. 125/2018

K-Electric Ltd

.....Appellant

Versus

Muhammad Jawaid, S/o Muhammad Siddique,
Plot No. R-1474, Block-3, 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 17.05.2018 PASSED BY PROVINCIAL
OFFICE OF INSPECTION KARACHI REGION-II, KARACHI.**

For the appellant:

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

For the respondent:

Nemo

DECISION

1. Through this decision, an appeal filed by K-Electric against the decision dated 17.05.2018 of the Provincial Office of Inspection, Karachi Region-II, 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 bearing



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Ref No.LA-626390 with a sanctioned load of 9 kW under the A1-R tariff. As per computerized site visit report dated 01.09.2015, allegedly the respondent was found involved in dishonest abstraction of electricity through the hook connection and total connected load was found as 8.498 kW, therefore, a detection bill of Rs. 47,019/- for 2,700 units for the period 05.02.2015 to 05.08.2015 i.e. 6 months (the first detection bill) was charged to the respondent on the basis of connected load. A complaint (hereinafter referred as "the first complaint") was filed before the POI on 17.09.2015, wherein, the arrear bill of Rs.62,806/- for the month of August 2015 was challenged, which included the detection bill of - Rs.47,019/- for the period March 2015 to August 2015. In the meanwhile, POI disposed of the matter regarding the first complaint, which included the first detection bill of Rs.47,019/- on 26.07.2017. The site of the respondent was again checked by K-Electric on 27.04.2017 and reportedly, the meter of the respondent was found stopped and electricity was being used through extra phase with connected load of 16.844 kW. Resultantly, another detection bill of Rs.167,029/- for 7,832 units for the period 06.10.2016 to 12.05.2017 i.e. 6 months (second detection bill) was charged to the respondent on the basis of connected load. Out of the two detection bills, some payment was made by the respondent and being aggrieved with the remaining amount of Rs. 198,439/- the respondent filed second complaint before POI on 07.06.2017, which was decided by POI vide its decision dated 17.05.2018 with the following conclusion:



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"After conducting several numbers of hearings, giving fair opportunities to hear both the parities, scrutinizing the record, made available with this office and in the light of relevant law & Regulations and above findings, this authority is of the firm view that the two detection bills , 1st detection bill amounting to Rs. 47,019/- of 2700 units for the period from 05.02.2015 to 05.08.2015 and 2nd detection bill amounting to Rs. 167,029/- of 7832 units for the period from 06.10.2016 to 12.05.2017, are liable to be cancelled and revise the same on two billing cycles each as per Consumer Service Manual (CSM).

- ❖ It is also directed to cancel all the assessed bills and revise the same on actual units consumed/recorded by the energy meter.*
- ❖ 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 dissatisfied with the POI decision dated 17.05.2018 (hereinafter referred to as impugned decision), the appellant has filed the instant appeal before NEPRA. In its appeal, K-Electric stated that during site 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. K-Electric raised the preliminary objection and averred that being a case of theft of electricity; POI has no jurisdiction as per the decision of apex court. K-Electric pointed out that two detection bills i.e. Rs.47,019/- of 2,700 units for the period from March 2015 to August 2015 and Rs.167,029/- of 7,832 units for the period from November 2016 to May 2017 were challenged by the respondent before POI. As per K-Electric, the decision regarding the first detection bill of Rs 47,019/- for the period March 2015 to



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August 2015 was rendered by POI on 26.07.2017, hence a fresh decision regarding the same matter is liable to be set aside. KE also submitted that the respondent only challenged the detection bills but POI also decided the assessed bills, which is beyond the prayer of the respondent.

4. Notice was issued to the respondent for filing reply/para-wise comments, which however were not submitted.
5. Notice was issued to both the parties for hearing and the appeal was conducted in Karachi on 26.02.2019, wherein K-Electric officials appeared but there was no representative for the respondent. Representatives for K-Electric reiterated the same arguments as earlier given in the memo of the appeal and contended that the premises of the respondent was inspected by K-Electric twice and on both occasions he was found stealing electricity through an extra phase/kunda. According to K-Electric the following detection bills of various amount were charged to the respondent, which were challenged by the respondent before POI:
 - First detection bill of Rs.47,019/- of 2700 units for the period from 05.02.2015 to 05.08.2015.
 - Second detection bill of Rs.167,029/- of 7832 units for the period from 06.10.2016 to 12.05.2017.

K-Electric mentioned that the above detection bills were debited to the respondent to recover the energy lost due to the theft of electricity, which are legal and payable by the



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respondent. K-Electric argued that the first complaint regarding the first detection bill of Rs.47,019/- was disposed of by the POI on 26.07.2017, which has attained finality. As per K-Electric, neither fresh complaint may be filed by the respondent nor further decision may be given by POI. According to K-Electric, POI failed to consider this objection and illegally gave a decision about the first detection bill. K-Electric reiterated its objection regarding the cancellation of the assessed bills by POI and stated that those bills were not assailed by the respondent, hence impugned decision in this regard is not justified and liable to be dismissed as the relief granted is beyond the prayer of the respondent.

6. Having heard the arguments and perusal of record, it is observed as under:-
- i. Preliminary objection of K-Electric regarding the 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. The complaint regarding the first detection bill of Rs.47,019/- of 2700 units for the period from 05.02.2015 to 05.08.2015 was disposed of by POI on 26.07.2017 against which no appeal was filed by the respondent. The respondent has inter alia, challenged the first detection bill of Rs.47,019/- in his second complaint before POI on 07.06.2017 and has been decided by POI in the impugned decision. We are inclined to agree with the stance of K-Electric that the first complaint regarding the first detection bill was already disposed of by POI on 26.07.2017, hence the



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impugned decision regarding the first detection bill is declared null and void.

iii. Pursuant to chapter 9 of the Consumer Service Manual (CSM), maximum bill chargeable to the respondent would not be more than three months being a domestic consumer as no approval of Chief Executive Officer was sought for extending the period up to six months. Hence the second detection bill of Rs.167,029/- of 7832 units for the period from 06.10.2016 to 12.05.2017 charged for six months is violative of CSM and liable to be declared null and void as already decided by POI. However, the second detection bill may be charged to the respondent for a period of three months if justified. The comparison of the electricity consumption between the disputed and undisputed periods as per consumption data provided by K-Electric is as under:

Period	Normal Mode Average Units/Month	Detection Mode Average Units/Month	Remarks
Disputed period: Nov. 2016 to Apr. 2017 (06 months)	115	1,420	Average 467 units per month may be charged for the disputed months i.e. Feb. 2017 to Apr. 2017
Undisputed corresponding months of the previous year: Nov. 2015 to Apr. 2016 (06 months)	467	--	

iv. As regards the assessed bills, it is observed that the respondent agitated the detection bills only, hence we accept the argument of K-Electric that no challenge was thrown by the respondent against any assessed bill. Hence the impugned decision of POI regarding the cancellation of assessed bills is beyond the prayer of the respondent

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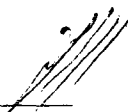
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and liable to be dismissed.


7. The upshot of the above discussion is as under:

- i. Second detection bill of Rs.167,029/- for 7,832 units for the period 06.10.2016 to 12.05.2017(6 months) is declared null and void.The respondent may be charged the second detection bill @ 467 units/month for three months i.e. February 2017, to April 2017.
- ii. Impugned decision for cancellation of the assessed bills is not justified, hence set aside to this extent.
- iii. The billing account of the respondent may be revised after making the adjustments of amount paid/units charged already during the disputed period.

8. The appeal is disposed of in the above terms.



Muhammad Shafique
Member



Nadir Ali Khoso
Convener

Dated:28.03.2019