



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

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No. NEPRA/AB/Appeal-128/POI-2018/ 733-738

April 02, 2019

1. M/s. Noor Iron & Steel Industries  
Plot No. 6, Sector-19,  
Korangi Industrial 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. Karam Dad Khan Tanoli  
Advocate,  
Room No. 313, Third Floor,  
Sunny Plaza, Hasrat Mohani Road,  
Karachi
6. Electric Inspector,  
Karachi Region-I,  
Block No. 51, Pak Secretariat,  
Shahra-e-Iraq, Saddar,  
Karachi

Subject: **Appeal Titled K-Electric Ltd Vs. M/s. Noor Iron & Steel Industries Against the Decision Dated 16.05.2018 of the Provincial Office of Inspection to Government of the Sindh Karachi Region-I, Karachi**

Please find enclosed herewith the decision of the Appellate Board dated 02.04.2019, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

No. NEPRA/AB/Appeal-128/POI-2018/ 739

Forwarded for information please.

✓ I. Registrar

(Ikram Shakeel)

April 02, 2019

Assistant Director  
Appellate Board



# National Electric Power Regulatory Authority

## Before Appellate Board

In the matter of

Appeal No. 128/2018

K-Electric Limited

.....Appellant

Versus

M/s. Noor Iron & Steel Industries, Plot No.6, Sector 19,  
Korangi Industrial Area, Karachi

.....Respondent

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,  
TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997  
AGAINST THE DECISION DATED 16.05.2018 PASSED BY PROVINCIAL  
OFFICE OF INSPECTION KARACHI REGION-I, KARACHI**

For the appellant:

Ms. Tatheera Fatima Deputy General Manager  
Mr. Asif Shajer Deputy General Manager  
Mr. Ali Hassan Deputy General Manager  
Mr. Imran Hanif Deputy Manager

For the respondent:

Mr. Nazir Hussain Advocate  
Mr. Karam Dad Tanoli Advocate  
Mr. Abdullah  
Mr. Abdul Hanan

### DECISION

1. Brief facts of the case are that the respondent is an industrial consumer of K-Electric bearing Ref No.BH-000029 having a sanctioned load of 2,361 kW under the B-3 tariff. The respondent filed suit No.1295/2000 before the Sindh High Court, Karachi for the injunction of Rs.83,062,025/- charged by K-Electric as the electricity bill, which was disposed of by the honorable High Court vide order dated 21.04.2003 with the direction to the respondent to approach the Provincial Office of Inspection (POI). The respondent

*Handwritten signature or initials*



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filed an application (the first application) before POI on 13.05.2003 and challenged the inflated billing of Rs.108,687,635/-. The first application of the respondent was dismissed by POI vide its decision dated 28.09.2016 due to non-prosecution. The respondent filed another application (second application) before POI on 28.03.2017 and prayed for restoration of the first application. POI vide its decision dated 16.05.2018 restored the first application of the respondent and the case is under adjudication before POI.

2. The appeal in hand has been filed against the POI decision dated 16.05.2018 (hereinafter referred to as the impugned decision) by K-Electric. In its appeal, K-Electric contended that POI is authorized only to decide the disputes of metering, billing, and collection of tariff u/s 38 of NEPRA Act, 1997 and has no jurisdiction to set aside its earlier decision dated 28.09.2016 and restore the first application, which is a clear violation of NEPRA Act, 1997. K-Electric further contended that the first application was filed by the respondent in the year 2003 but it was not decided within 90 days as per Electricity Act, 1910 due to lack of interest of the respondent but POI has not taken any notice for long pendency of the complaint. As per K-Electric, second application dated 28.03.2017 filed by the respondent before POI for the restoration of the first application is not maintainable being time-barred. K-Electric finally prayed for setting aside the impugned decision dated 16.05.2018 for the restoration of the respondent's first application.
3. The respondent was served notice for reply/para-wise comments to the appeal, which

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were filed on 31.01.2019. In his reply, the respondent objected the maintainability of the appeal on the grounds that the appeal cannot be filed against an interim order under Regulation 3 of NEPRA (Procedure for filing appeal) Regulations, 2012; that the impugned order was pronounced by Electric Inspector u/s 24 & 26 of Electricity Act, 1910 so the appeal is competent before the Secretary Energy Department, Government of Sindh instead of NEPRA; that the application for restoration was filed on 28.03.2017 after getting the knowledge of dismissal in default vide the decision dated 28.09.2016 and the limitation does not apply in the instant case; that POI is empowered to restore the complaint or recall earlier order; and that the impugned order is an interim order.

4. Hearing of the appeal was conducted in Karachi on 26.02.2019, wherein both the parties appeared. Representatives of K-Electric repeated the same arguments as earlier narrated in the memo of the appeal and contended that the POI is not authorized to review his decision for restoration against which the objection was raised by K-Electric but not considered by POI. K-Electric further stated that the POI has taken advantage of irrelevant law reported in 2017 MLD 141 and rendered the impugned decision, which is unjustified and liable to be set aside. On the contrary, learned counsel for the respondent repeated the same version as contained in the reply/para-wise comments to the appeal and argued that the POI restored his first application vide interim order dated 16.05.2018, hence no appeal is competent against the interim order before NEPRA. Learned counsel for the respondent prayed for dismissal of the appeal.



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5. Arguments heard and the record perused. It is observed as under:

- i. Preliminary objection was raised by the respondent regarding maintainability of the appeal on the ground that the appeal against the order of Electric Inspector lies with the Secretary Energy Department, Government of Sindh. The said objection of the respondent has no force as the impugned decision dated 16.05.2018 was rendered by the officer in the capacity as POI u/s 38 of NEPRA Act, 1997 and the instant appeal against the impugned decision was filed by K-Electric before NEPRA being the competent forum. Section 38(3) of NEPRA Act, 1997 is reproduced below for the sake of convenience,

*"38(3). Provincial Office of Inspection: Any person aggrieved by any decision or order of the Provincial Office of Inspection may, within thirty days of the receipt of the order, prefer an appeal to the Authority in a prescribed manner"*

- ii. The respondent filed the first application before POI on 13.05.2003 and challenged inflated billing of Rs.108,687,635/-, which was dismissed by POI vide its decision dated 28.09.2016 due to non-prosecution. POI vide its impugned decision dated 16.05.2018 restored the first application of the respondent in response to the second application dated 28.03.2017. In the instant appeal, K-Electric objected the maintainability of the impugned decision dated 16.05.2018 on the plea that POI has no jurisdiction to set aside his own decision. The government of Sindh vide notification No.SOPP-6/34-2002 dated 17.05.2004 notified the Sindh (Establishment and Powers of Inspection) Order, 2004, the relevant clause of the said order is



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replicated below:

### Sindh (Establishment and Powers of Inspection) Order, 2004

*“Clause 4(1): The office of Electric inspector shall constitute the office of Inspection for the purpose of section 38 of the Act.*

*(2) The office of inspection shall have power-*

*(a) to deal with the complaints in respect of metering, billing and the collection of tariff and other connected matters and pass necessary orders.*

*(b) to enforce penalties and implement orders passed on appeal.”*

Pursuant to the above clause, POI is authorized to entertain the second application of the respondent and issue the impugned decision for the restoration of the original complaint of the respondent filed through the first application. The objection of K-Electric in this regard is not valid and liable to be overruled.

6. For the foregoing reasons, the appeal is dismissed.

Muhammad Shafique  
Member

Nadir Ali Khoso  
Convener

Dated: 02.04.2019