



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

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No. NEPRA/AB/Appeal-150/POI-2018/ *1119-1123*

May 16, 2019

1. Mst. Umme Kulsoom  
D/o. Muhammad Haseeb Qureshi,  
House No. 5/10, A-Area,  
Liaquatabad, 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. Mst. Umme Kulsoom Against the Decision Dated 29.06.2018 of the Provincial Office of Inspection to Government of the Sindh Karachi Region-II, Karachi**

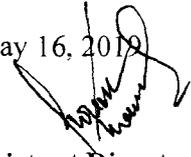
Please find enclosed herewith the decision of the Appellate Board dated 14.05.2019, regarding the subject matter, for information and necessary action accordingly.

Encl: **As Above**

No. NEPRA/AB/Appeal-150/POI-2018/ *1124*  
Forwarded for information please.

(Ikram Shakeel)

May 16, 2019

  
Assistant Director  
Appellate Board

✓ 1. Registrar



# National Electric Power Regulatory Authority

## Before Appellate Board

In the matter of

### Appeal No.150/2018

K-Electric Limited

.....Appellant

Versus

Ms. Umme Kulsoom D/o Muhammad Haseeb Qureshi,  
House No.5/10, A-Area, Liaqutabad, Karachi

..... Respondent

**APPEAL UNDER SECTION 38 (03) OF REGULATION OF GENERATION,  
TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997  
AGAINST THE DECISION DATED 29.06.2018 PASSED BY PROVINCIAL  
OFFICE OF INSPECTION KARACHI REGION-II, KARACHI.**

For the appellant:

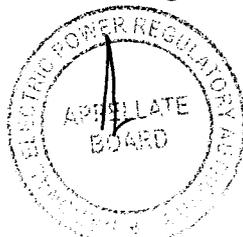
Ms. Tatheera Fatima Deputy General Manager (Legal Distribution)  
Mr. Imran Hanif Deputy Manager

For the respondent:

Ms. Umme Kulsoom

### **DECISION**

1. Brief facts giving rise to the filling of instant appeal are that the respondent is a domestic consumer of K-Electric bearing Ref. No. AL-168130 with a sanctioned load of 9 kW under the A1-R tariff. Site inspection was carried out by K-Electric on 26.10.2015 and allegedly the respondent was found involved in the dishonest abstraction of electricity through bypassing the meter and the connected load was found as 7.32 kW. Therefore, a detection bill (first detection bill) of Rs.76,026/- for 4,358 units for the period 17.04.2015 to 17.10.2015 (6 months) was charged to the respondent on the basis of connected load. The premises of the respondent was again inspected by K-Electric in



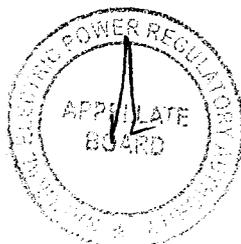


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June 2016 and the illegal usage of electricity was noticed, hence another detection bill (second detection bill) of Rs.95,558/- for 4,149 units for the period 18.12.2015 to 17.06.2016 (6 months) was debited to the respondent. The respondent initially approached Wafaqi Mohtasib on 03.08.2016 and challenged the second detection bill of Rs.95,558/- and the assessed bills. The honorable Wafaqi Mohtasib vide its order dated 08.09.2016 declared the second detection bill of Rs.95,558/- for 4,149 units for the period 18.12.2015 to 17.06.2016 (6 months) and the assessed bills as null and void and further directed to revise the assessed bills as per actual meter reading. Subsequently, premises was again inspected by K-Electric on 19.01.2017 and reportedly the electricity was being used directly from cutout through bypassing the meter and the connected load was found as 13.577 kW much higher than the sanctioned load. Resultantly, one more detection bill (third detection bill) of Rs.60,181/- for 2,640 units for the period 20.10.2016 to 17.01.2017 (3 months) was charged to the respondent on the basis of connected load.

2. Being aggrieved, the respondent filed a complaint before the Provincial Office of Inspection (POI) on 26.02.2018 and challenged the arrears of Rs.125,000/- reflected in the bill for February 2018. The complaint was decided by POI vide its decision dated 29.06.2018 with the following conclusion:

*“After conducting several numbers 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*

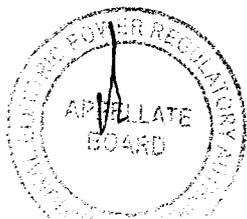




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*that the 1st detection bill amounting to Rs.76,026/- of 4,358 units for the period from 17.04.2015 to 17.10.2015 and the second detection bill amounting to Rs.60,181/- of 2,640 units for the period from 20.10.2016 to 17.01.2017 has no legal and technical ground, hence liable to be canceled. The opponent is directed to cancel the entire assessed billing and revised on an actual meter reading basis. The opponents are directed to act in terms of the above instructions accordingly. The complaint of the applicant is disposed of with above remarks."*

3. Being dissatisfied with the POI decision dated 29.06.2018 (hereinafter referred to as impugned decision), the appellant has filed the instant appeal before NEPRA. In its appeal, KE raised the preliminary objection and averred that being a case of theft of electricity by bypassing the meter; POI has no jurisdiction as per the decision of apex court. K-Electric stated that during various site inspections, the respondent was found using electricity illegally by bypassing the meter. As per K-Electric, both the first and third detection bills of Rs.76,026/- and Rs.60,181/- and the assessed bills raised are justified and payable by the respondent. K-Electric pointed out that the respondent disputed the arrears of Rs.170,000/- before Wafaqi Mohtasib on 03.08.2016, who decided the billing up-to August 2016 vide its order dated 08.09.2016 against which no review or representation was made by the respondent. K-Electric opposed the impugned decision and contended that the respondent challenged the arrears of Rs.125,000/- till February 2018, whereas POI decided the fate of billing of Rs.192,921/-, which included (i) both the first and second detection bills of Rs.76,026/- and the third detection bill of Rs.60,181/-, (ii) assessed bills of November 2015, January 2016 and March 2017. K-Electric submitted that there is no binding upon the licensee to lodge FIR against the

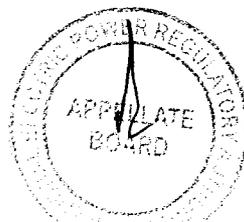




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respondent involved in the dishonest abstraction of electricity u/s 26-A of Electricity Act, 1910. K-Electric finally prayed for setting aside the impugned decision.

4. In response to the above appeal, the respondent was issued notice for filing reply/para-wise comments to the appeal, which were filed on 29.03.2019. In his reply, the respondent rebutted the version of K-Electric regarding charging the detection bills and contended that neither any prior notice was served to him nor site inspections were carried out during his presence. The respondent stated that the meter under dispute was removed without the association of POI, which is illegal in the eyes of law. The respondent denied the allegation of theft of electricity leveled by K-Electric and contended that the consumption remained the same before and after the detection period. The respondent finally prayed for upholding the impugned decision.
5. Notice was issued to both the parties for hearing and the appeal was conducted in Karachi on 29.03.2019, which was attended by both the parties. The representative of K-Electric reiterated the same arguments as earlier given in memo of the appeal and contended that the premises of the respondent was repeatedly inspected by K-Electric and on every occasion, he was found stealing electricity through bypassing the meter, therefore the detection bills of Rs.76,026/- and Rs.60,181/- and the assessed bills of November 2015, January 2016 and March 2017 were issued to the respondent, which are legal and payable by the respondent. As per K-Electric, the respondent initially disputed the arrear bill of Rs.170,000/- up-to August 2016 before Wafaqi Mohtasib, which contained the second detection bill of Rs.95,558/- and the honorable Wafaqi





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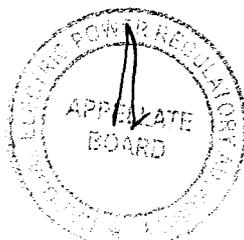
Mohtasib vide order dated 08.09.2016 decided the dispute of billing till August 2016, hence the complaint against the first detection bill of Rs.76,026/- and the assessed bills for November 2015 and January 2016 may not be entertained by POI. As per K-Electric, third detection bill of Rs.60,181/- and the assessed bill of March 2017 are justified and payable by the respondent. According to K-Electric, the impugned decision is illegal and liable to be set aside. On the other hand, the respondent appearing in person termed the aforesaid detection/assessed bills as unjustified, illegal and void and prayed for maintainability of the impugned decision.

6. Arguments heard and record placed was examined. It has been observed as under:

i. Preliminary objection of K-Electric regarding the jurisdiction of POI being a theft case is not valid as no legal and departmental procedure was followed to prove the theft against the respondent. Obviously, it is a metering and billing dispute and falls under the jurisdiction of POI u/s 38 of NEPRA Act,1997.

ii. K-Electric charged the following detection/assessed bills to the respondent on the plea that the respondent was consuming electricity illegally:

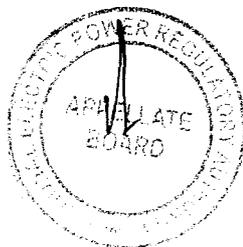
SIR dated	Type of Bill	Period	Duration	Units charged	Amount (Rs.)
26.10.2015	First detection bill	17.04.2015 to 17.10.2015	6 months	4,358	76,026/-
June 2016	Second detection bill	18.12.2015 to 17.06.2016	6 months	4,149	95,558/-
19.01.2017	Third detection bill	20.10.2016 to 17.01.2017	3 months	2,640	60,181/-
-	Assessed bill	November 2015	1 month	1,003	20,639/-
-	Assessed bill	January 2016	1 month	590	10,487/-
-	Assessed bill	March 2017	1 month	1,180	25,588/-





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- iii. The respondent challenged the second detection bill and the assessed bills for November 2015 and January 2016 before Wafaqi Mohtasib vide complaint dated 03.08.2016. The honorable Wafaqi Mohtasib set aside the second detection bill and all the assessed bills (i.e. November 2015 and January 2016) vide its order dated 08.09.2016 against which no appeal was filed by K-Electric. Hence the dispute with regard to the above detection/assessed bills is settled before the Wafaqi Mohtasib.
- iv. As regards the first detection of Rs.76,026/- for the period 17.04.2015 to 17.10.2015 (6 months) and the third detection bill of Rs. 60,181/-, those were neither agitated by the respondent before Wafaqi Mohtasib nor any determination in this regard was given by the honorable Wafaqi Mohtasib in the order dated 08.09.2016. Hence, POI is authorized to give his determination for the same being billing dispute u/s 38 of NEPRA Act, 1997. Objection of K-Electric in this regard has no force.
- v. First detection bill of Rs.76,026/- for the period 17.04.2015 to 17.10.2015 (6 months). Pursuant to chapter 9 of the Consumer Service Manual (CSM), the detection bill may be charged maximum for three months to the respondent being a domestic consumer in the absence of any approval from Chief Executive Officer K-Electric. Hence, the first detection bill of Rs.76,026/- for 4,358 units for the period 17.04.2015 to 17.10.2015 was charged in violation of ibid clause of CSM and liable to be declared null and void as already decided by POI. However, the first





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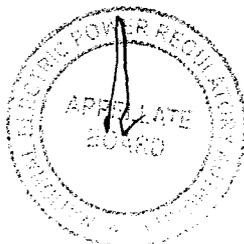
detection bill may be charged to the respondent for three months i.e. June 2015 to August 2015, if justified. The comparison of the electricity consumption between the disputed and undisputed period as per consumption data provided by K-Electric is as under:

Period	Normal Mode Average Units/Month
<b>Corresponding period before dispute</b> June 2014 to August 2014	157
<b>Disputed period:</b> June 2015 to August 2015	93
<b>Corresponding period after dispute</b> June 2016 to August 2016	227

From the above table, it is obvious that the respondent may be charged the first detection bill @ 227 units per month for three months i.e. June 2015 to August 2015 as recorded during the corresponding period after the dispute. Impugned decision is liable to be modified to this extent.

vi. Third detection bill of Rs.60,181/- for the period 20.10.2016 to 17.01.2017:

Since the consumption of corresponding period of the previous year November 2015 to January 2016 was charged in assessed mode, therefore it cannot be made basis for determining the consumption of the disputed period. Hence the consumption of the third detection period i.e. November 2016 to January 2017 will be analyzed with corresponding consumption of succeeding year 2017 only as tabulated below:





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Period	Normal Mode Average Units/Month	Detection Mode Average Units/Month
<b>Disputed Period:</b> November 2016 to January 2017	262	1,142
<b>Period after detection bill:</b> November 2017 to January 2018	106	-

Obviously, the average consumption already charged to the respondent during the disputed period is higher than the consumption of the corresponding period after the dispute. Hence there is no justification to charge the third detection bill of Rs.60,181/- for the period 20.10.2016 to 17.01.2017 (3 months) to the respondent and the same is liable to be set aside as already decided by POI.

vii. Since Wafaqi Mohtasib vide its order dated 08.09.2016 decided the assessed billing for November 2015 and January 2016. Hence, impugned decision will be restricted for the assessed bill of 1,180 units for March 2017. From the consumption data provided by K-Electric, it is observed that such high consumption was never recorded during the undisputed periods before and after the disputed month. Hence the assessed bill of 1,180 units for March 2017 is unjustified and liable to be canceled. However the respondent is liable to be charged 339 units for March 2017 as recorded in the succeeding month i.e. April 2018.

6. Upshot of the above discussion is as under:

i. First detection bill of Rs.76,026/- for 4,358 units for the period 17.04.2015 to





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17.10.2015, the third detection bill of Rs.60,181/- for the period 20.10.2016 to 17.01.2017 (3 months) and the assessed bill of 1,180 units for March 2017 are unjustified and not payable by the respondent.

ii. K-Electric may charge first detection bill @ 227 units per month for the period June 2015 to August 2015 and the bill of March 2017 for 339 units. However, the units already charged during the said periods shall be adjusted.

iii. Billing account of the respondent be revised accordingly and the adjustment of payments made if any during the disputed periods be afforded.

7. Impugned decision is modified in the above terms.

Muhammad Qamar-uz-Zaman  
Member

Muhammad Shafique  
Member

Nadir Ali Khoso  
Convener

Dated: 14.05.2019

