



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

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No. NEPRA/AB/Appeal-165/POI-2018/ 1130-1134

May 16, 2019

1. Mst. Musarrat Naz  
W/o. Muhammad Ilyas Khan,  
House No. L-177, Sector 5/L,  
North Karachi, 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. Musarrat Naz Against the Decision Dated 13.08.2018 of the Provincial Office of Inspection to Government of the Sindh Karachi Region-II, Karachi

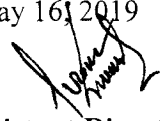
Please find enclosed herewith the decision of the Appellate Board dated 14.05.2019, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(Ikram Shakeel)

No. NEPRA/AB/Appeal-165/POI-2018/ 1135  
Forwarded for information please.

May 16, 2019

  
Assistant Director  
Appellate Board

✓ 1. Registrar



# National Electric Power Regulatory Authority

## Before Appellate Board

In the matter of

### Appeal No.165/2018

K-Electric Limited

.....Appellant

Versus

Mst. Musarrat Naz W/o Muhammad Ilyas Khan, House No.L-177,  
Sector-5/L, North Karachi, Karachi

.....Respondent

**APPEAL UNDER SECTION 38 (3) OF REGULATION OF GENERATION,  
TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997  
AGAINST THR DECISION DATED 13.08.2018 PASSED BY PROVINCIAL  
OFFICE OF INSPECTION KARACHI REGION-I, KARACHI.**

For the appellant:

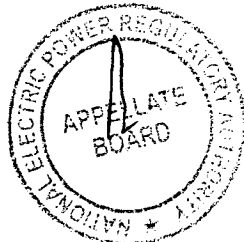
Ms. Tatheera Fatima Deputy General Manager (Legal Distribution)  
Mr. Asif Shajar Deputy General Manager  
Mr. Rehan Haider Deputy General Manager  
Mr. Masahib Ali Manager  
Mr. Imran Hanif Manager

For the respondent:

Mr. M. Ilyas Khan HSW-II  
Mst. Musarrat Naz

## DECISION

1. Through this decision, an appeal filed by K-Electric against the decision dated 13.08.2018 of the Provincial Office of Inspection, Karachi Region-I, Karachi (hereinafter referred to as POI) is being disposed of.
2. Brief facts of the case are that the respondent is a domestic consumer of K-Electric



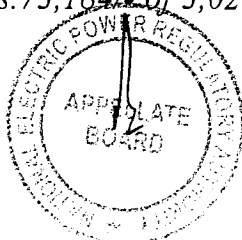


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bearing Ref No.LA-100521 with a sanctioned load of 9kW under the A1-R tariff. As per site inspection report (SIR) dated 24.07.2017, the respondent was found involved in dishonest abstraction of electricity through the extra phase and the total connected load was found as 9.462 kW against the sanctioned load 9 kW therefore, a detection bill (hereinafter referred as “first detection bill”) of Rs.73,184/- for 3,023 units for the period January 2017 to June 2017 (6 months) was charged to the respondent on the basis of connected load. The site of the respondent was again checked by K-Electric on 26.12.2017 and reportedly, the meter of the respondent was found stopped and electricity was being used through an extra phase with a connected load of 7.569 kW. Resultantly, another detection bill (hereinafter referred to as “second detection bill”) of Rs.40,626/- for 1,637 units for the period August 2017 to November 2017 (4 months) was charged to the respondent on the basis of the connected load.

3. Being aggrieved with the above billing, the respondent filed a complaint before POI on 16.02.2018 and disputed the arrears of Rs.117,935/- reflected in the bill for December 2017. The premises of the respondent was checked by POI on 17.07.2018 in presence of both the parties, wherein the meter was found working correctly and no discrepancy was noticed. The complaint of the respondent was decided by POI vide its decision dated 13.08.2018 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 office and in the light of relevant law & Regulations and above findings, this authority is of the firm view that the first detection bill of Rs.73,184/- of 3,023 units for the period from 29.12.2016 to*

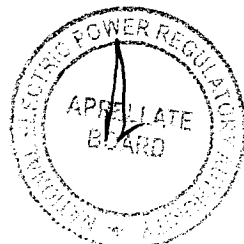




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*30.06.2017 and 2nd detection bill amounting to Rs.40,626/- of 1637 units for the period from 28.07.2017 to 29.11.2017 has no legal and technical ground, hence to be cancelled. The opponents are directed to act in terms of the above instructions accordingly. The complaint of the applicant is disposed of with the above remarks.*

4. Being dissatisfied with the POI decision dated 13.08.2018 (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 extra phase. 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 through bypassing the meter; POI has no jurisdiction as per judgment reported in PLD 2012 SC 371. K-Electric pointed out that the Chief Executive Officer has already delegated powers to Deputy Chief Operating Officer (DCOO) to raise the detection bills up-to six months, hence both the first detection bill of Rs.73,184/- and second detection bill of Rs.40,626/- were charged as per provisions of Consumer Service Manual (CSM). K-Electric also stated that FIR was being lodged against the respondent on account of theft of electricity but the respondent admitted the theft of electricity and agreed to pay the detection bills. As per K-Electric, POI canceled both the above detection bills without any cogent reasons; hence the impugned decision is liable to be set aside in the best interest of justice.
5. Notice was issued to the respondent for filing reply/para-wise comments, which were filed on 28.03.2019. In his reply, the respondent prayed for maintainability of the

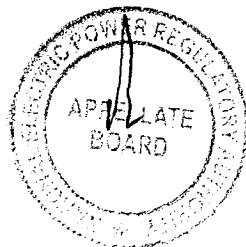




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impugned decision on the grounds that neither he was associated during alleged K-Electric checking nor was served prior notice; that the consumption recorded during the undisputed periods before and after the first and second detection bills remained the same; that both the first detection bill of Rs.73,184/- and second detection bill of Rs.40,626/- were charged in violation of provisions of CSM, which allows charging the detection bill maximum for two months.

6. Notice was issued to both the parties for hearing and the hearing was conducted in NEPRA's regional office at Karachi on 26.04.2019, wherein both K-Electric officials and the respondent appeared. 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 the occasions, he was found stealing electricity through an extra phase. K-Electric opposed the determination of POI and clarified that both the first detection bill of Rs.73,184/- and second detection bill of Rs.40,626/- were charged on different cause of action and period of both the above detection bills is different. K-Electric averred that the increasing trend in the consumption supported their version for charging the above detection bills, findings of POI in this regard were incorrect and liable to be set aside. The respondent appearing in person repudiated the stance of K-Electric denied the allegation of theft of electricity leveled by K-Electric and averred that both portions of the premises were rented out, hence the increase in consumption occurred. As per respondent, K-Electric was issuing detection bills since the year 2015 and he paid a few of the detections bills in order to





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avoid disconnection of supply. The respondent supported the impugned decision and prayed for dismissal of the appeal.

7. Arguments heard and record perused. It has been observed as under:-

i. The 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, billing dispute and falls under the jurisdiction of POI.

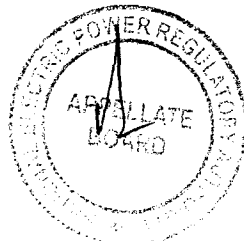
ii. The respondent challenged the following bills before POI on 16.02.2018:

- First detection bill of Rs.73,184/- for 3,023 units for the period January 2017 to June 2017.
- Second detection bill of Rs.40,626/- for 1,637 units for the period August 2017 to November 2017.

iii. POI in the impugned decision held that the respondent was charged consecutively for 11 months in the detection mode. To verify the above finding of POI, the detection bills charged by K-Electric are tabulated below:

K-Electric		
Detection bill	Period	Normal units deducted in detection bill
First	Jan-17 to Jun-17	2,499
Second	Aug-17 to Nov-17	1,689

From the above table, it is revealed that there is a break between the periods of first and second detection bills as no detection bill is charged for the month of July 2017.



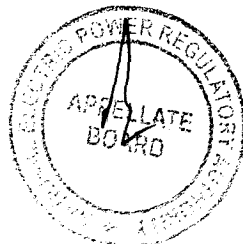


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Hence we are inclined to agree with the contention of K-Electric that period of both the detection bills is not continuous and the determination of POI in this regard is incorrect.

iv. According to clause 9.1c(3) of CSM, maximum bill chargeable to the respondent would not be more than three months being a domestic consumer in the absence of approval of the Chief Executive Officer K-Electric. However, in the instant case, K-Electric charged both the first and second detection bills beyond three months, which is a violation of the foregoing clause of CSM. Hence the first detection bill of Rs.73,184/- for 3,023 units for the period January 2017 to June 2017 and second detection bill of Rs.40,626/- for 1,637 units for the period August 2017 to November 2017 are unjustified and liable to be cancelled as already determined in the impugned decision. However, the respondent may be charged each i.e. first and second detection bills for three months only in pursuance of clause 9.1c(3) of CSM if justified. Analysis in this regard is done below:

Period	Normal Mode Average Units/Month	Remarks
Corresponding period before first dispute Apr-2016 to Jun-2016	417	Units to be charged= 982 units x 3 months = 2,946 units
First disputed period: Apr-2017 to Jun-2017	522	Units already charged = 552 units x 3 months = 1,656 units
Corresponding months after first dispute Apr-2018 to Jun-2018	982	Net units chargeable units = 2,946-1,656 = <b>1,290 units</b>
Period	Normal Mode Average Units/Month	Remarks
Corresponding period before second dispute Sep-2016 to Nov-2016	420	No detection bill is chargeable for the second disputed period as consumption during the disputed period is already higher
Second disputed period: Sep-2017 to Nov-2017	446	
The period after the second dispute Dec-2017 to Jan-2018	279	





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

- i. First detection bill of Rs.73,184/- for 3,023 units for the period January 2017 to June 2017 and the second detection bill of Rs.40,626/- for 1,637 units for the period August 2017 to November 2017 are unjustified and cancelled.
- ii. K-Electric may charge 1,290 units only against the first detection bill. No units are chargeable for the second detection bill.
- iii. The billing account of the respondent should be revised after making the adjustments of amount already paid during the disputed periods.

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

A handwritten signature in black ink, appearing to read 'Muhammad Qamar-uz-Zaman', is written over a horizontal line.

Muhammad Qamar-uz-Zaman  
Member

A handwritten signature in black ink, appearing to read 'Nadir Ali Khoso', is written over a horizontal line.

Nadir Ali Khoso  
Convener

Dated: 14.05.2019

