



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

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No. NEPRA/AB/Appeal/251/POI/2019/ *1001-1005* October 28, 2020

1. Syed Azfar Abbas
S/o. Syed Zameer Abbas,
M/s. Bride & Groom Banquet,
Plot No. ST-18, Block-16,
Gulistan-e-Jauhar, 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/POI
Karachi Region-II, Government of Sindh,
Plot No. ST-2, Block-N, North Nazimabad,
Near Sarina Mobile Market,
Main Sakhi Hasan Chowrangi, Karachi

Subject: **Appeal Titled K-Electric Vs. Syed Azfar Abbas Against the Decision Dated 11.07.2019 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 28.10.2020, regarding the subject matter, for information and necessary action accordingly.

Encl: **As Above**


(Ikram Shakeel)
Assistant Director
Appellate Board

Forwarded for information please.

1. Director (IT) –for uploading the decision on NEPRA website



National Electric Power Regulatory Authority

**Before Appellate Board, National Electric Power Regulatory Authority,
Islamabad**

In the matter of

Appeal No.251/2019

K-Electric Limited

.....Appellant

Versus

Syed Zafar Abbas s/o Syed Zameer Abbas, M/s. Bride and Groom Banquet,
Plot No.ST-18, Block-16. Gulistan-e-Jauhar, Karachi

.....Respondent

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,
TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997
AGAINST THE DECISION DATED 11.07.2019 PASSED BY PROVINCIAL
OFFICE OF INSPECTION KARACHI REGION-II, KARACHI**

For the appellant:

Ms. Tatheera Fatima Deputy General Manager

Mr. Asif Khan Manager

Mr. Imran Hanif Manager

Mr. Asif Ahmed Deputy Manager

For the respondent:

Nemo

DECISION

1. Brief facts of the case are that the respondent is a hook connection consumer of K-Electric bearing Ref No.HC-000039 having a sanctioned load of 16 kW. Premises of the respondent was inspected by K-Electric time and again and allegedly the respondent was found stealing electricity through hook connection and the connected load was observed much higher than the sanctioned load. The assessed bills were charged by K-Electric to the respondent on the basis of connected load, which were not paid by the respondent, hence the arrears increased to the tune of Rs.9,132,233/- till April 2019.
2. Being aggrieved, the respondent initially filed CP No.D-6406/2018 before the High Court of Sindh, Karachi and agitated the arrears pertaining to the assessed billing. The honorable High Court referred the matter to the Provincial Office of Inspection (POI)



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for decision. Consequently, the respondent assailed the arrears of Rs.9,132,242/- till April 2019 before POI vide complaint dated 30.04.2019. POI visited the premises of the respondent in presence of both the parties on 27.05.2019, wherein (i) four self-generators of 135 kVA, 150 kVA, 25 kVA and 7 kVA were found installed in the premises for the use of electricity, (ii) ABC cable along with 1,000 kVA transformer installed in the area and (iii) No evidence of hook connection was noticed in the respondent's premises. The complaint of the respondent was disposed of by POI vide its decision dated 11.07.2019, wherein the assessed bills from December 2015 and onwards were cancelled and K-Electric was directed to recover the outstanding arrears prior to the disconnection of supply i.e. December 2015. K-Electric was further directed to provide a legal connection to the respondent after completion of codal formalities.

3. Through the instant appeal, K-Electric has challenged the above-referred decision before NEPRA on the grounds that the POI has no jurisdiction to decide the cases of theft of electricity in which meter has been bypassed; that the respondent is habitual in stealing electricity through the use of three-phase hook connection; that the connected load was observed higher than the sanctioned load; that he has defaulted in making payments of monthly bills hence the arrears of Rs.9,132,242/- added till April 2019; that five self-generators were installed in the premises without soliciting permission from the POI; that the respondent was using hook connection with bracket as observed during various site inspections, whereas the ABC cable was recently installed in the area; that the respondent accepted the theft of electricity and agreed to pay the bills, therefore FIR was not registered against him; that the action of the appellant is correct in all respect and the respondent is liable to pay the outstanding



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dues. Notice for filing reply/para-wise comments to the appeal was served to the respondent, which however were not filed.

4. After issuing notice to both the parties, hearing of the appeal was held in Karachi on 13.10.2020 wherein Ms. Tatheera Fatima Deputy General Manager (Distribution Legal) along with other officials appeared for K-Electric and no one appeared for the respondent. The representatives for K-Electric reiterated its objection regarding the jurisdiction of POI and contended that the respondent was using hook connection since 01.06.2009, hence he was charged the assessed bills on the basis of connected load and the POI is not empowered to decide the case being theft of electricity through bypassing the meter. As per representatives for K-Electric, the respondent has defaulted in making payments of monthly bills and the arrears of Rs.9,132,242/- up-to April 2019 are justified and payable by the respondent.
5. Arguments were heard and the record placed before it was examined. At first, the preliminary objection of K-Electric regarding the jurisdiction of POI needs to be addressed. The respondent was running a marriage hall (M/s. Bride and Groom Banquet) for which K-Electric provided a hook connection bearing Ref No. HC-000039 to the respondent in the year 2009 without observing the formalities as per Consumer Service Manual (CSM). Since no meter was installed on the premises, therefore the assessed bills were charged to the respondent on the basis of the connected load. Subsequently, the respondent disputed before POI the arrears of Rs.9,132,242/- till April 2019, who visited the premises of the respondent in presence of both the parties on 27.05.2019, wherein four self-generators of 135 kVA, 150 kVA, 25 kVA and 7 kVA capacities were found installed on the premises for the use of electricity and no metering equipment found. POI directed K-Electric to provide a



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legal connection to the respondent after completion of essential formalities. This whole scenario manifests that the dispute of billing pertains to the assessed bills charged by K-Electric to the respondent being a hook connection consumer and due to theft of electricity, as such the POI is not competent forum to decide on such assessed billing. Reliance in this regard is placed on the judgment of honorable Supreme Court of Pakistan reported in PLD 2012 SC 372 as reproduced below:

"PLD 2012 Supreme Court 371

- (a) *Electricity Act (IX of 1910)-----Ss. 26(6) & 26-A---Detection bill, issuance of---Theft of energy by consumer, charge of--- Jurisdiction of Electric Inspector and Electricity Board---Scope---Electric Inspector for possessing special expertise in examining the working of metering equipment and other related apparatus had jurisdiction to entertain reference under S.26(6) of Electricity Act, 1910 only in case of dishonest consumption of energy by the consumer through deliberate manipulation of or tampering with metering equipment or any similar apparatus---Electric Inspector would have no jurisdiction in the matter of theft by means other than tampering or manipulation of metering equipment etc., falling exclusively under S.26-A of Electricity Act, 1910---*
- (b) *Electricity Act (IX of 1910)-----Ss. 26(6) & 26-A--- Procedure code (V of 1908), S.9---Detection bill, issuance of---charge of theft of energy by consumer through tampering with metering equipment or relating to reading thereof---Jurisdiction of Electric Inspector has paramount cognizance thereof--- Illustrations.*
- (c) *Electricity Act (IX of 1910)--- ----Ss. 26(6) & 26-A---Civil Procedure Code (V of 1908), S.9--- Detection bill, issuance of---charge of theft of energy through tampering with metering equipment--- Jurisdiction of Electric Inspector Scope---Such matters would not fall within S.26(6) of Electricity Act, 1910 and ambit of powers of Electric Inspector---Consumer in such case could take recourse to any other legal remedy available to him under law---Illustration [p.379] D&G."*



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Obviously, the impugned decision is violative of above referred judgment of Honorable Supreme Court of Pakistan and liable to be set aside.

6. In view of above, the appeal is accepted and consequently the impugned decision is set aside.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Dated: 28.10.2020