



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

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No. NEPRA/AB/Appeal/254/POI/2019/1006-1011

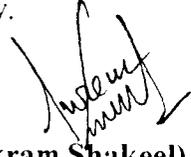
October 20, 2020

- | | |
|--|---|
| 1. Anees Ahmed
Plot No. H-14 & 15, Main Gali,
Gul-e-Baloch Mohallah,
Yousaf Sahib Goth, Near Gulshan-e-Maymar,
Opposite 51-A, Scheme-33, 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. Iqbal Ahmed Qureshi
Advocate,
Suite No. 4-A, First Floor,
Farid Chambers, Main Abdullah Haroon Road,
Saddar, Karachi | 6. 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. Anees Ahmed Against the Decision Dated 29.07.2020 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.254/POI-2019

K-Electric Limited

.....Appellant

Versus

Anis Ahmed, Plot No.H-14 & 15, Main Gul-e-Baloch Mohallah,
Yousaf Sahib Goth near Gulshan-e-Maymar,
Opposite 51-A, Scheme-33, Karachi

.....Respondent

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,
TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997
AGAINST THE DECISION DATED 29.07.2019 PASSED BY PROVINCIAL
OFFICE OF INSPECTION KARACHI REGION-II, KARACHI**

For the appellant:

Ms. Tatheera Fatima Deputy General Manager
Mr. Imran Hanif Manager
Sheikh Zawar Deputy Manager

For the respondent:

Mr. Anis Ahmed
Mr. Iqbal A. Qureshi

DECISION

1. Brief facts of the case are that the respondent is a hook connection consumer of K-Electric bearing Ref No.HC-0000011 having a sanctioned load of 5 kW. Premises of the respondent was inspected by K-Electric in June 2015 and allegedly the respondent was found stealing electricity through hook connection. Hence, the assessed bills amounting to Rs.18,500/- for the period June 2015 to November 2018 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.740,000/- till November 2018.
2. Being aggrieved, the respondent initially filed complaint before the NEPRA and agitated the arrears pertaining to the assessed billing. NEPRA referred the matter to the Provincial Office of Inspection (POI) on 13.12.2018. POI visited the premises of the respondent in



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presence of both the parties on 03.07.2019, wherein (i) one generator of 15 kVA was found installed in the premises for the use of electricity, (ii) connected load of the premises was noticed as 12.036 kW and (iii) No evidence of hook connection in the respondent's premises. The complaint of the respondent was disposed of by POI vide its decision dated 29.07.2019, wherein the assessed bills total amounting to Rs.740,000/- till November 2017 were declared null and void. K-Electric was directed for adjustment of excessive amount recovered from the respondent at the time of providing a legal connection after completion of codal formalities.

3. Appeal in hand has been filed against the above-referred decision before NEPRA on the grounds that the POI is not authorized 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 hook connection; that the assessed bills were charged for the period from June 2015 to November 2018 on the basis of connected load; that he has defaulted in making payments of monthly bills hence the arrears of Rs.740,000/- added till November 2018; that the respondent was using hook connection through the LT panel as observed during various site inspections, whereas the ABC cable was recently installed in the area; that the assessed bills charged to the respondent are justified and the respondent is liable to pay the outstanding dues.
4. Notice for filing reply/para-wise comments to the appeal was served to the respondent, which however were not filed.
5. 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 the respondent appeared in person.

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The representatives for K-Electric reiterated its preliminary objection regarding the jurisdiction of POI and contended that the respondent was using hook connection since June 2015, hence the POI is not authorized to decide the case being theft of electricity through bypassing the meter. As per representatives for K-Electric, the respondent was charged the assessed bills on the basis of connected load w.e.f June 2015 and onwards, which were not paid by him, as such the arrears of Rs.740,000/- up-to November 2018 are justified and payable by the respondent. On the contrary, the respondent rebutted the version of K-Electric regarding illegal use of electricity and contended that he is using 15 kVA Generator for the use of electricity and paid the electricity duty to the provincial government accordingly. The respondent defended the impugned decision and prayed for upholding the same.

6. Arguments were heard and the record placed before us was examined. Following are our observations:
 - i. As regard the objection of the respondent regarding limitation, it is observed that a copy of the impugned decision dated 29.07.2019 was received by K-Electric on 01.08.2019 and the appeal was filed before NEPRA on 27.08.2019 within 30 days of the receipt of impugned decision. Hence objection of the respondent in this regard bears no force and rejected.
 - ii. At first, the preliminary objection of K-Electric regarding the jurisdiction of POI needs to be addressed. The respondent was running a noddle factory for which K-Electric provided a hook connection bearing Ref No.HC-0000011 to the respondent in the year 2015 without observing the formalities as per Consumer Service Manual (CSM). Since no meter was installed on the premises, therefore the assessed bills were



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charged to the respondent on the basis of the connected load. Subsequently, the respondent disputed before POI the arrears of Rs.740,000/- till November 2018, who visited the premises of the respondent in presence of both the parties on 03.07.2019, wherein one self-generator of 15 kVA capacity was found installed on the premises for the use of electricity and no metering equipment was found. POI directed K-Electric to provide a legal connection to the respondent after completion of codal 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 the 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:

"P L D 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 Advisory 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 other 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 metering equipment or relating to reading thereof---Jurisdiction of Electric Inspector has powers to take cognizance thereof---



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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 bypassing 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 resource to any other legal remedy available to him under law—Illustrations. [pp.379] D&G.”

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

7. In view of above, the impugned decision is set aside.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Dated: 28.10.2020