



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

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No. NEPRA/AB/Appeal/006/POI/2022/ 440

April 22, 2022

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| 1. Muhammad Aslam,
House No. 31, Goth Ameer Ali,
Razzaqabad, Bin Qasim, Landhi,
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-I,
Adjacent to City School, PAF Chapter,
Baloch Colony, Shaheed-e-Millat Road,
Karachi | |

Subject: **Appeal Titled K-Electric Vs. Muhammad Aslam the Decision Dated 18.11.2021 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 22.04.2022, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(Ikram Shakeel)
Deputy Director (M&E)/
Appellate Board

Forwarded for information please.

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



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No.006/POI-2022

K-Electric Limited

.....Appellant

Versus

Muhammad Aslam, House No.31, Goth Ameer Ali,
Razzaqabad, Bin Qasim, Landhi, Karachi

.....Respondent

APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 18.11.2021 PASSED BY THE PROVINCIAL OFFICE OF INSPECTION KARACHI REGION-I, KARACHI

For the Appellant:

Mr. Asif Shajer General Manager
Ms. Tatheera Fatima Deputy General Manager
Mr. Sohail Sheikh Deputy General Manager
Mr. Masahib Ali Manager

For the Respondent:

Mr. Muhammad Aslam

DECISION

1. Brief facts of the case are that the Respondent is a domestic consumer of the K-Electric bearing Ref No.LA-465083 having a sanctioned load of 1 kW under the tariff category A-1R. The Respondent initially filed a complaint before the Wafaqi Mohtasib on 14.05.2018 and disputed the arrears of Rs.192,600/- till March 2018. The Honorable Wafaqi Mohtasib referred the matter to the NEPRA. Additional Director General (CAD) NEPRA vide letter No. POK/09/3130/2018 dated 13.06.2018 sent the complaint of the Respondent to the Provincial Office of Inspection, Karachi Region-I, Karachi (hereinafter referred to as 'the POI') for investigation and decision. Later on,



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the Respondent approached the POI vide a complaint dated 06.07.2018 and assailed the arrears of Rs.192,918/- till May 2018. The dispute of billing of the Respondent was decided by the POI vide decision dated 18.11.2021 (hereinafter referred to as 'the impugned decision'), wherein the K-Electric was directed to cancel the bills charged for the period May 2015 to May 2018. As per the impugned decision, the claim of the Respondent with regard to the bills prior May 2015 was disallowed being time-barred.

2. Through the instant appeal, K-Electric has assailed the impugned decision before the NEPRA inter alia, on the following grounds that the Respondent made payment of only six (6) bills against the monthly bills raised for the period February 2013 to November 2021; that the electricity was disconnected by the K-Electric time and again but the same was restored by the Respondent illegally through hook connection from the LT service of distribution network, hence the bills were charged on an assessed basis till June 2021; that the POI did not consider the Article 52 of the Limitation Act 1908; that the POI has no jurisdiction to decide the case of theft of electricity where the meter was bypassed; that the POI neither directed the Respondent for submission of gas bills nor he provided consumption statement of gas; that the POI cancelled *the* assessed bills since May 2015 by ignoring the site inspection reports; that FIR was being lodged against the Respondent but he admitted theft of electricity and was ready to pay the detection bill. K-Electric finally prayed for setting aside the impugned decision.
3. The Respondent was issued the notice for filing reply/para-wise comments to the appeal, which were filed on 01.02.2022. In his reply, the Respondent stated that the premises is vacant since the year 2013, and gas and electricity connections are disconnected. As per the Respondent, he made a payment of Rs.26,934/- since the year 2013. The Respondent denied the allegation of theft of electricity and submitted that a



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complaint dated 13.06.2014 was made with K-Electric against the excessive billing but the K-Electric continued to charge the assessed bills, which has increased the arrears to the tune of Rs.252,805/-. The Respondent submitted that the joint survey of the premises be conducted to verify the current situation of electricity and gas connection.

4. After issuing notice, hearing of the appeal was held at the NEPRA Regional Office Karachi on 04.03.2022, wherein the representatives for the K-Electric sought an adjournment to verify the installation of gas and electricity meters at the site. Hence the adjournment was allowed till the next date of hearing. Subsequently, K-Electric submitted site survey report on 18.03.2022, wherein it was asserted that the gas meter is not installed on the premises and the address on the gas and electricity bills was different.
5. Hearing in the matter was again conducted at the NEPRA Regional Office Karachi on 11.04.2022, wherein both parties were present. The representatives for the K-Electric reiterated the same arguments as contained in memo of the appeal and contended that the address mentioned on the gas bill as provided by the Respondent is not the same as the address of his plot and no gas connection exists on the premises. The representatives for K-Electric opposed the impugned decision to the extent of cancellation of the bills from May 2015 to May 2018 and stated that the Respondent was involved in the illegal abstraction of electricity through a hook connection for which his electricity was disconnected but he restored the same illegally, hence the entire assessed/detection bills charged to the Respondent are justified and payable by the Respondent. On the contrary, the Respondent appearing in person denied the allegation of theft of electricity levelled by the K-Electric and argued that the premises is vacant since the year 2013 and there is no use of electricity. He averred that a complaint dated 13.06.2014 was made with the K-Electric for permanent disconnection



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of electric supply but no action was taken by K-Electric. As per Respondent, the exaggerated billing was continued by the K-Electric despite no use of electricity and the arrears increased with the passage of time. The Respondent lastly prayed for upholding the impugned decision and for disconnection of the premises on permanent basis.

6. Arguments were heard and the record placed before us was pursued. Following are our observations:

- i. K-Electric raised the preliminary objection for the jurisdiction of the POI being theft of electricity case but failed to follow the procedure as laid down in the Consumer Service Manual (CSM) and did not take any legal action against the Respondent on account of theft of electricity. Indeed, it is a metering and billing dispute and falls in the jurisdiction of the POI. The objection of the K-Electric in this regard is devoid of force, therefore rejected.
- ii. The Respondent informed that the premises remained vacant since the year 2013 and there was no use of electricity, hence a complaint dated 13.06.2014 was made with K-Electric for disconnection of electric supply of the premises, which however was not entertained by the K-Electric. In these circumstances, the Respondent should have approached the competent forum i.e. NEPRA, POI, Wafaqi Mohtasib against the actions of K-Electric and for redressal of his grievance but he remained silent for almost four years. Thereafter the Respondent filed a complaint before the Wafaqi Mohtasib on 14.05.2018 against the irregular billing of the K-Electric till March 2018.
- iii. The Respondent disputed the arrears of Rs.192,918/- till May 2018 before the POI. According to the Article 181 of the Limitation Act 1908, claim of the Respondent



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beyond three years is barred by time. Since the complaint of the Respondent was filed before the POI against the arrears till May 2018, hence the fate of the bills charged for the last three years i.e. May 2015 to May 2018 will be determined under Article 181 of the Limitation Act 1908. Whereas the complaint of the Respondent with regard to the bills prior to May 2015 charged by K-Electric is barred by time as per the ibid Article of the Limitation Act, 1908 and the same cannot be adjudicated as already decided by the POI. Reliance in this regard is placed on the Lahore High Court, judgment dated 30.11.2015 passed in the Writ Petition No.17314-2015 titled “Muhammad Hanif v/s NEPRA and others”, wherein it is held as under:

“The petitioner at the most can invoke Article 181 of The Limitation Act, 1908 which is the residuary provision and caters the issue of limitation where no period of limitation is provided elsewhere in the Schedule of The Limitation Act, 1908 or under Section 48 of The Code of Civil Procedure (V of 1908). Article 181 of The Limitation Act, 1908 prescribes the period of three years for filing an application that applies when the right to apply accrues as prescribed in Article 181 of Limitation Act, 1908.”

- iv. As per the K-Electric survey report, no gas connection exists on the premises of the Respondent, which confirms that the premises remained vacant during the period May 2015 to May 2018. As such, the bills for the period May 2015 to May 2018 be revised on the minimum charges due to nil consumption of electricity. The impugned decision is liable to be modified to this extent.
- v. Since the Respondent does not need electricity and has requested for permanent disconnection, the K-Electric may proceed in accordance with the procedure as laid down in the CSM.



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7. In view of what has been stated above, it is concluded that:

- i. The complaint of the Respondent for the billing prior May 2015 is barred by time as per the Limitation Act 1908 and the same is dismissed to this extent.
- ii. K-Electric should charge the revised bills with minimum charges for the period May 2015 to May 2018 to the Respondent as per the tariff approved by the NEPRA.
- iii. The billing account of the Respondent be overhauled as per paras 7(i) and (ii) above and the payments made against the bills for the period May 2015 to May 2018 be adjusted accordingly.
- iv. K-Electric may disconnect the supply of the premises permanently and feed the permanent disconnection code to the consumer's account of the Respondent after the completion of the codal formalities.

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

Abid Hussain
Member/Advisor (CAD)

Nadir Ali Khoso
Convener/Senior Advisor (CAD)

Dated: 22.04.2022