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

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No. NEPRA/AB/Appeal/059/POI/2020/ 277 March 10, 2022

1. Muhammad Asif,
House No. 2/334,
Liaquatabad No. 02, 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. Aneel Mumtaz,
25-G, Askari Apartments,
School Road, Cantt Karachi

5. Ms. Tatheera Fatima,
Deputy General Manager,
K-Electric, First Floor,
Block F, Elander Complex,
Elander Road, 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. Muhammad Asif Against the Decision Dated 23.12.2019 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 25.02.2022, 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. Director (IT) –for uploading the decision on NEPRA website

Before Appellate Board

In the matter of

Appeal No. 059/POI-2020

K-Electric Limited .....Appellant

Versus

Muhammad Asif, House No.2/334, Liaqutabad No.02, Karachi.....Respondent

APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 23.12.2019 PASSED BY PROVINCIAL OFFICE OF INSPECTION KARACHI REGION-II, KARACHI

For the Appellant:
Mr. Asif Shajar General Manager
Ms. Tatheera Fatima Deputy General Manager
Mr. Najamuddin Sheikh Deputy General Manager
Mr. Ayaz Sheikh Deputy General Manager
Mr. Muhammad Rafiq Manager

For the Respondent:
Mr. Aneel Mumtaz
Mr. Muhammad Asif

DECISION

1. As per facts of the case, the Respondent is a domestic consumer of K-Electric bearing Ref No.AL-257214 with a sanctioned load of 3 kW and the applicable tariff category is A-1R. K-Electric charged the following four detection bills to the Respondent on different causes of action:

Table-A

SIR	Discrepancy	Detection bill	Amount (Rs.)	Units	Period From	To
24.08.2016	Meter was found stopped and neutral and phase was found direct. Three families living Connected load= 8.185 kW	First	46,821/-	1,983	Mar-2016	Aug-2016
30.03.2017	Direct use of electricity through extra phase, three families were living. Connected load= 8.185 kW	Second	49,497/-	2,026	Oct-2016	Mar-2017

23.09.2017	Direct use of electricity through an extra phase, three families were living. Connected load= 12.71 kW	Third	45,894/-	2,147	Jun-2017	Sep-2017
29.06.2018	Meter was found stopped and neutral and phase was found direct. Three families living Connected load= 11.781 kW	Fourth	120,796/-	5,278	Jan-2018	Jun-2018

2. Being aggrieved with the above actions of the K-Electric, the Respondent initially filed two applications before the Provincial Office of Inspection, Karachi Region-II, Karachi (the POI) on 07.08.2018 and 05.11.2018 and assailed the arrears of Rs.451,403/-till July 2018 and fourth detection bill of Rs.120,796/- respectively. Subsequently, the arrears of Rs.561,546/- till 27.11.2019 were assailed by the Respondent before the POI. During the joint inspection of the POI on 06.11.2018, the billing meter of the Respondent was found working within permissible limits and the connected load was observed as 1.919 kW. The complaint of the Respondent was disposed of by the POI vide its decision dated 23.12.2019, the operative portion of which is reproduced below:

> *"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 the relevant law and Regulations and above findings, this authority is of the firm view that the 04 detection bills amounting to Rs.46,821/- of 1983 units for the period from March 2016 to August 2016, Second detection bill amounting to Rs.49,497/- of 2026 units for the period October 2016 t March 2017 has no legal and technical ground are hereby cancelled. The third detection bill amounting to Rs.45,894/- of 2,147 units for the period from June 2017 to September 2017 and the fourth detection bill amounting to Rs.120,796/- of 5,278 units for the period from January 2018 to June 2018 has no legal and technical ground are hereby cancelled. The opponent is directed to adjust the excessive units for the month of September 2019 and October 2019, 71 & 64 units should be adjusted in future billings as discussed in finding No.06. The Opponent is further directed to waive off the disconnection/reconnection charges of the*

complainant during the pendency of this case. The complainant is directed to approach the Office of Honorable Federal Ombudsman for implementation of his order dated 05.09.2016. 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. Subject appeal has been filed against the above-referred decision by K-Electric in which it was inter alia, contended that the premises of the Respondent was inspected various times and on all the occasions, the Respondent was found consuming electricity illegally and the connected load was much higher than the sanctioned load. As per the contention of K-Electric, all the four detection bills i.e. first detection bill of Rs.46,821/- second detection bill of Rs.49,497/-, third detection bill of Rs.45,894/- and fourth detection bill of Rs.120,796/- were charged to the Respondent on the separate cause of action occurring on different dates, whereas the POI cancelled the above four detection bills without examination of the record and considering their arguments. According to K-Electric, five families were living in the premises whereas the connected load was observed as 1.919 kW only during the POI joint checking dated 06.11.2019 as the moveable load i.e. iron, washing machine, TV/LCD, the fridge was removed from the premises. K-Electric opposed the impugned decision inter alia, on the grounds that the detection bill of Rs.48,347/- and the assessed bills for the period September 2015 to February 2016 were decided by the honorable Wafaqi Mohtasib, hence jurisdiction of the POI did not invoke; that all the joint inspections of the POI dated 19.11.2018, 07.02.2019 and 19.11.2019 were sabotaged by the Respondent and his representative with ulterior motives and malafide intention, hence the findings of the POI with regard to the above four detection bills are wrong, misperceiving as the above all detection bills were raised due to direct use of electricity by the Respondent via hook/kunda; that the POI should reject the complaint of the Respondent due to violation of the provisions of the CSM; that the bills of August 2019 and September 2019 were correctly charged

to the Respondent; that the consumption recorded from 700 to 950 units in the future months clearly negates the connected load i.e.1.919 kW of the premises found during the joint inspection of POI dated 06.11.2019; that the Respondent is a chronic defaulter of the bills, hence the determination of POI for cancellation of late payment surcharges is liable to be set aside; that it was a case of theft of electricity through bypassing the meter, therefore the POI was not empowered to decide the subject matter as per verdict of the apex court.

4. The Respondent was served notice for filing reply/para-wise comments to the appeal, which however were not filed.

5. Hearing of the appeal was conducted at the NEPRA Regional Office Karachi on 20.01.2022 wherein both parties were in attendance. The representatives for K-Electric opposed the determination of POI for cancellation of all the four detection bills i.e. first detection bill of Rs.46,821/-second detection bill of Rs.49,497/-, third detection bill of Rs.45,894/- and fourth detection bill of Rs.120,796/- and submitted that the premises of the Respondent was energized through the hook connection as observed during various inspections. As per representatives for K-Electric, the bills of August 2019 and September 2019 were not challenged by the Respondent before the POI, hence the impugned decision in this regard is beyond the prayer of the Respondent. According to the representative for K-Electric, the Respondent was stealing electricity by bypassing the meter, as such the POI has no jurisdiction to adjudicate the matter. K-Electric prayed that the impugned decision be struck down being devoid of merits. On the contrary, the Representative for the Respondent denied the allegation of theft of electricity levelled by the K-Electric and argued that the meter under dispute was installed outside the premises, how could it be possible that it was tampered for theft of electricity despite

the fact as the same was checked by the K-Electric during monthly reading. The representative for the Respondent contended that K-Electric did not produce any site inspection report (SIR) before the POI and the impugned decision was rendered by the POI under pressure. The representative for the Respondent further contended that neither date was mentioned in the SIRs of K-Electric nor the same were signed by an authorized K-Electric official, hence the said SIRs should be declared as bogus. As per the representative for the Respondent, all the billing done by the K-Electric was bogus and not as per the recorded consumption of the premises. According to the representative for the Respondent, the impugned decision of the POI was not implemented and the POI did not take any action against K-Electric. The representative for the Respondent submitted that the Respondent cannot be burdened twice by charging the detection bill for the period, which was already billed in normal mode. The representative for the Respondent further submitted that the meter under dispute was forwarded/reversed by K-Electric from time to time to justify their illegal/irregular billing. The representative for the Respondent finally prayed for setting aside the entire billing debited by the K-Electric to the Respondent.

6. Arguments heard and the record perused, following are our observations:

   i. K-Electric raised the preliminary objection against the jurisdiction of POI being theft of electricity case but failed to follow the procedure of CSM and did not take any legal action against the Respondent on account of theft of electricity. Obviously, it is a metering & billing dispute and falls within the jurisdiction of the POI. The objection of K-Electric in this regard is devoid of force, therefore rejected.

   ii. The Respondent assailed the arrears of Rs.561,546/- till November 2019 before the POI, which contained the following four detection bills:

Table-B

Detection bills	Period		Months	Units	Amount (Rs.)
First	Mar-2016	Aug-2016	06	1983	46,821/-
Second	Oct-2016	Mar-2017	06	2026	49,497/-
Third	Jun-2017	Sep-2017	06	2147	45894/-
Fourth	Jan-2018	Jun-2018	06	5278	120796/-

iii. Clause 9.1c (3) of the CSM allows the K-Electric to charge the detection bill to a general supply consumer i.e. A-I maximum up to three months in the absence of approval from Chief Executive Officer K-Electric. However, in the instant case, the Respondent was debited four detection bills each for six months, which is a violation of the foregoing clause of CSM. It is further observed that K-Electric did not initiate any legal action against the Respondent as per the requirement of CSM. K-Electric alleges that the connected load observed during various site inspections was much above the sanctioned load, however, neither there was the participation of the Respondent during these inspections nor they could prove the illegal extension of load during the POI joint inspection dated 06.11.2018. Moreover, no action was initiated by K-Electric against the Respondent for unauthorized extension of the load. In view of the above discussion, the first detection bill of Rs.46,821/-second detection bill of Rs.49,497/-, third detection bill of Rs.45,894/- and fourth detection bill of Rs.120,796/- including the Late Payment Surcharges (LPS) are unjustified and liable to be cancelled as already decided by POI.

iv. According to clause 9.1c(3) of CSM, the Respondent is liable to be charged the detection bills each for three months and the said detection bills be calculated based on sanctioned load i.e.3 kW as per the formula given in Annex-VIII of the CSM if

the actual consumption was not recorded during the detection months. In this regard, working of detection bills is done below:

Table-C

Units/month assessed as per CSM = Sanctioned load (kW) x Load Factor x No. of Hours/month = 3 x 0.2 x 730 **= 438 units**				
Detection bill	**Period**	**Total units to be charged**	**Total units already charged**	**Remarks**
First	Jun-2016 to Aug-2016	438x3=1,314	943+669+552 =2,164	Higher units were already charged as compared to the total units assessed, hence detection bill is not chargeable
Second	Jan-2017 to Mar-2017	438x3=1,314	293+295+528 = 1,116	Net 198 units be charged as second detection bill
Third	Jul-2017 to Sep-2017	438x3=1,314	450+615+466 =1,531	Higher units were already charged as compared to the total units assessed, hence detection bill is not chargeable
Fourth	Apr-2018 to Jun-2018	438x3=1,314	381+532+627 = 1,540	Higher units were already charged as compared to the total units assessed, hence detection bill is not chargeable

v. The Respondent agitated the arrears of Rs.561,546/- till 27.11.2019 before the POI which included the bills for the months of September 2019 and October 2019. Hence the objection of the K-Electric in this regard is not valid. While assessing the fate of the bills for the months September 2019 and October 2019 charged by the K-Electric to the Respondent, it is observed that the consumption charged during the above said months is compatible with the 438 units/month assessed as per Annex-VIII of the CSM. Hence the bills for September 2019 and October 2019 are declared as justified and payable by the Respondent. The impugned decision is liable to be set aside to this extent.

vi. Impugned decision with the regard to the cancellation of disconnection/ reconnection charges is correct as the Respondent had disputed the arrears till November 2019 before the POI containing the amount of the above four detection

bills, which were declared as null and void. Therefore the Respondent is not liable to pay the disconnection/reconnection charges.

7. In consideration of the above, it is concluded that the following detection bills charged to the Respondent by K-Electric along with LPS are unjustified and rightly cancelled by POI:

Table-D

Detection bills	Period		Months	Units	Amount (Rs.)
First	Mar-2016	Aug-2016	06	1983	46,821/-
Second	Oct-2016	Mar-2017	06	2026	49,497/-
Third	Jun-2017	Sep-2017	06	2147	45894/-
Fourth	Jan-2018	Jun-2018	06	5278	120796/-

K-Electric may recover the bills as per detail given below:

Table-E

Bill type	Units to be recovered
Second detection bill	198
Sep-2019	466
Oct-2019	452

The billing account of the Respondent may be revised by K-Electric after adjusting the payments made against the above-disputed bills.

8. In view of the above, the appeal is partially allowed.

Abid Hussain
Member/Advisor (CAD)

Nadir Ali Khoso
Convener/Senior Advisor (CAD)

Dated: 25.02.2022