



National Electric Power Regulatory Authority ✓
Islamic Republic of Pakistan

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REGISTRAR

No. NEPRA/R/D(CAD)/TCD/09/12 5, /2-8'3

September 01, 2015

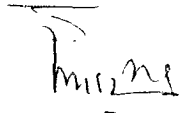
Chief Executive Officer
K-Electric Limited
KE House, Punjab Chowrangi
39-B, Sunset Boulevard, Phase-II
Defense Housing Authority
Karachi

Subject: **DECISION OF THE AUTHORITY REGARDING MOTION FOR LEAVE FOR REVIEW FILED BY K-ELECTRIC LIMITED AGAINST NEPRA'S DECISION DATED 14TH JANUARY 2015 IN THE MATTER OF COMPLAINT FILED BY M/S DREAMWORLD RESORT, HOTEL & GOLF COURSE**
Complaint # KE-371/2014

Reference is made to K-Electric Limited's letter No. GM(RA)/NEPRA/2015/1172 dated 18th March 2015 regarding the subject matter.

2 Please find enclosed herewith the decision of the NEPRA regarding the subject matter for necessary action and compliance within thirty (30) days.

Encl:/As above


(Syed Safer Hussain) 01/09/15

Copy to:

Director, Dreamworld Resort, Hotel & Golf Course,
Head Office: Dreamworld Tower,
65-A.M. Strachen Road, Opp. Arts Council,
Behind Sindh Assembly, Karachi



BEFORE THE
NATIONAL ELECTRIC POWER REGULATORY AUTHORITY
(NEPRA)

Complaint No. KE-371-2014

K- Electric Limited Petitioner
(Formerly, Karachi Electric Supply Company (KESC))
KE House, 39-B, Sunset Boulevard,
DHA-II, Karachi.

Versus

M/s Dreamworld Resort, Hotel & Golf Course Complainant
Head Office: Dreamworld Tower,
65-A.M., Stratchen Road, Opp. Arts Council,
Behind Sindh Assembly, Karachi.

Date of Decision 6th August 2015

Present:

- | | | |
|----|-----------------------------|------------------------------|
| 1) | Brig (Retd.) Tariq Saddozai | Chairman |
| 2) | Maj (Retd.) Haroon Rashid | VC/Member (Consumer Affairs) |
| 3) | Syed Masood-ul-Hassan Naqvi | Member (Licensing) |
| 4) | Mr. Humayat Ullah Khan | Member (M&E) |

On behalf of:

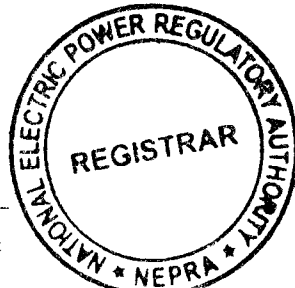
- Petitioner:**
- 1) Mr. M. Aamir Ghaziani, Director
 - 2) Mr. Sajjad Shahani, Director
 - 3) Mr. Khalid Rehman, Director
 - 4) Mr. Rafique Ahmed Sheikh, General Manager
 - 5) Mr. Abdul Rauf Yousaf, Advisor

Complainant: Nemo

Subject **DECISION OF THE AUTHORITY REGARDING MOTION FOR LEAVE FOR REVIEW FILED BY K-ELECTRIC LIMITED AGAINST THE DECISION OF NEPRA IN THE MATTER OF COMPLAINT FILED BY M/S DREAMWORLD RESORT, HOTEL & GOLF COURSE REGARDING DELAY IN PROVISION OF CONNECTION**

DECISION

This decision shall dispose of the review motion dated 18th March 2015 filed by K-Electric Limited (hereinafter referred to as the "Petitioner" or "KE") against the decision of NEPRA dated 14th January 2015 in the matter of complaint of M/s Dreamworld Resort, Hotel & Golf Course, Karachi (hereinafter referred to as the "Complainant") filed under Section 39 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997.



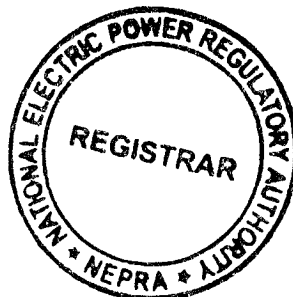
2 Brief facts of the case are that NEPRA received a complaint dated 4th June 2014 from M/s Dreamworld Resort, Hotel & Golf Course, Karachi against KE regarding delay in provision of connection. The Complainant in his complaint (inter alia) stated that they have been generating electricity for their use but due to increase in demand and continuous shortage of natural gas, they applied for new electricity connection of 200 kW load to KE in July 2012, however, their application for new connection is still pending with KE.

3 The matter was taken up with KE for submission of para-wise comments. In response, KE vide letter dated 4th July 2014 reported that the consumer apprised KE that 4 gas generators of 450 kVA, 2 diesel generators of 500 kVA & 320 kVA are installed for self generation and it only requires 200 kW load from KE system. KE further reported that currently it is unable to process any such application for new connections as the matter is currently subjudice and legal proceedings are pending in the Honorable Supreme Court and the Honorable High Court regarding Captive Power Producers. Moreover, KE requested that the subject complaint may be held in abeyance until a definitive judicial pronouncement is made by the Honorable Supreme Court and Honorable High Court.

4 The matter was again taken up with KE vide letter dated 18th July 2014 wherein it was stated that there is no order of the court which has restrained KE from providing connections to the consumers/captive power producers. KE was also directed to provide a copy of court order (if any) in this regard, whereas, KE has failed to provide the same. To probe further into the matter, a hearing was held on 5th September 2014 at Karachi which was attended by both the parties. During the hearing, the Complainant stated that they require electricity connection for 200 kW load which will not be kept as standby rather the same will be utilized on priority basis for their resort. Whereas KE representatives submitted that the Complainant will keep KE's connection as standby and such cases of captive power producer are subjudice before Sindh High Court. KE emphasized that the Complainant has to apply for full load as per their requirements and no partial load can be given to the Complainant. During the hearing, the parties requested that they may be allowed time for settlement of the issue amicably, which was considered. Upon non-settlement of the issue amicably for which the time was sought by the parties, the case was examined in detail in light of written/verbal arguments of both the parties and applicable documents/law. The case was decided by NEPRA, wherein KE was directed to "provide electricity connection of 200 kW to the Complainant as requested subject to fulfillment of all codal formalities". The said decision was conveyed to KE (with a copy endorsed to the Complainant) vide NEPRA's letter dated 16th January 2015 for compliance within thirty (30) days.

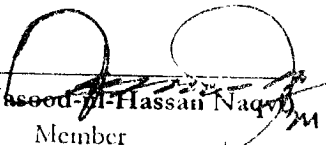
5 Being aggrieved with the unpugned decision, KE vide its letter dated 16th February 2015 filed an Appeal against the decision. In response, NEPRA vide letter dated 5th March 2015 returned the Appeal (in original) to KE and advised KE to file a Review Motion under NEPRA (Review Procedure) Regulations, 2009 against the decision (if so desired), as Member (Consumer Affairs) is exercising powers of the Authority and only remedy of review is available to KE against the decision. Accordingly, KE vide its letter dated 18th March 2015 filed the instant Review Motion against the decision. Main averments of the Review Motion are as under:


- i. M/s Dreamworld Resort, Hotel & Golf Course (the Complainant) has a total generation capacity of 2,620 kVA in place through 04 gas generators of 450 kVA and 02 Diesel Generators of 500 kVA and 320 kVA. This implies that the energy requirement of the Complainant stands at 2,620 kVA approx. However, the Complainant has opted to apply for new connection with a sanctioned load of 200 kW only and this is approximately 10% of the total requirement. This clearly indicates that the Complainant does not intend to use KE's supply as a primary source.
- ii. Under Section 39 of the NEPRA act, 1997, only an interested person may file a complaint with NEPRA. Since the Complainant started its commercial operations around 10 years ago and has never been a consumer of KE, therefore, it lacks sufficient capacity to be treated as an interested person. They were, for all this time, self-reliant on their own power generation.
- iii. As per Chapter 2 (2.4-a) of Consumer Service Manual (CSM) regarding New Connection, the application of consumer will be evaluated/processed and approved based on site inspection being carried out. Based on the size of the Complainant's premises and self-generation capacity installed, it is clear that the energy requirement for the premises is more than 2 MW. As the Complainant has applied for only 200 kW (i.e. approximately 10% of the energy requirement for the premises), therefore, the under-utilization part has already occurred and NEPRA's stance stands invalid. Further, the case in Honorable Sindh High Court is similar and no different from the instant case as the Complainant means to use KE power as a standby source with its already existing system.





- iv KE is willing to provide electric connection to the Complainant upon fulfillment of all necessary requirements and obligations as per NEPRA provisions. Therefore, a connection can only be provided to captive power producers who are willing to use KE power for primary source and not for standby purposes.
- v The Order of the Honorable Sindh Court dated 17th April 2012 states that "the use of KE's power supply for standby purpose means, for the purpose decision, that the consumer is obtaining his electricity needs from a source other than KE (which would invariably mean the self-generation of power) and KE's power supply is used essentially or largely if, for any reason, that other power supply fails or is interrupted or needs to be supplemented". Moreover, the said order also states that nothing ought not stand in the way of KE making a proper determination of the facts in accordance with law, and then taking if so warranted appropriate action by exercising the powers vested in it under the CSM. Further, the said order also states that if after making a proper determination, it is found that load is being utilized for standby purposes, then its electricity supply may be discontinued.
- vi The Complainant will have to apply for sanctioned load equivalent to the requirement for his premises prior to sanctioning of any such connection.
- vii NEPRA has not specified in proper detail any applicable section of the NEPRA Act, 1997 or Rules which it is relying upon in relation to any/no restriction on the Complainant to obtain full load and keep its self generation on standby.
- viii KE has been pursuing a policy of only allowing connections/power to captive power producers who are willing to provide undertakings/indemnities that KE power will purely be used for primary use and not a secondary or standby use. From the documents available with KE, Complainant's total requirement is more than 2 MW and the 200 kW being sought from KE is not sufficiently above the minimum threshold so as to come within KE parameters which was set in line with the order of the Honorable Sindh High Court dated 17th April 2012 and 5th September 2012.
- ix Based on above, the decision of Member (Consumer Affairs) NEPRA may be reconsidered/reviewed in the interest of justice set in line with the order of the Honorable Sindh High Court dated 17th April 2012 and 5th September 2012. The Complainant be directed to apply for required load of around 2 MW and KE will then be able to process the application of the Complainant in accordance with the provisions enshrined in NEPRA Consumer Eligibility Criteria, 2003.

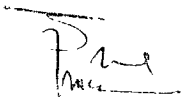
6 The review motion filed by KE was considered by the Authority and the same was admitted for hearing. Accordingly, hearing in the matter of review motion filed by KE was scheduled for 12th May 2015, however, upon request by KE, the same was postponed and re-scheduled for 27th May 2015. The hearing was further re-scheduled twice upon request by KE for 30th June 2015 and 30th July 2015. Finally, the hearing was held on 6th August 2015 at NEPRA Head Office, Islamabad wherein representatives of KE participated. During the hearing, KE representatives submitted that they are ready to provide connection of 200 kW to the Complainant as per the decision of NEPRA dated 14th January 2015. Therefore, the Authority decided to close further proceedings on the review motion of KE dated 18th March 2015, as KE has accepted the decision of NEPRA and agreed to implement the same in its true letter and spirit.


 (Syed Masood-ul-Hassan Naqvi)
 Member


 26.8.15
 (Himayat Ullah Khan)
 Member


 27/8/15
 (Maj. (Retd.) Haroon Rashid)
 VC/Member


 28/8/15
 (Brig. (Retd.) Tariq Saddozai)
 Chairman


 01/09/15

