



Registrar

National Electric Power Regulatory Authority
Islamic Republic of Pakistan

NEPRA Tower, Attaturk Avenue (East), G-5/1, Islamabad
Ph: +92-51-9206500, Fax: +92-51-2600026
Web: www.nepra.org.pk, E-mail: registrar@nepra.org.pk

No. NEPRA/CAD/TCD.09/1627-33

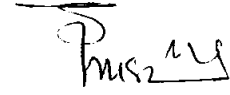
January 30, 2017

K-Electric Limited (then KESC)
KE House, Punjab Chowrangi, No. 39-B,
Sunset Boulevard
Phase-II, Defence Housing Authority,
Karachi

Subject:- Decision in the Matter of Motion For Leave For Review filed by K-Electric Limited (KEL) against the Decision of the Authority Regarding Six Complaints including the Complaint of Mr. Muhammad Ilyas, General Secretary, Muslim Islahi Committee Karachi, Referred by Human Rights Cell Supreme Court of Pakistan Against KEL Regarding Excessive Billing/Detection Bills/ Violation of NEPRA Rules.

Please find enclosed the Decision of NEPRA in the subject matter for compliance/information.

Encl: As above


30.01.17

(Syed Safer Hussain)

Copy:-

- (1). Muhammad Humayun Habib,
General Secretary, Al-Madina Khidmatgar Welfare Association
Shop No. 9, Madina Basti Frontier Colony No. 3, U.C 6 Mettrovill Site
Town Karachi.
- (2). Mr. Banaras Khan,
Vice Chairman, Frontier Colony Action Committee, Sewrhi Baba,
Mazar Road, Frontier Colony No. 3, UC-6/7, Site Town, Karachi.
- (3). Mr. Sohail Iqbal Bhatti,
R/O . 289, Street 21, Rawal Town, Islamabad.
- (4). Mr. Muhammad Ilyas,
General Secretary, Muslim Islahi Committee, Alhaj Shahid Mehmood Road
Near Jamia Masjid Noor, Islahi Mohallah, Baldia Town 2, Karachi No. 51.
- (5). Mr. Muhammad Saleem Awan
President, Shamsabad Shahpur Muslim Jamar (Regd.) Siddiqui Akbar (UBL)
Street, Gulistan Colony, Lyari Ground, Karachi.
- (6). Mr. Muhammad Aslam
General Secretary, Anjman Tanzeem-e-Nau (Regd.), Cambalpur, Abad Baldia
Town, Karachi No. 51.



**BEFORE THE
NATIONAL ELECTRIC POWER REGULATORY AUTHORITY
NEPRA**

Complaint No. KEL-391-2012
Complaint No. KEL-395-2012
Complaint No. KEL-400-2012
Complaint No. KEL-432-2012
Complaint No. KEL-447-2012
Complaint No. KEL-448-2012

K- Electric Limited (then KESC) **Petitioner**
KE House No.39-B, Sunset Boulevard Phase-II
Defence Housing Authority, Karachi. **Versus**

..... **Respondents/Complainants**

- 1) Mr. Muhammad Humayun Habib,
General Secretary, Al Madina Khidmatgar Welfare Association, Karachi
- 2) Mr. Banaras Khan,
Vice Chairman, Frontier Colony Action Committee, Karachi
- 3) Mr. Sohail Iqbal Bhatti
- 4) Mr. Muhammad Ilyas
General Secretary, Muslim Islahi Committee, Karachi
- 5) Mr. Muhammad Saleem Awan,
President, Shamsabad Shahpur Muslim Jamat, Karachi
- 6) Mr. Muhammad Aslam,
General Secretary, Anjuman Tanzeem-e-Nau, Karachi

Date of Hearing: August 06, 2015
January 07, 2016

On behalf of Petitioner:

- 1) Mr. Aamir Ghaziani, Director
- 2) Mr. Sajjad Asghar Khan Shahani, Director
- 3) Mr. Khalid Rehman, Director
- 4) Mr. Abdul Rauf Yousaf, Advisor
- 5) Mr. Rafique Ahmad Sheikh, GM (RA)
- 6) Mr. Ayaz Jaffar, GM
- 7) Mr. Asghar Khan, Legal Counsel



Subject: Decision in the Matter of Motion For Leave For Review filed by K-Electric Limited (KEL) against the Decision of the Authority Regarding Six Complaints including the Complaint of Mr. Muhammad Ilyas, General Secretary, Muslim Islahi Committee Karachi, Referred by Human Rights Cell, Supreme Court of Pakistan Against KEL Regarding Excessive Billing/Detection Bills/ Violation of NEPRA Rules

Decision

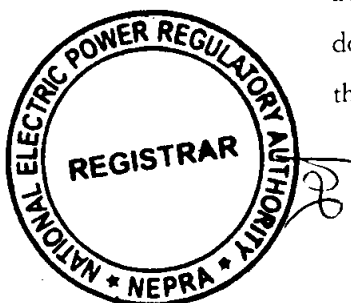
1. This decision shall dispose of the motion for leave for review dated September 07, 2015 filed by K-Electric Limited (hereinafter referred to as the "Petitioner" or "KEL" against the decision of the

Authority dated June 10, 2014 regarding six complaints filed under section 39 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (the "NEPRA Act") including the complaint of Mr. Muhammad Ilyas, referred by Human Rights Cell, Supreme Court of Pakistan (hereinafter referred to as the "Complainants" or "Respondents") against KEL.

2. The brief facts of the case are that the Authority received six complaints including complaint of Mr. Muhammad Ilyas, General Secretary, Muslim Islahi Committee, Karachi referred to NEPRA by Director Human Rights Cell, Supreme Court of Pakistan against KEL. The Complainants in their complaints stated that KEL management is billing its consumers without any justification/rules framed by NEPRA. In this regard Mr. Muhammad Shoaib Siddiqui, DGM (Distribution Finance) KEL has issued emails to all concerned to carry out excessive billing and issue detection bills to the consumers. Accordingly, the cases were taken up with KEL. In response, KEL submitted its report which is summarized as under:

i. A similar complaint was made earlier by Transparency International Pakistan (TIP) through its Adviser against KEL before the Human Rights Cell of the Supreme Court of Pakistan (HRC). The KEL response to the said complaint was made on November 5, 2012 and the matter is still pending/sub-judice before the Honourable HRC, Supreme Court of Pakistan.

ii. Mr. Muhammad Shoaib Siddiqui, Ex-DGM KEL sent two emails on September 19 and 20, 2012 without any lawful authorization from KEL. The same was his personal act and was not in furtherance of KEL management instructions. In addition, his email was only forwarded to persons within Region-I of KEL and did not extend to the other three regions of KEL. KEL management took serious exception to the said emails and immediately issued instructions to all employees to stop deviating from KEL employee policy and to act in accordance with the highest standards of professionalism. It was an isolated incident and upon being asked to clarify his position, the said individual resigned and is no longer an employee of KEL. KEL issued urgent press clarifications which were carried in all major newspapers regarding the incident. As per KEL records, it is confirmed that all relevant KEL bills were issued in accordance with the provisions of the NEPRA Act, read together with Consumer Service Manual (CSM) and that there was no intentional manipulation of the same through the addition of extra units or otherwise. Also KEL has instituted a centralized billing system that limits the ability of field staff to tamper with billing data. In the isolated cases, where average/assessed/detection billing mode is used, KEL follows the procedures set down under the CSM read together with the Electricity Act, 1910. Further none of the intended recipients of the said impugned emails actually acknowledged or

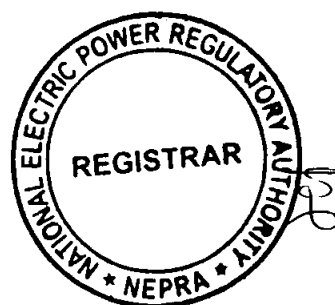


agreed to comply with the same. Accordingly, it is quite evident that the said complaint is premature because no extra billing was ever done in compliance with the said impugned emails.

- iii. The said individual resigned on October 11, 2012 before KEL could proceed on the basis of any enquiry report to terminate him, inter alia, for having breached KEL's Employee Policy. However, the said individual was suspended immediately after this act of him. During the process of Enquiry Committee's deliberations, during his period of suspension, the said individual appeared twice before the Enquiry Committee and during the course thereof, he accepted his blunder/mistake and in view of his previous unblemished track record, Enquiry Committee agreed to accept his resignation immediately.
 - iv. At the time of enquiry, no damage or harm had been caused to any consumer of KEL since the matter had been unearthed at very early stage before issuance of any bill. No criminal charges were ever filed by KEL against the said individual since the said emails were inchoate and no incorrect billing had arisen in pursuance of the said emails. There was also no evidence of dishonest or criminal intention which could have been demonstrated if the said individual was seeking financial gratification or bribes from the consumers, which is denied. Hence KEL had no criminal case.
3. In order to further examine the case, a hearing was held on June 4, 2013 at Karachi in which KEL officials and Complainants participated. However, Mr Muhammad Shoab Siddiqui, Ex-DGM (Distribution Finance) KEL did not attend the hearing. During the hearing, KEL representatives reiterated their earlier version. Subsequent to the hearing, KEL was directed vide letter dated June 10, 2013 to provide complete inquiry report alongwith findings made against Mr. Muhammad Shoab Siddiqui, Ex-DGM (Finance), KEL. The same was submitted by KEL vide letter dated August 15, 2013. The Complainants were also asked to provide concrete evidences with respect to excessive billing made by KEL and detection bills issued in pursuance to the said emails but none of the Complainant could provide documentary evidence in this regard. Findings of the inquiry committee conducted by Mr. Asir Manzoor (Chief Human Resource Officer), Syed Moonis Abdullah Alvi (CFO & Company Secretary) and Mr. Wahid Asghar (Director, Security Department), are as under:

"The commission is therefore of the view that since Mr. Shoab has admittedly contravened KEL's policies and the applicable rules and regulations, he is guilty of the charges levied upon him.

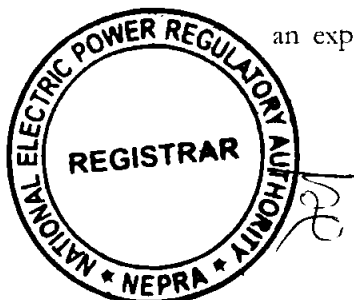
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The commission has carefully considered the allegations raised against Mr. Arshad Iftikhar by Mr. Shoaib Siddiqui. Mr. Shoaib Siddiqui has stated that he issued the emails under question under the “verbal instructions” of Mr. Arshad Iftikhar. During the course of the hearings, no evidence was placed before the inquiry commission in relations to the alleged directions issued by Mr. Arshad Iftikhar to Mr. Shoaib. Further, Mr. Shoaib failed to produce any proof implicating Mr. Arshad Iftikhar; the allegations raised against Mr. Arshad Iftikhar by Mr. Shoaib are without any merit and are dismissed.

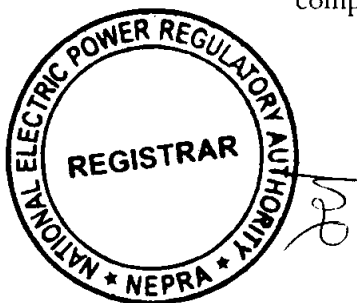
As far as the charge of “Negligence” against Mr. Arshad Iftikhar is concerned, the commission has noted with concern that Mr. Arshad Iftikhar was copied in the emails issued by Mr. Shoaib Siddiqui; however, he completely failed to respond nor take any prompt action on the unauthorized concept in the emails. As the superior officer, Mr. Arshad Iftikhar was required to supervise the acts and omissions of his subordinate officer including Mr. Shoaib Siddiqui; however by ignoring the emails under investigation, it is clear that he failed in his duty to properly supervise Mr. Shoaib Siddiqui. Accordingly, this inquiry commission finds Mr. Arshad Iftikhar guilty of “Negligence” for failing to properly supervise his subordinate.” The inquiry report dated October 11, 2012 revealed that Mr. Muhammad Shoaib Siddiqui was found guilty of having committed misconduct for sending e-mails to the field formation without approval of management of KEL and Mr. Arshad Iftikhar was found guilty of “negligence” for not supervising his subordinate properly”.

4. The matter was taken up with Mr. Muhammad Shoaib Siddiqui and a questionnaire was sent to him vide this office letter dated June 18, 2013. In his response dated June 26, 2013, he submitted reply to the questionnaire and alleged that he issued emails to the field formations on the directions of higher management of KEL. Mr. Muhammad Shoaib Siddiqui was provided an opportunity of hearing on November 18, 2013 at Karachi. During the hearing he again confirmed that he issued directions to field formations for carrying out excessive billing/issuance of detection bills upon receipt of instructions from higher management of KEL. Furthermore, even if he had made unauthorized act, employer company is still liable for acts and conduct of its employees and cannot be absolved of the responsibilities by saying that its employee has acted in contrary to their policy. Even if the senior management had taken any action against the delinquent officer still the company is liable after the act and conduct of its employees.
5. The documentary evidence provided by Mr. Shoaib Siddiqui revealed that he issued instructions to the field formations on the directions of higher management of KEL and in the opinion of the Authority, KEL concealed the facts from the Authority, therefore, an explanation letter was issued to KEL on January 24, 2014 under the provisions of



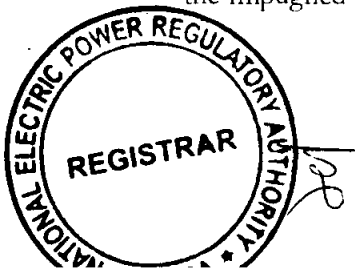
NEPRA (Fines) Rules, 2002. KEL vide letter dated February 10, 2014 submitted reply to the said explanation letter and denied the allegations leveled against it. The response of KEL was found unsatisfactory, hence a show cause notice was served upon KEL on March 12, 2014 to show cause as to why not fine upto Rupees One Hundred Million (Rs. 100,000,000) be imposed on it. Instead of furnishing its reply, KEL challenged the said show cause notice before the Honorable High Court of Sindh at Karachi by filing suit No. 486 of 2014: filed, K-Electric Limited vs NEPRA. The Court vide its order dated March 26, 2014 held that no final order shall be made on the show cause notice without the permission of the Court but proceedings in respect thereof may continue and the plaintiff shall associate itself with the proceedings under the said show cause notice. In light of directions of the Court, KEL submitted its response to the said show cause notice vide letter dated March 28, 2014 and denied the allegations mentioned in the show cause notice. In order to conclude the proceedings on the show cause notice, KEL was provided an opportunity of hearing on August 06, 2015, wherein KEL representatives presented their case.

6. Meanwhile NEPRA decided the pending complaints on the basis of copies of emails provided by Mr. Shoaib Siddiqui through a speaking order dated June 10, 2014 which was conveyed to KEL vide letter dated June 12, 2014 wherein it was held that the emails provided by Mr. Muhammad Shoaib Siddiqui reveal that higher management of KEL including the then CEO and all regional heads were involved in issuing directions to carry out excessive bills and issue detection bills without any justification to maximize the revenue and KEL was directed to i) Take action against all responsible officers involved in this plan including the then CEO, KEL ii) Ensure that no such kind of incident take place in future.
7. Being aggrieved with the order dated June 10, 2014, KEL vide its letter dated September 07, 2015 filed leave for motion for review and also submitted request for condonation of delay. In its motion for leave for review KEL submitted as under:
 - i. No act of excessive billing had occurred reference to self-motivated emails issued by Mr. Shoaib Siddiqui, which only relate to one region of KEL. The same is also acknowledged by NEPRA in its decision dated June 10, 2014 that excessive billing and imposing detection bills was not done.
 - ii. There is no link between emails of Mr. Shoaib Siddiqui and so called involvement of KEL's senior management. This is evident from the fact that none of the consumer complaints received by NEPRA in respect of the emails of Mr. Shoaib Siddiqui relate



to other regions of KEL but are merely confined to Region-I of KEL and are thus isolated in nature.


- iii. Even in KEL's Enquiry Commission Report submitted to NEPRA, the lack of any credible or tangible evidence in writing or such instructions from KEL management was also highlighted, which has been entirely ignored. Further, despite NEPRA urging the consumers in the hearing in June 2013 to show evidence of excessive billing, nobody was able to present it. This means that there is no breach on part of KEL of any applicable NEPRA law, regulations and/or applicable documents.
 - iv. All consumer complaints referred to by NEPRA have been responded by KEL in past and all such issues were duly considered in open and public hearing in Karachi on June 04, 2013 in which KEL participated and Mr. Shoaib Siddiqui was not present, although he had been summoned by NEPRA. Subsequently, NEPRA sent Mr. Shoaib Siddiqui a written questionnaire which was duly filled by him and the same was provided to KEL for its counter-statement which was duly provided by KEL on August 22, 2013.
 - v. Mr. Shoaib Siddiqui issued two impugned emails dated September 19 & 20, 2012 without any lawful authorization from KEL. The same was his personal act and was not in furtherance of KE management instructions. KEL management took serious exception to the said emails and immediately issued instructions to all employees to stop deviating from KEL employee policy and to act in accordance with the highest standards of professionalism. It was an isolated incident and upon being asked to clarify his position, the said individual resigned and is no longer an employee of KEL.
 - vi. During his period of suspension, the said individual appeared twice before the Enquiry Commission and during the course thereof, he accepted that he had issued the said email statements but claimed he was acting on alleged verbal instructions of his immediate superior, which was denied by the said superior. As the record shows, resignation was accepted on October 17, 2012. It is also relevant here that at the time of said Enquiry Commission Report, no damage or harm had been caused to any consumer of KE since the matter had been unearthed at a very early stage before issuance of any bill through the said individual's illegal instructions."
8. The Authority considered the motion for leave for review and admitted the same for hearing. Accordingly, hearing in the matter was held on January 07, 2016 wherein KEL representatives appeared and submitted their stance that the meeting dated September 18, 2012 referred to in the impugned decision pertains to progress/review meeting which is conducted on monthly

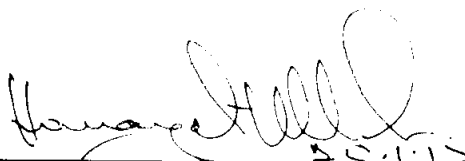


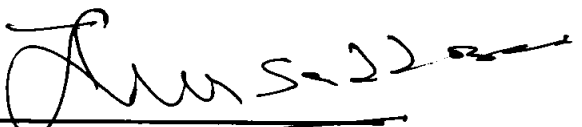
basis wherein progress of all the regions for increase in recovery and reduction in line losses are discussed besides other technical issues for supply of electric power services. KEL's representatives added that floating of emails in only one (1) region out of four (4) regions was a personal act of an individual and was not in light of KEL management instructions. KEL management took serious exception to the said emails and immediately issued instructions to all employees to stop deviating from KEL employee policy and to act in accordance with the highest standards of professionalism. It was an isolated incident and upon being asked to clarify his position, the said individual resigned and is no longer an employee of KEL. KEL issued urgent press clarifications which were carried in all major newspapers regarding the incident. As per KEL records, it is confirmed that all relevant KEL bills were issued on actual basis and there was no intentional manipulation of the same through the addition of extra units or otherwise. Also KEL has instituted a centralized billing system that limits the ability of field staff to tamper with billing data/procedure. Further none of the intended recipients of the said impugned emails actually acknowledged or agreed to comply with the same.

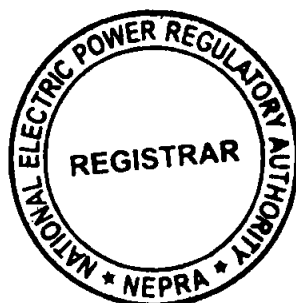
9. In consideration of above, it appears that neither any excessive billing was carried out nor any detection bill was issued in pursuance of the impugned emails. Moreover, the Complainants could not provide any cogent proof to establish their claim. Therefore, the Authority modifies the impugned decision dated June 10, 2014 to the extent that KEL must ensure no such kind of incident takes place in future. Having said that further proceedings on the show cause initiated under NEPRA (Fines) Rules, 2002, on this cause of action have been closed.

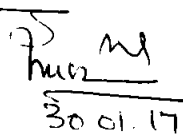

 (Syed Masood Ul Hassan Naqvi)
 Member


 (Maj (R) Haroon Rashid)
 Member


 (Himayat Ullah Khan)
 Vice Chairman /Member


 (Brig (R) Tariq Saddozai)
 Chairman




 30.01.17