



Registrar

# National Electric Power Regulatory Authority Islamic Republic of Pakistan

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No. NEPRA/ADG(CAD)/TCD-09/27627-28

September 4, 2020

Chief Executive Officer,  
K-Electric Limited, KE House No 39-B,  
Sunset Boulevard Phase-II,  
Defence Housing Authority, Karachi.

Subject: **DECISION OF THE AUTHORITY IN THE MATTER OF REVIEW MOTION FILED BY K-ELECTRIC AGAINST THE DECISION OF MEMBER (CONSUMER AFFAIRS) IN THE MATTER OF COMPLAINT FILED BY PAKISTAN WIRE INDUSTRIES (PVT.) LIMITED UNDER SECTION 39 OF THE REGULATION OF GENERATION, TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST K-ELECTRIC LIMITED REGARDING EXTENSION OF LOAD**  
Complaint No. KE-2225/01/2019

Reference is made to the Review Motion filed by K-Electric vide letter dated June 09, 2020 against the decision of the Member (Consumer Affairs), dated May 06, 2020.

2. Please find enclosed herewith the Decision of the Authority (06 Pages) regarding the subject matter for necessary action and compliance within thirty (30) days, please.

**Encl: As above**

( Syed Safer Hussain )

**Copy to:**

1. Mr. Ayaz Jaffar Ahmed  
Director (Finance and Regulations),  
K-Electric Limited, KE House No 39-B,  
Sunset Boulevard Phase-II, Defence Housing Authority,  
Karachi.
2. Mr. Saud Mahmood,  
Director Pakistan Wire Industries Pvt. Ltd,  
E-51, Textile Avenue, S.I.T.E,  
Karachi  
Ph: 32577406, 32576958



**BEFORE THE  
NATIONAL ELECTRIC POWER REGULATORY AUTHORITY  
(NEPRA)  
Complaint No. KE-2225/01/2019**

**K-Electric Limited**

KE House No. 39-B, Sunset Boulevard  
Phase-II, Defense Housing Authority  
Karachi.

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**Petitioner**

**Versus**

**Pakistan Wire Industries (Pvt.) Limited**

E-51, Textile Avenue, S.I.T.E  
Karachi.

.....

**Complainant**

**Dates of Hearing:**

August 11, 2020 (online hearing)

**On behalf of:**

**Complainant:**

Mr. Nazeer Ahmed, Manager (Pakistan Wires), S.I.T.E

**Respondent:**

- 1) Mr. Kamran Akhtar Hashmi
- 2) Mr. Asif Shajar,

Director New Connections (KE)  
DGM (Regulations)



**Subject:**

**DECISION OF THE AUTHORITY IN THE MATTER OF REVIEW MOTION FILED BY K-ELECTRIC AGAINST THE DECISION OF MEMBER (CONSUMER AFFAIRS) IN THE MATTER OF COMPLAINT FILED BY PAKISTAN WIRE INDUSTRIES (PVT.) LIMITED UNDER SECTION 39 OF THE REGULATION OF GENERATION, TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST K-ELECTRIC LIMITED REGARDING EXTENSION OF LOAD**

**DECISION**

This decision shall dispose of the Review Motion filed by K-Electric (hereinafter referred to as "KE" or "Petitioner") dated June 09, 2020, against the decision of Member (Consumer Affairs) conveyed vide letter dated May 13, 2020, in the matter of the Complaint filed by M/s Pakistan Wire Industries (Pvt) Ltd., Karachi, (hereinafter referred to as "Complainant") against K-Electric, under Section 39 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (hereinafter referred to as the "NEPRA Act").

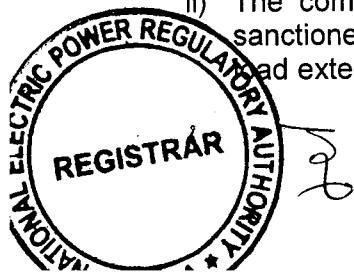
2. NEPRA received a complaint from Pakistan Wire Industries (Pvt) Ltd., Karachi, dated January 29, 2019 wherein, the Complainant submitted as under:

- i) On November 15, 2018 they approached K-Electric for extension of sanctioned load from 496 kW to 710 kW. In response, K-Electric advised them to submit an undertaking for payment of Feeder Sharing Charges/ Sponsored Dedicated Distribution System (SDDS) charges. Upon which the Complainant assured K-Electric that they will pay any justified and genuinely applicable charges and submitted the undertaking as desired by K-Electric. K-Electric issued demand notice amounting to Rs. 6,18,468/- for Security Deposit and estimate of Rs. 1,364,571/- on account of Sponsored Dedicated Distribution System (SDDS) charges.
- ii) The Complainant contested both and apprised K-Electric that they had already paid Security Deposit for 621 kW and the Complainant only needed to pay balance of Rs. 2,572,10/- on account of Security Deposit (SD) and the extension of load does not fall under SDDS at all. Accordingly, K-Electric revised the Security Deposit charges and the same were paid by the Complainant. The Complainant further submitted that they are already drawing 710 kW from existing Common Distribution System (CDS) and their case falls under simple regularization of load.
- iii) The Complainant further contended that it's the 3<sup>rd</sup> extension in load, at first extension the Complainant provided 500 kVA Transformer along with the allied material and other charges in year 2006. On 2<sup>nd</sup> extension the Complainant provided 1000 kVA transformer along with other charges. The previously installed material at the expense of the Complainant was also taken by K-Electric during 2<sup>nd</sup> extension.
- iv) The Complainant further submitted that they have paid the charges under duress and requested for withdrawal/adjustment of the same in their future electricity bills.

3. After seeking comments from K-Electric and conducting hearings on October 05, 2019, and November 14, 2019, at NEPRA Regional Office Karachi, K-Electric was directed vide decision dated May 06, 2020, to withdraw SDDS charges of Rs. Rs.13,64,571/- recovered from the Complainant by K-Electric and charge an amount of Rs. 6,34,000/- as rehabilitation charges and reimburse/adjust the excessively charged amount to the Complainant.

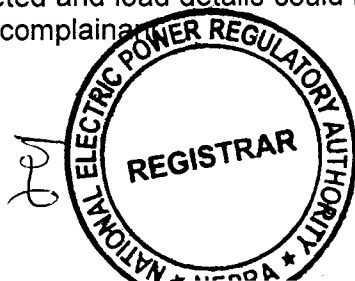
4. Being aggrieved with the decision of the Member (Consumer Affairs), K-Electric filed a Review Motion vide letter dated June 09, 2020, against the decision. KE in its Review Motion submitted as under:

- i) The Complainant was using extended load of 621 kW as per MDI recorded through energy meter installed at the premises against sanctioned load of 496 kW due to which an estimate for payment of SD amounting to Rs. 326,350 was issued by IBC. At the time, change of name was applied by consumer in January 2017. The request for change of name was processed and the complainant was further advised to contact new connection department for completion of load regularization process, including but not limited to, payment of feeder sharing charges for extended load beyond 500 kW. However, the complainant only paid Security Deposit and did not complete the required formalities for regularization of extended load. Hence, the load could not be updated in system. Subsequently, load was further enhanced unilaterally to 710 kW from 621 kW without applying for load regularization. Therefore, notice of load regularization was served to complainant to apply for load regularization as per chapter 8 of NEPRA CSM to avoid disconnection, against which the Complainant approached KE on November 20, 2018. Accordingly, the load regularization process was completed by KE after payment of Security deposit and feeder sharing cost (SDDS) charges of Rs. 1,364,571 (inclusive of GST). The (SD) paid by complainant in lieu of earlier load extension was duly adjusted in this estimate accordingly,
- ii) The complainant himself admitted that he was using extended load of 710 kW beyond sanctioned load of 496 kW from Common Distribution System (CDS) without applying for load extension under the provisions of NEPRA Consumer Service Manual (CSM). Therefore,



notice was served to consumer for load regularization by KE as enshrined in chapter 8 of CSM upon which an undertaking was submitted by him that he shall apply for load extension and complete all codal formalities.

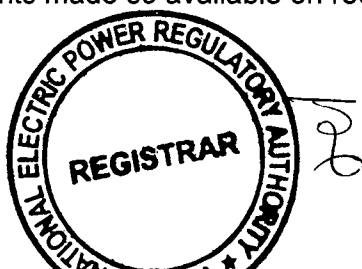
- iii) The PMT of 500 KVA was dismantled in the year 2015 at the time of load regularization from 348 kW to 496 kW and the same had already completed its useful life at the time of dismantling. Furthermore, switch and other allied material was installed by complainant as part of dedicated distribution system and the same is in accordance with the provision enshrined in NEPRA Consumer Eligibility Criteria, 2003.
- iv) The complaint enclosed with NEPRA letter is only related to specific grievance of load update in KE record from 496 kW to 621 kW in view of additional SD amount of Rs. 326,350/- paid by the complainant. In this regard, it is reiterated that the complainant did not fulfill the required codal formalities for load regularization process as enshrined in chapter 2 of NEPRA CSM and as advised by KE at the time of issuance of the said Security Deposit estimate. However, upon issuance of subsequent notice by KE in November 2018, the complainant approached KE and completed all required formalities for load regularization from 496 kW to 710 kW after which the load details were duly updated. Also, at this point in time, due adjustment on account of already paid Security Deposit of Rs. 326,350/- was made in final Security Deposit estimate.
- v) Consumers having load requirement above 500 kW qualify for independent feeder. However, in order to facilitate provision of connection, applicants are provided an option either to share feeder charging charges proportionate to their load requirement or provide an independent feeder as part of dedicated distribution system as per NEPRA Consumer Eligibility Criteria, 2003. The consumers usually opt and prefer connection through feeder sharing option which significantly reduced cost of connection in comparison to dedicated feeder. Hence, in order to initiate the process for extension of load further they are asked to agree on submission of undertaking which is deemed as their acceptance for selecting this option. Such an option can only be provided through Common Distribution System (CDS), therefore, the argument narrated by NEPRA in the said decision that consumers are not liable to pay for extension of CDS is baseless and devoid of merits. Furthermore, it is submitted that the consumer has paid for its corresponding share of feeder sharing cost and the same is duly reflected in the deferred assets of KE which are deducted from Regulatory Asset Base (RAB) for the purpose of determining base tariff to provide benefit of this charges to other consumers. Here, it is pertinent to mention that if feeder sharing option is not acceptable to consumers, they can always apply and opt for dedicated feeders.
- vi) That the hearings on the complaint of Pakistan Wire Industries took place on October 05, 2019 and November 14, 2019 at NEPRA Provincial Office, Karachi under the chair of Additional Director General - Consumer Affairs Department, and not conducted by the Authority as per law. Whereas, under Section-5 (2) of NEPRA Act 1997, it is clearly stated that for any decision by the Authority, the quorum shall be complete which consists of three members of NEPRA, therefore, any hearing without the quorum being complete as specified above and being conducted by an officer of NEPRA is not mandated under the law, and cannot be construed as a hearing by the Authority (NEPRA) which completely invalidates any such proceedings and / or any subsequent decision thereof on legal grounds, thus making the impugned Decision unlawful and without any legal footing.
- vii) The complainant did not pay SDDS charges for regularization of load from 496 kW to 621 kW in the year 2018 and only an amount of Rs. 326,350/- was paid by him in lieu of Security Deposit issued by IBC. At that time, the complainant was duly advised to visit new connection department of KE which oversees load regularization process and complete required formalities in this respect. However, despite payment of SD further process could not be completed and load details could not be updated as the requisite formalities were not fulfilled by the complainant.



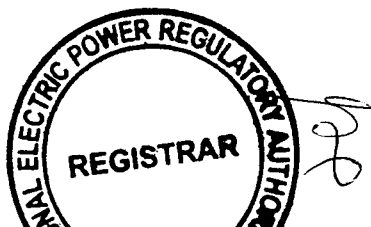
- viii) The feeder sharing charges were not collected from the complainant to reinforce common distribution system as perceived by NEPRA. Contrary to the above, the complainant is required to provide independent feeder as part of dedicated distribution system as per NEPRA Consumer Eligibility Criteria, 2003. In view of updated load requirement of 710 kW. It is pertinent to mention that no feeder sharing charges were recovered from the complainant at the time of load regularization from 348 kW to 496 kW, considering the fact that requirement of independent feeder is not triggered for load requirement below 500 kW. Whereas, provision of independent feeder is mandatory for all load requirement beyond 500 kW. However, the consumers are facilitated through an option of feeder sharing charges in proportionate to their load requirement which is the case under consideration.
- ix) In compliance of the direction of Authority contained in Multiyear Tariff (MYT) Determination 2016; KE has duly submitted new connection petition for approval of NEPRA vide its letter dated August 22, 2019 and still waiting initiation proceedings by NEPRA in consultation with relevant stakeholders for early conclusion of this matter on merits. It is pertinent to mention here that without hearing and decision on the pending petition of KE and thus giving decision by NEPRA on the complaint filed by Pakistan Wire Industry in isolation without first deciding the pending petition of KE is arbitrary and against the principles of natural justice.
- x) NEPRA's observation that in case of XWDISCOs/LESCO, industrial consumers having sanctioned load of less than 1000 kW are allowed to get connection from existing mix load feeder upon payment of certain rehabilitation charges which are considerably increased to Rs. 3,000/- per kW for load requirement above 500 kW. It is aptly put forward that the rationale behind applicability and collection of rehabilitation charges by XWDISCOs/LESCO is not mentioned by NEPRA in the subject decision. In this regard, we understand that rationale behind applicability of rehabilitation charges by XWDISCO/LESCO and feeder sharing charges (SDDS) by KE are same i.e. consumers having load requirement above 500 kW qualify for independent feeder as part of dedicated distribution system as per ECR, 2003. However, provision of connection is facilitated through the option of sharing cost proportionate to the load requirement which has significantly reduced cost of connection for prospective consumers. In view of the above clarification, we understand that rehabilitation charges and feeder sharing charges are merely different terminologies used by XWDISCO/LESCO and KE respectively to recover similar charges. Here, it is important to mention that SDDS charges per kW are derived from actual cost incurred by KE in laying of feeder and the difference in per kW rate of the said charges being collected by KE and XWDISCOs/LESCO is primarily attributable to difference in material specifications owing to unique operational environment and other factors including but not limited to expensive ROW, coastal climate of Karachi etc.
- xi) The relief/adjustment unilaterally allowed by NEPRA is beyond the plea taken by complainant in complaint registered before NEPRA. In this respect, it is clarified that the complainant only sought clarity from NEPRA regarding collection of feeder sharing charges by KE during the hearings, which the complainant wrongly perceived are contrary to the practices followed by other distribution companies and NEPRA rules that is factually incorrect as fully explained herein above and further during the hearings.

5. K-Electric's Review Motion was admitted for hearing by the Authority. Accordingly, an online hearing was held on August 11, 2020, which was attended by both the parties. During the hearing K-electric reiterated its earlier version. In response, the Complainant, through written/verbal arguments submitted that charging of SDDS charges by KE is unjustified. Furthermore, the Complainant also submitted that Rehabilitation charges, as directed in the impugned decision is also unjustified since there is no new connection being installed.

6. The case has been analyzed in the light of verbal/written arguments of both the parties, documents made so available on record and the applicable law. Following is concluded:



- i) K-Electric is of the view that according to the Consumer Eligibility Criteria, 2003, a consumer having load above 500 kW is to be supplied through a dedicated feeder or by feeder sharing arrangement. However, there is no such provision in the Consumer Eligibility Criteria, 2003, that obligates consumers with load above 500 kW to have a dedicated feeder.
- ii) In the instant matter, the Complainant's Dedicated Distribution System (DDS) is already supplied through a 1000 kVA transformer, with allied materials. This arrangement can easily cater to the required total load of the Complainant i.e. 710 kW, therefore, there is no requirement of upgradation in the DDS. The consumer is only responsible for payment of DDS charges. Therefore issuance of Demand Notice on account of SDDS is void and illegal and the same is in violation of Consumer Eligibility Criteria, 2003. If any up-gradation was required in the DDS of the Complainant, the same should have been done at his expense; however, there was no requirement of any such up-gradation.
- iii) KE has submitted that in Multi Year Tariff Determination of KE for the period from July 01, 2016 to June 30, 2023 (MYT 2016), the Authority decided to start separate proceedings on the issue of connection charges. Accordingly, KE has submitted new connection petition for approval of NEPRA vide letter dated August 22, 2019 and still waiting for initiation of proceedings by NEPRA. The fact remains that keeping in view the anomalies in the connection charges and to proceed with the provisions of MYT 2016 of KE regarding consultation on connection charges, the Authority decided to address the issue during revision of the Consumer Service Manual which was already in the process of revision. Accordingly, a notice was issued on January 16, 2020 for conducting a consultative session on January 28, 2020 at NEPRA Head Office Islamabad. In the notice, all DISCOs including K-Electric were directed to attend the session along with SOPs/policies pertaining to load assessment criteria, connection charges etc. The said session was also attended by the representatives of KE. This issue has been addressed in the Consumer Service Manual which has been approved by the Authority and circulated to all stakeholders, therefore there is no need to conduct separate proceedings on the issue of connection charges.
- iv) K-Electric in its review has submitted that there is a substantial difference in the cost of connection in its jurisdiction due to certain reasons (RoW, coastal climate, etc.). As such, K-Electric is admitting its inability to implement the directions of the Authority contained in the KE's MYT 2016, wherein, it was directed that K-Electric shall ensure that other connection charges pertaining to new connection to the prospective consumers are comparable with the XWDISCOs, preferably LESCO.
- v) NEPRA introduced SDDS for prospective consumers where a Common Distribution System (CDS) does not exist and SDDS is required to be developed for the supply of power for sole consumption of specified area or a specified group of consumers. In the instant case, the SDDS has no relevance because CDS and DDS are already available in the area. Whereas in contradiction to above, K-Electric has demanded SDDS charges from the Complainant on account of extension of load.
- vi) K-Electric has submitted that the relief provided to the Complainant is not the relief requested for in the Complaint. It may be noted that it is the responsibility of the Authority under the Act to protect consumer rights and regularize any violation, if found. Moreover, the complainant in his complaint requested for withdrawal of SDDS charges
- vii) Earlier on the issue of charging SDDS charges to the consumers, NEPRA vide letter dated April 05, 2016 directed K-Electric that SDDS charges will not be collected for



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extension/reinforcement/strengthening of Common Distribution System of K-Electric except in the following conditions:

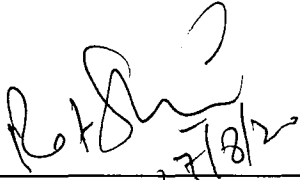
- Un-electrified areas where there is no Sponsor and the electrification is required to be carried out by K-Electric on behalf of sponsor.
- Abandoned schemes where sponsor has failed to provide electrification infrastructure and the electrification is to be done by K-Electric on behalf of sponsor.
- Consumers who qualify for independent feeder /PMT and wish to share the cost of the feeder/PMT with other consumers.


In the instant case, none of the above conditions are applicable; therefore charging of SDDS charges by K-Electric is unjustified.


viii) It is pertinent to mention that KE was provided the opportunity of hearing under Section 39 of the Act, before finalizing the matter. Further, in the instant review, another opportunity of hearing was provided to KE by the Authority; however, no new grounds were submitted by KE to modify the decision.

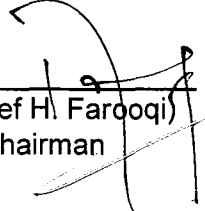
7. In view of the foregoing, we have perused the case, written/verbal arguments of the parties and the applicable law. A motion seeking review of any order of the Authority is competent only upon the discovery of new and important matter of evidence or on account of some mistake or error apparent on the face of record. The perusal of the decision sought to be reviewed clearly indicates that all material facts and representations made were examined in detail and there is neither any occasion to amend the impugned decision nor any error inviting indulgence, as admissible in law, has been pointed out. Therefore, we are convinced that the review would not result in withdrawal or modification of the impugned decision. Hence, the motion for review is dismissed.

  
27/8/2020  
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(Rehmatullah Baloch)  
Member

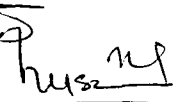
  
27/8/20  
\_\_\_\_\_  
(Rafique Ahmad Shaikh)  
Member

  
31.8.2020  
\_\_\_\_\_  
(Saif Ullah Chattha)  
Member

  
\_\_\_\_\_  
(Engr. Bahadur Shah)  
Member

  
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(Tauseef H. Farooqi)  
Chairman



  
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