



National Electric Power Regulatory Authority

ISLAMIC REPUBLIC OF PAKISTAN
NEPRA TOWER Attaturk Avenue (East),
Sector G-5/1, Islamabad.
Ph:051-2013200, Fax: 051-2600021

**Consumer Affairs
Department**

TCD 09/4835-2023
October 19, 2023

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

Subject: **DECISION IN THE MATTER OF COMPLAINT FILED BY MR. MUHAMMAD SHAFIQ ANJUM, CORPORATE SECRETARY, PAKISTAN STEEL CORPORATE SECRETARIAT UNDER SECTION 39 OF THE REGULATION OF GENERATION, TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST K-ELECTRIC LIMITED (KEL) REGARDING BILLING TARIFF**

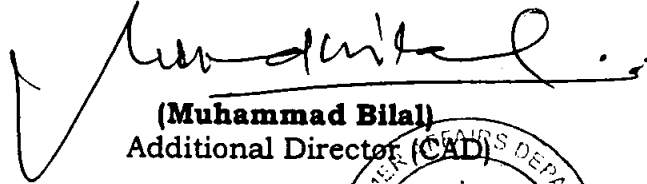
Complaint No. **K-Electric-NHQ-19216-01-23**

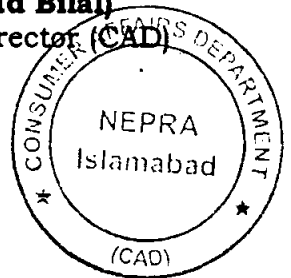
Please find enclosed herewith the decision of the Consumer Complaints Tribunal dated October 17, 2023 regarding the subject matter for necessary action.

Encl: As above

Copy to:-

1. Mr. M. Imran Hussain Qureshi
Chief Regulatory Affairs Officer & Govt. Relations Officer,
K-Electric Limited Office, 56 A, Street No. 88, G-6/3,
Islamabad.
2. Mr. Muhammad Shafiq Anjum,
Corporate Secretary,
M/s Pakistan Steel Corporate Secretariat, Karachi
Ph: 021-34750919


(Muhammad Bilal)
Additional Director (CAD)





BEFORE THE
NATIONAL ELECTRIC POWER REGULATORY AUTHORITY
(NEPRA)

Complaint No. K-ELECTRIC-NHQ-19216-01-23

Mr. Muhammad Shafique Anjum

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Complainant

Corporate Secretary,

Pakistan Steel Corporate Secretariat, Karachi.

Ph# 021-34750919

VERSUS

K-Electric Limited

.....

Respondent

KE House No. 39-B Sunset Boulevard,

Phase-II, DHA, Karachi.

Date of Hearing: January 31, 2023

June 12, 2023

On behalf of

Complainant:

- 1) Mr. Muhammad Shafique Anjum Corporate Secretary
- 2) Engr. Muhammad Akram Deputy Chief Engineer
- 3) Jam Mohsin Aftab DGM Legal Affairs

Respondent:

- 1) Mr. Fareed Ahmed, GM K-Electric
- 2) Mr. Asif Shajar GM K-Electric

Subject: DECISION IN THE MATTER OF COMPLAINT FILED BY MR. MUHAMMAD SHAFIQUE ANJUM CORPORATE SECRETARY PAKISTAN STEEL CORPORATE SECRETARIAT UNDER SECTION 39 OF THE REGULATION OF GENERATION, TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST K-ELECTRIC LIMITED (KEL) REGARDING BILLING TARIFF

DECISION

This decision shall dispose of the complaint filed by Mr. Muhammad Shafique Anjum Corporate Secretary, Pakistan Steel Corporate Secretariat, Karachi (hereinafter referred to as the "Complainant" or "PSM") against K-Electric Limited (hereinafter referred to as the "Respondent" or "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. Brief facts of the case are that PSM filed a complaint with NEPRA dated November 18, 2022 wherein it was submitted that PSM & K-Electric entered into a sale/purchase



agreement of electricity during the year 1981 as per which total energy supplied by PSM will net off from the total energy received by PSM and the remaining balance i.e. units will be charged to PSM as per the agreement. Accordingly, the electricity bills were levied against PSM until September 2016, however, the same practice was discontinued by K-Electric from October 2016 onward and NEPRA approved B-4 tariff was unilaterally imposed on PSM by K-Electric in contravention of the agreement. The Complainant contested the imposition of the B-4 tariff by K-Electric and continued electricity payments based on the agreement while the same resulted in the outstanding amount and LPS being reflected in the bills. The Complainant through instant application raised the issue before NEPRA whether K-Electric is under obligation to charge electricity consumption as per the agreement based on promissory estoppel or to charge B-4 Industrial tariff to PSM as approved by NEPRA.

3. In order to discuss the matter, a hearing was held on January 31, 2023. The hearing was attended by both the parties and the matter was discussed in detail. During the hearing, the Complainant submitted that PSM has already cleared its outstanding dues up to November 2022 after due reconciliation with K-Electric and currently paying electricity bills as per the original agreement. The Complainant added that the agreement essentially covers all the conditions regarding the sale/purchase of power and cannot be violated unilaterally by K-Electric. The Complainant is of the view that electricity payments made by PSM till November 2022 may be considered final on account of the sale/purchase of power.

4. During the hearing, K-Electric was directed to submit a detailed report regarding the matter along with supporting documents. In compliance, K-Electric vide letter dated March 20, 2023 submitted as under:

- (i) The Power Purchase Agreement between K-Electric and PSM was signed in 1982. The billing mechanism as per the Agreement was based on energy supplied by each party whereby net import/export of energy was calculated and the payable amount was charged accordingly. After September 2016, PSM halted its power plant operations therefore the same billing mechanism was no longer applicable.
- (ii) KE adopted the billing mechanism as per the guidelines enshrined in the NEPRA Consumer Service Manual (CSM) read with NEPRA Tariff Terms and Conditions, NEPRA Act 1997 and KE Distribution License and accordingly PSM was being charged the B-4 tariff which is the tariff for energy supply to 132kV Industries. The revision in terms of the agreement for the sale and purchase of power between KE and PSM was communicated by KE vide letters dated March 18, 2014, September 23, 2016 and February 15, 2017.
- (iii) During the period when B-4 tariff was being charged by KE, PSM continued to make payments as per the variable and fixed rates defined in the Power Purchase Agreement, which was a rate much less than the applicable B4 tariff. Accordingly, the amount payable by PSM kept on increasing over time, due to the difference between the rates.

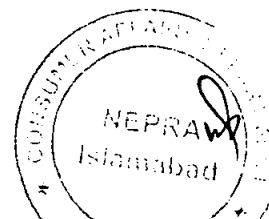


- (iv) To reconcile the difference in outstanding amounts, meetings were held between the senior management of both parties, and a reconciliation exercise was conducted for the financial year 2016-17 to 2021-22 which was duly agreed upon and signed by both parties on January 29, 2023. Afterward, PSM has been clearing its outstanding dues as per the modalities agreed between the parties. During the meetings held between the parties, it was agreed that the matter for applicability of industrial tariff would be referred to NEPRA for further clarification.

5. In order to further probe into the matter, another hearing was scheduled for June 12, 2023. The hearing was attended by both the parties wherein the matter was discussed in detail. During the hearing, K-Electric reasserted that the primary reason for charging B-4 tariff from October 2016 onwards was the billing mechanism defined in the agreement between the parties which was based on energy supply by both parties. The said agreement became void after PSM halted its power plant operations therefore the concept of billing after netting off import/export units was no longer applicable. PSM was not able to comply with the terms of the defined agreement, specifically regarding energy export therefore the agreement became unenforceable.


6. The case has been examined in detail in light of the record made so available by the parties, arguments advanced during the hearing and applicable law. Following has been observed:

- i. The agreement between the parties was signed in 1982 with subsequent amendments in the year 1984 and year 1990. Distribution of electricity is a licensed activity under Section 20 of the NEPRA Act 1997. In the instant case; PSM sold electricity to K-Electric for which permission should have been obtained from NEPRA.
- ii. Section 45 of the NEPRA Act, 1997 states that *"The provisions of this Act, rules and regulations made and licenses issued thereunder shall have effect notwithstanding anything to the contrary contained in any other law, rule or regulation, for the time being in force and any such law, rule or regulation shall, to the extent of any inconsistency, cease to have any effect from the date this Act comes into force and the Authority shall, subject to the provisions of this Act, be exclusively empowered to determine rates, charges and other terms and conditions for electric power services"* Despite which both the PSM and K-Electric continued with the tariff mechanism as defined in their agreement in violation of the NEPRA Act.
- iii. Clause 1.4 of the Consumer Service Manual (CSM) states that *"DISCO operating in pursuance of the distribution license granted by National Electric Power Regulatory Authority (NEPRA) is allowed to charge only such tariff as approved by NEPRA. Such tariff provides for the terms and conditions of tariff applicable to different categories of consumers as determined by NEPRA."* Similarly, Clause 7.1 of the CSM states that *"DISCO shall charge only such tariff from consumers as is approved by NEPRA and duly notified by Government of Pakistan from time to time."*



- iv. After September 2016, PSM halted their power plant operations therefore KE charged B-4 tariff (industrial) to PSM. As per the tariff terms and conditions approved by the Authority and notified in the official gazette Industrial Supply means the supply for bona fide industrial purposes in factories including the supply required for the offices and for normal working of the industry. PSM is engaged in the business of steel manufacturing, hence, falls within the category of Industry Tariff.

7. Foregoing in view, it is concluded that B-4 industrial tariff will be applicable on PSM in future and for disputed and unsettled period. However, the bills already settled between K-Electric and PSM be treated as final.



(Lashkar Khan Qambrani)

Member Consumer Complaints Tribunal
Director (CAD)



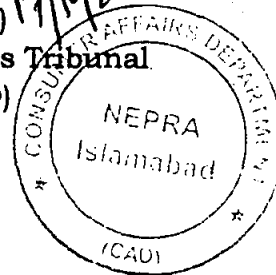
(Moqem ul Hassan)

Member Consumer Complaints Tribunal
Assistant Legal Advisor (CAD)



(Naweed Haq Shaikh)

Convener Consumer Complaints Tribunal
Director General (CAD)



Islamabad, October 17, 2023