



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

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No. NEPRA/AB/Appeal-122/POI-2017/ 073-078

January 19, 2018

1. Habib-ur-Rehman,
S/o Abdul Rehman,
A-1, Pink Sea Apartment,
BS-12, Block-7, Federal B. Area,
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. Ms. Tathcra Fatima,
Deputy General Manager,
K-Electric, First Floor,
Block F, Elander Complex,
Elander Road, Karachi
5. Muhammad Aziz Siddiqui,
310, Al-Falah Mobile Market,
Saddar, Karachi
6. Electric Inspector,
Karachi Region-II,
Block No. 51, Pak Secretariat,
Shahra-e-Iraq, Saddar,
Karachi

Subject: Appeal Titled K-Electric Ltd Vs. Habib-ur-Rehman Against the Decision Dated 31.05.2017 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 17.01.2018, regarding the subject matter, for information and necessary action accordingly.

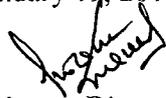
Encl: As Above

(Ikram Shakeel)

No. NEPRA/AB/Appeal-122/POI-2017/ 079

January 19, 2018

Forwarded for information please.


Assistant Director
Appellate Board

✓ Registrar

CC:

1. Member (CA)



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-122/POI-2017

K-Electric Limited

.....Appellant

Versus

Habib-ur-Rehman, S/o Abdul Rehman, A-1,

Pink Sea Apartment, BS-12, Block-7, Federal B Area, KarachiRespondent

For the appellant:

Ms. Tathcera Fatima Deputy General Manager (Distribution-Legal)

Mr. Asif Shajar Deputy General Manager

Mr. Imran Hanif Deputy Manager

For the respondent:

Nemo

DECISION

1. This decision shall dispose of an appeal filed by K-Electric against the decision dated 31.05.2017 of Provincial Office of Inspection, Karachi Region-II, Karachi (hereinafter referred to as POI).
2. Brief facts of the case are that the respondent is a residential consumer of K-Electric bearing Ref No.AL-630504 with a sanctioned load of 3 kW under A-1R tariff. Premises of the respondent was inspected by K-Electric on 04.08.2016 and allegedly the respondent was found involved in dishonest abstraction of the electricity through an





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extra phase and his connected load was noticed as 5.713 kW, being quite higher than the sanctioned load. As stated by K-Electric, after issuing notice dated 04.08.2016, a detection bill amounting to Rs.65,184/- for 3,546 units for the period 03.02.2016 to 03.08.2016 (6 months) was charged to the respondent on 13.08.2016.

3. Being aggrieved with the aforesaid irregular bill, the respondent filed a complaint before POI on 09.05.2017 and challenged the detection bill amounting to Rs.65,184/- for 3,546 units for the period 03.02.2016 to 03.08.2016. The same matter was also referred by the honorable Sindh High Court, Karachi through CP No.D-5274/2016 to POI for further adjudication. POI vide its decision dated 31.05.2017 disposed of the complaint with the following conclusion:

“After conducting several number of hearings, giving fair opportunities to hear both the parties, scrutinizing the record, made available with this authority and in the light of relevant law & Regulations and above findings, this authority is of the view that the detection bill amounting to Rs.65,184/- for 3546 units for the period from 03.02.2016 to 03.08.2016 issued by the opponents has no justification on technical and legal grounds, therefore direct the Opponents to cancel the said bill. The opponents is also directed to cancel the assessed billing for the period from September 2016 to November 2016 and revise the same on actual meter reading basis. The opponents are also directed to act in terms of above instructions, accordingly. The complaint of the applicant is disposed off with above remarks.”

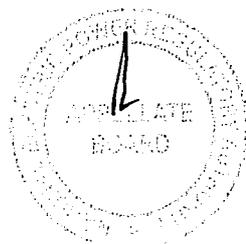




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4. Instant appeal has been filed by K-Electric against the POI decision dated 31.05.2017 (hereinafter referred to as the impugned decision) under Section 38 (3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (NEPRA Act 1997). In its appeal, K-Electric contended that the respondent was using an extra phase for dishonest abstraction of electricity and the connected load was higher than the sanctioned load, hence the detection bill of Rs.65,184/- for 3,546 units for the period 03.02.2016 to 03.08.2016 (6 months) charged to the respondent is justified and payable by the respondent. K-Electric pointed out that the respondent only assailed the aforesaid detection bill before POI, whereas POI in the impugned decision also decided the undisputed assessed bills. K-Electric averred that as notice under Section 20 of the Electricity Act 1910 was issued, that fulfill requirement of notice under clause 14.1 of the Consumer Service Manual (CSM). Regarding FIR, K-Electric clarified that as the respondent agreed for payment of the aforesaid detection bill, no FIR was registered against him. K-Electric pleaded that being a case of theft of electricity through bypassing the meter, POI was not competent to adjudicate the complaint of the respondent.

5. Notice of the above appeal was issued to the respondent for filing reply/parawise comments, which were filed on 12.09.2017. The respondent in his reply rebutted the stance of K-Electric and contended that neither prior notice under Section 26 of Electricity Act 1910 was served upon him nor he was associated during the alleged checking dated 04.08.2016, besides there is no change in the consumption before or

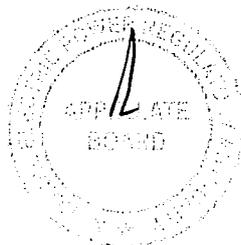




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after the detection bill. The respondent defended the impugned decision and prayed for upholding the same.

6. Notice issued and hearing of the appeal was conducted in Karachi on 29.12.2017 in which Ms. Tatheera Fatima Deputy General Manager (Distribution- Legal) along with other officials represented the appellant K-Electric but no one entered appearance for the respondent. K-Electric reiterated the same arguments as contained in memo the appeal and contended that the respondent was dishonestly abstracting the electricity and his load was noticed beyond the sanctioned load, therefore the detection bill of Rs.65,184/- for 3,546 units for the period 03.02.2016 to 03.08.2016 (6 months) charged to him is justified and payable.
7. We have heard arguments of K-Electric and examined the record placed before us. It is observed as under:
 - i. K-Electric failed to register FIR and take other actions as prescribed in CSM, its plea for failure to lodge FIR and follow CSM procedure is not sustainable. Since theft was not established, POI had the jurisdiction to adjudicate the instant matter and the objection of K-Electric in this regard is dismissed.
 - ii. Detection bill of Rs.65,184/- for 3,546 units for the period 03.02.2016 to 03.08.2016 (February 2016 to July 2016) was charged to the respondent by K-Electric, which was agitated by him before POI vide the application dated 09.05.2017.





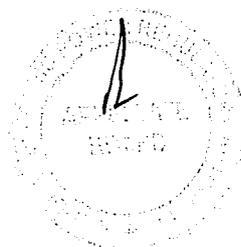
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iii. In order to ascertain the justification of the detection bill of Rs.65,184/- for 3,546 units for the period February 2016 to July 2016, comparison of the consumption data between the disputed and corresponding undisputed periods as provided by K-Electric is given below:

Period	Normal Mode Average Units/Month	Detection Mode Average Units/Month
Corresponding period before dispute February 2015 to July 2015	47	-
Disputed period February 2016 to July 2016 (6 months)	84	675
Corresponding period after dispute February 2017 to June 2017	44	-

From the above table, it emerges that 675 units/month charged in the detection mode during the disputed period i.e. February 2016 to July 2016 are much higher than the normal average consumption of 47 units/month and 44units/month recorded during the corresponding undisputed periods before and after dispute respectively. We are inclined to agree with the impugned decision that the detection bill of Rs.65,184/- for 3,546 units for the period February 2016 to July 2016 (6 months) charged to the respondent has no justification and liable to be cancelled.

iv. K-Electric objected the impugned decision to the extent of cancellation of the assessed bills for the period September 2016 to November 2016. In this regard, record as provided by K-Electric was examined, wherein it is noticed that neither any assessed bill was challenged by the respondent before POI nor it was pointed





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out in the impugned decision, therefore determination of POI regarding the undisputed assessed bills for the period September 2016 to November 2016 is beyond the prayer of the respondent and the same is liable to be declared null and void to this extent.

8. In view of above, it is concluded that:

- i. Detection bill of Rs.65,184/- for 3,546 units for the period February 2016 to July 2016 charged by K-Electric to the respondent is declared null and void as already determined in the impugned decision.
- ii. Impugned decision to the extent of cancellation of the assessed bills for the period September 2016 to November 2016 is incorrect, therefore declared illegal to this extent.

9. The impugned decision is modified in above terms.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Dated: 17.01.2018

