



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

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No. NEPRA/AB/Appeal/005/POI/2022/ 369

April 07, 2022

- | | |
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| 1. Muhammad Ilyas Azad,
S/o. Mian Muhammad Aslam.
R/o. House No. K-K/10/A,
Defence View, Phase-II, Near Iqra University,
Shaheed-e-Millat Road, 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. Tatheera Fatima,
Deputy General Manager,
K-Electric, First Floor,
Block F, Elander Complex,
Elander Road, Karachi |
| 5. Muhammad Hashim Siddiqi,
Advocate,
Suit No. 55-D, 5 th Floor, Farid Chambers,
Abdullah Haroon Road, Adjacent to Jeeves
Hotel, Saddar, Karachi | 6. POI/Electric Inspector,
Karachi Region-I,
Adjacent to City School, PAF Chapter,
Baloch Colony, Shaheed-e-Millat Road,
Karachi |

Subject: **Appeal Titled K-Electric Vs. Muhammad Ilyas Azad the Decision Dated 03.12.2021 of the Provincial Office of Inspection to Government of the Sindh Karachi Region-I, Karachi**

Please find enclosed herewith the decision of the Appellate Board dated 15.03.2022, regarding the subject matter, for information and necessary action accordingly.

Encl: **As Above**


(Ikram Shakeel)
Deputy Director (M&E)/
Appellate Board

Forwarded for information please.

1. Additional Director (IT) --for uploading the decision on NEPRA website



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No.005/POI-2022

K-Electric Limited

.....Appellant

Versus

Muhammad Ilyas Azad S/o ,Mian Muhammad Aslam,
R/o House No.K-K-10/A, Defence View, Phase-II,
Near Iqra University, Shaheed-e-Millat Road, Karachi

.....Respondent

APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 03.12.2021 PASSED BY PROVINCIAL OFFICE OF INSPECTION KARACHI REGION-I, KARACHI

For the Appellant:

Mr. Asif Shajer General Manager
Mr. Najamuddin Sheikh Deputy General Manager
Mr. Masahib Ali Manager

For the Respondent:

Mr. Muhammad Hashim Siddique Advocate
Mr. Muhammad Ilyas Azad

DECISION

1. Brief facts of the case are that the Respondent is a commercial consumer of the K-Electric bearing Ref No. LA-675623 having a sanctioned load of 3 kW under the A-2c tariff category. Premises of the Respondent was inspected by the K-Electric on 04.08.2016 and allegedly the Respondent was found stealing electricity through the tampered meter and the connected load observed was 9.182 kW being higher than the sanctioned load of 3 kW. Notice dated 05.08.2016 was issued to the Respondent and FIR No.126/2016 was registered against the Respondent for theft of electricity. Later



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on, a detection bill amounting to Rs.500,262/- for 25,703 units for the period August 2013 to July 2016 thirty-six (36) months was charged by the K-Electric to the Respondent on 29.08.2016.

2. Being aggrieved, the Respondent approached the Provincial Office of Inspection, Karachi Region-I, Karachi (the POI), and agitated the abovementioned detection bill. Subsequently, the Court of XI Judicial Magistrate South Karachi vide order dated 26.04.2018 quashed the FIR No.126/2016 and acquitted the Respondent. The complaint of the Respondent was disposed of by the POI vide decision dated 03.12.2021, wherein the detection bill of Rs.500,262/- for 25,703 units for the period, August 2013 to July 2016 thirty-six (36) months along with late payment surcharges (LPS) was cancelled.
3. Through the instant appeal, K-Electric has assailed the above-referred decision of the POI (hereinafter referred to as the "impugned decision") before the NEPRA in which it is contended that the premises of the Respondent was inspected on 04.08.2016 and the Respondent was found consuming electricity through the tampered meter and the connected load was observed as 9.182 kW. K-Electric further contended that the notice dated 05.08.2016 thereof was served to the Respondent, and FIR No.126/2016 was lodged against him due to theft of electricity. As per the K-Electric, detection bill of Rs.500,262/- for 25,703 units for the period August 2013 to July 2016 thirty-six (36) months was charged to the Respondent as per the policy allowed by the Consumer Service Manual (CSM), if the FIR was registered against theft of electricity. According to the K-Electric, the meter laboratory report was submitted along with the site inspection report before the



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POI, which was not considered by the said forum. K-Electric submitted that the notice was served to the Respondent before the inspection, which was well within the knowledge of the Respondent. The K-Electric further submitted that the POI did not consider the relevant documents and ignored the evidence placed on record. K-Electric stated that FIR No.126/2016 was quashed by the honorable court due to the misstatement of the Respondent, however, the above detection bill is payable by the Respondent. K-Electric further stated that the Respondent should produce the gas consumption of the disputed period to substantiate his stance with regard to the vacant premises. K-Electric finally prayed for setting aside the impugned decision being contrary to the law.

4. The Respondent was issued the notice for filing reply/para-wise comments to the appeal, which were filed on 02.02.2022. In his reply, the Respondent prayed for dismissal of the appeal on the grounds that the false FIR lodged by the K-Electric was quashed by the Honorable Judicial Magistrate, South Karachi; that the detection bill of Rs.500,262/- for 25,703 units for the period August 2013 to July 2016 thirty-six (36) months was debited based on false allegations; that K-Electric did not adhere to the provisions of CSM to prove its allegation of theft of electricity through the tampered meter; that the K-Electric laboratory has no legal standing and seems unreliable; that no prior notice was served by the K-Electric; that the CSM allows detection bill maximum for two months instead of thirty-six months and that there is no justification for charging the above detection bill on the ground which has already been set aside.



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5. After issuing notice, hearing of the appeal was held at the NEPRA Regional Office Karachi on 04.03.2022, wherein the representatives for the K-Electric were present and the Respondent appeared in person. The representatives for the K-Electric reiterated the same arguments as contained in memo of the appeal and contended that the Respondent was found stealing the electricity through the tampered (shunt installed) meter during the inspection dated 04.08.2016 and the connected load was found as 9.182 kW for which the notice dated 05.08.2016 was served to the Respondent and FIR No.126/2016 was filed against the Respondent. K-Electric further contended that the detection bill of Rs.500,262/- for 25,703 units for the period August 2013 to July 2016 thirty-six (36) months was charged to the Respondent in accordance with the policy formulated in the CSM. K-Electric prayed for setting aside the impugned decision and further pleaded to allow the above-said detection bill. On the contrary, the Respondent appearing in person denied the allegation of theft of electricity levelled by the K-Electric and argued that FIR No.126/2016 was quashed by the honorable Court vide order dated 26.04.2018 and he was acquitted. The Respondent opposed the charging of detection bill of Rs.500,262/- for 25,703 units for the period August 2013 to July 2016 thirty-six (36) months and prayed for upholding the impugned decision.

6. Arguments were heard and the record perused. Following are our observations:

- i. K-Electric raised the preliminary objection regarding the jurisdiction of the POI being theft of electricity case but failed to follow the procedure as laid down in the CSM. Indeed, it is a metering and billing dispute and falls in the jurisdiction of the POI as per Section 38 of the NEPRA Act 1997. The objection of the K-Electric in this regard is



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devoid of force, therefore rejected.

ii. The Respondent challenged the following detection bill before the POI.

Table-A

SIR dated	Discrepancies	Bill type	Period		Units	Amount (Rs.)
04.08.2016	Theft of electricity	Detection	Aug- 2013	Jul-2016	25,703	500,262/-

Scrutiny of the record shows that the above detection bill was based on connected load i.e. 9.182 kW, which however was neither regularized by the K-Electric nor was any action taken by the K-Electric against the Respondent due to illegal extension of the load beyond the sanctioned load i.e. 3 kW. It is noted that the above detection bill was charged by the K-Electric to the Respondent for thirty-six (36) months, which is inconsistent with Clause 9.1c(3) of the CSM. Said clause of the CSM which allows the K-Electric to charge the detection bill maximum for three (3) months to the Respondent being a general supply consumer i.e. A-II sans approval of the Chief Executive Officer. Though FIR No.126/2016 was registered against the Respondent but K-Electric could not prove the allegation of theft of electricity, hence the honorable Court of XI Judicial Magistrate South Karachi vide order dated 26.04.2018 quashed the FIR No.126/2016 and acquitted the Respondent. Under these circumstances, the detection bill of Rs.500,262/- for 25,703 units for the period August 2013 to July 2016 thirty-six (36) months is unjustified and the same is liable to be declared null and void as already decided by the POI.

iii. Since the discrepancy in the meter was observed by K-Electric on 04.08.2016, hence the Respondent is liable to be charged the detection bill for two retrospective months



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i.e. June 2016 and July 2016, pursuant to Clause 4.4(e) of the CSM, if the actual consumption was not recorded by the meter. In this regard, consumption of the disputed period is compared below with corresponding undisputed consumption:

Table-B

Undisputed period		Disputed	
Month	Units	Month	Units
Jun-15	688	Jun-16	693
Jul-15	2222	Jul-16	671
Total	2,910	Total	1,364

The above comparison of the consumption data reveals that the total consumption recorded during the disputed months i.e. June 2016 and July 2016 is much lesser than the total consumption of the corresponding undisputed months i.e. June 2015 and July 2015, which construed that the billing meter of the Respondent did not record actual consumption during the disputed period. Therefore, the Respondent is liable to be charged the bills for the months June 2016 and July 2016 on the basis of consumption recorded during the months i.e. June 2015 and July 2015, being higher. The impugned decision is liable to be modified to this extent.

7. From forgoing discussion, we have concluded that:

- i. the detection bill of Rs.500.262/- for 25,703 units for the period August 2013 to July 2016 thirty-six (36) months is unjustified, hence the same should be cancelled.
- ii. The Respondent may be charged the revised bill of 2,910 units for the months i.e. June 2016 and July 2016 as recorded during the months, i.e. June 2015 and July 2015.



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iii. The billing account of the Respondent may be overhauled after making the adjustment of payments made against the above detection bill and the bills for the months i.e. June 2016 and July 2016.

8. The impugned decision is modified in the above terms.

Abid Hussain
Member/Advisor (CAD)

Nadir Ali Khoso
Convener/Senior Advisor (CAD)

Dated: 15.03.2022