



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

NEPRA Office , Ata Turk Avenue (East), G5/1, Islamabad
Tel. No. +92 051 2013200 Fax No. +92 051 2600030
Website: www.nepra.org.pk E-mail: office@nepra.org.pk

No. NEPRA/Appeal/053/POI/2022/ 1030

September 22, 2022

- | | |
|--|--|
| 1. Abbas Ali Noori,
S/o. Manzoor Ahmed Noori,
M/s. Paradise Real Estate, Flat No.
G-58, Sector No. 13-C, FL-13, 14, 15,
Shumail View, Phase-I, 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. Electric Inspector/POI
Karachi Region-II,
Plot No. ST-2, Block-N, North Nazimabad,
Near Sarina Mobile Market,
Main Sakhi Hassan Cowrangi, Karachi | |

Subject: **Appeal Titled K-Electric Vs. Abbas Ali Noori the Decision Dated 03.03.2022 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 20.09.2022, 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.053/POI-2022

K-Electric Limited

.....Appellant

Versus

Abbas Ali Noori, M/s. Paradise Real Estate Flat No.G-58,
Sector No.13-C, FL-13, 14, 15 Shumail View,
Phase-I, Karachi

.....Respondent

APPEAL U/S 38(3) OF THE REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997

For the Appellant:

Mr. Asif Shajer General Manager

Ms. Tatheera Fatima Deputy General Manager

Mr. Masahib Ali Manager

For the Respondent:

Nemo

DECISION

1. Brief facts leading to the filing of instant appeal are that Mr. Abbas Ali Noori (hereinafter referred to as the "Respondent") is a domestic consumer of K-Electric Limited (hereinafter referred to as the "Appellant") bearing Ref No.LA-610121 with a sanctioned load of 1 kW and the applicable Tariff category is A-1(a). As per Site Inspection Report dated 12.07.2021 of the inspection allegedly carried out by the Appellant, the Respondent was stealing electricity through Kunda and the



National Electric Power Regulatory Authority

connected load was observed as 4.48 kW. Therefore, a detection bill of Rs.87,848/- for 3,205 units for six months from 12.01.2021 to 12.07.2021 was charged to the Respondent on the basis of 23% load factor of the connected load.

2. Being aggrieved, the Respondent filed a complaint dated 17.01.2022 before the Provincial Office of Inspection, Karachi Region-II, Karachi (hereinafter referred to as the "POI") and challenged the above detection bill. The complaint was decided by the POI vide the decision dated 03.03.2022 in which the detection bill of Rs.87,848/- for 3,205 units for six months from 12.01.2021 to 12.07.2021 was cancelled and the Appellant was directed to debit the revised bill of 740 units.
3. Subject appeal has been filed against the afore-referred decision dated 03.03.2022 of the POI (hereinafter referred to as the "impugned decision") by the Appellant before the NEPRA, wherein it is contended that the Respondent was stealing electricity directly through Kunda and the connected load was noticed as 4.48 kW during the checking dated 12.07.2021, therefore a detection bill of Rs.87,848/- for 3,205 units for six months from 12.01.2021 to 12.07.2021 was charged to the Respondent on the basis of the connected load. The Appellant further contended that the above detection bill was served to the Respondent after completion of codal formalities, however, the POI cancelled the same on the basis of consumption trend and did not consider the pictorial evidence of direct use of electricity. The Appellant opposed the finding of the POI with regard to the prior notice and submitted that no notice is required to be served on consumers for conducting a raid in case of the



National Electric Power Regulatory Authority

theft of electricity. As per the Appellant, the FIR was not lodged against the Respondent as he admitted theft of electricity and agreed to pay the detection bill. According to the Appellant, the Site Inspection Report and billing statement reflects that the Respondent was involved in the theft of electricity by taking the hook, hence the impugned decision is liable to be set aside. The Appellant raised the preliminary objection that the POI is not empowered to decide the case of theft of electricity wherein the meter has been bypassed as per the verdict of the apex court. The Appellant raised another objection that the complaint was filed by Mr. Qutubuddin, whereas the registered consumer, is Ikramullah but the complainant failed to prove his *locus standi*.

4. Proceedings by the Appellate Board

Upon filing of the instant appeal, a Notice dated 26.04.2022 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days. In response, the Respondent submitted his reply on 18.05.2022 wherein he defended the impugned decision mainly on the grounds that the meter of the Respondent is installed outside the premises and the ABC cable is installed in the vicinity thus question of Kunda does not arise; that the detection bill of Rs.87,848/- was charged without completing the mandatory requirements of the Consumer Service Manual (hereinafter referred to as the "CSM"); that no undeniable proof was submitted; that if he was involved in the theft of electricity as to why the Appellant did not take legal action against him; that the impugned decision was



National Electric Power Regulatory Authority

passed in accordance with provisions of law and after a detailed analysis of the consumption data and the appeal be dismissed in the interest of justice.

5. Hearing

5.1. Hearing in the matter of the subject Appeal was fixed for 04.07.2022 at Karachi and accordingly, the notices dated 28.06.2022 were sent to the parties (i.e. the Appellant and the Respondent) to attend the hearing. As per schedule, a hearing of the appeal was conducted at the NEPRA Regional Office Karachi on 04.07.2022 which was attended by both parties. The representatives for the Appellant reiterated the same version as contained in memo of the appeal and contended that the detection bill of Rs.87,848/- for 3,205 units for six months from 12.01.2021 to 12.07.2021 was debited on the basis of connected load i.e. 4.48 kW, which was accepted by the POI in the impugned decision. The Appellant further contended that no notice is required in the case of direct theft of electricity, hence the impugned finding of the POI is not correct. As per Appellant, the revision of the detection bill from 3,200 units to 700 units by the POI supports our version that the actual consumption was not recorded during the disputed period due to theft of electricity committed by the Respondent. The Appellant defended the charging of the impugned detection bill and prayed that the same be declared as justified and payable by the Respondent.

5.2. The Respondent appearing in person denied the allegation of theft of electricity levelled by the Appellant, supported the impugned decision, and prayed for

A handwritten signature in dark ink is located at the bottom center of the page, below the footer text.



National Electric Power Regulatory Authority

upholding the same.

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

6.1 In its appeal, The Appellant raised the preliminary objection for the jurisdiction of the POI being direct theft of electricity case, which will be addressed in the below paras.

6.2 The Appellant has claimed that the Respondent was involved in the direct theft of electricity. In this regard, the pictorial evidence was submitted by the Appellant to prove that the Respondent was involved in the direct theft of electricity. Since the dispute regarding the billing pertains to the year 2021, hence the case will be dealt with under Consumer Service Manual 2021 (the "CSM-2021"). Clause 9.1(a) of the CSM-2021 specifies the instances of direct theft of electricity by registered/un-registered consumers as well as the procedure to be adopted by the concerned distribution company to deal with such cases; the same is reproduced below for the sake of convenience:

"9.1 (a) DIRECT THEFT OF ELECTRICITY BY REGISTERED/ UN-REGISTERED CONSUMERS OF K-Electric.

i) If a premises/person is found to be hooked directly with the K-Electric's supply line by bypassing the metering equipment or if the consumer is using electricity direct from the K-Electric supply line and/or the person living on the premises is not a consumer of the K-Electric; then the K-Electric shall inert alia, process the case of THEFT of electricity. For all such cases, the K-Electric shall register FIR with the Police. The FIR is to be registered by a responsible officer of the K-Electric, not below the rank of Sub Divisional Officer.



National Electric Power Regulatory Authority

ii) *All theft cases of direct hooking would be dealt by K-Electric strictly in accordance with relevant clauses of the Electricity Act 1910. The disconnection of electricity shall be carried out immediately under the supervision of the Sub Divisional Officer of the area or any other authorized Officer of the K-Electric. The removed material shall be preserved as a proof of theft and the same shall be handed over to the police authorities while reporting to the Police.*

iii) *The K-Electric shall be authorized to recover its loss by raising a detection bill as per its own procedure."*

6.3 In the instant case, the Appellant claimed that the electricity was being used directly by the Respondent. Therefore, having found the alleged theft by the Respondent, the Appellant was required to take the following actions in accordance with Clause 9.1(a) of CSM-2021:

- i. Register FIR against the Respondent by an officer not below the rank of SDO.
- ii. Disconnection of electricity under the supervision of SDO of the area.
- iii. Preserve the removed material as proof of theft and hand it over to Police while reporting the crime to Police.
- iv. Raise the detection bill to recover the loss.

6.4 The above procedure specifies the manner to prove the distribution company's claim of direct theft of electricity and is to be followed mandatorily to take punitive action against the person involved in theft and recovery of loss thereof. Accordingly, upon knowing of the alleged theft of electricity by the Respondent, the Appellant was required to approach the Police, in the manner specified in the above Clause of CSM-2021, along with proof of theft of electricity. In the instant case, however, the



National Electric Power Regulatory Authority

Appellant raised detection bill against the Respondent without following the procedure specified in Clause 9.1(a) to prove the charge of theft before raising a detection bill. Thus due to the procedural infirmities, the Appellant's claim that the Respondent was involved in the direct theft of electricity is not proven and cannot become the basis for raising the detection bill against the Respondent. Here the question also arises that why the Respondent filed complaint against the detection bill before the POI.

6.5 The Appellant has given justification for not lodging FIR against the Respondent that he admitted the theft and agreed to pay the detection bill. However, no documentary proof of such admittance of theft of electricity and consent to pay the detection bill by the Respondent has been submitted before us. Logically the purpose for filing the complaint before the POI would be disagreement upon the detection bill. Therefore, the excuse as submitted by the Appellant for not lodging FIR against the Respondent is not acceptable for deviating from the laid down procedure.

6.6 The Appellant has attached copies of few pictures of the meter site in support of the allegation of theft against the Respondent under Clause 9.1(c) of the CSM 2010, upon recovery of the alleged theft. The Appellant was required to approach the Police along with the proof of theft which the Appellant did not do. We are of the considered view that the Police being the investigation agency is competent to probe the criminal offense and ascertain the authenticity of such material evidences. However, instead of following the procedure as laid down including lodging FIR

503



National Electric Power Regulatory Authority

and handing over the proof of theft to the Police as required under the law, the Appellant has submitted the snaps/pictures with its Appeal which under the given circumstances cannot be considered by this forum as the basis to justify the detection bill raised by the Appellant against the Respondent.

6.7 In view of the foregoing discussion, it is established that the Appellant failed to follow the procedure as laid down in Chapter 9 of the CSM-2021 and did not take any legal action against the Respondent on account of the theft of electricity. Indeed, it is a metering, and billing dispute and falls in the jurisdiction of the POI. The objection of the Appellant in this regard is devoid of force and therefore rejected.

6.8 The Appellant raised another objection in respect of *locus standi* and submitted that the registered consumer is Mr. Ikram Ullah but the application was filed before POI by Mr. Qutubuddin. The Appellant pointed out that such objection was raised before POI but the same was not entertained. From the record placed before us, it is revealed that M/s Paradise Real Estate is the registered consumer of the Appellant, and the application before POI was filed by Mr. Abbas Ali Noori, who is the resident of flat No.G-58 of the above-said building at Sector 13-C, Gulzar-e-Hijri, Karachi. As per the definition given in Section 2(iv) of the NEPRA Act, the Respondent should be treated as the consumer of the Appellant being the occupant of the premises. Relevant excerpt in this regard is replicated below:

(iv) "consumer" means a person or his successor-in-interest who purchases or receives electric power for consumption and not for delivery or re-sale to others, including a person who owns or occupies a premises where electric power is supplied;



National Electric Power Regulatory Authority

Even otherwise, the objection of the Appellant is rejected being irrelevant and contrary to the facts of the case.

6.9 As far as fate of the detection bill of Rs.87,848/- for 3,205 units for six months from 12.01.2021 to 12.07.2021 is concerned, it is observed that the impugned detection bill was debited on the basis of 23% load factor of the connected load i.e. 4.48 kW. However, the alleged connected load was neither verified by the POI nor the Appellant could regularize the same. Moreover, the above detection bill was charged beyond three billing cycles to the Appellant being a general supply consumer i.e. A-I but no approval from the Chief Executive Officer was obtained as per provisions of the CSM-2021. The Appellant has submitted the snaps/pictures with its appeal which under the given circumstances cannot be considered by this forum as the basis to justify the detection bill raised by the Appellant against the Respondent.

6.10 Therefore, it is held that the detection bill of Rs.87,848/- for 3,205 units for six months from 12.01.2021 to 12.07.2021 charged by the Appellant to the Respondent is illegal, unjustified and the same is liable to be declared as null and void. The impugned decision is liable to be maintained to this extent.

6.11 Coming to the decision of the POI, it is observed that the POI has rightly concluded that the Appellant could not prove that the Respondent was involved in the use of electricity through unfair means. In his decision, the POI has compared the disputed consumption of six months i.e. February 2021 to July 2021 with the consumption of corresponding months during the previous year i.e. 2020. Upon finding a difference

523



National Electric Power Regulatory Authority

of 740 units in aggregate consumption of stated six months of the year 2020 with the disputed six months of the year 2021, the same i.e. 740 units have been allowed to be charged by the Appellant. To check the justification of the findings of the POI, a comparison of the consumption of the Respondent during the disputed six months i.e. February 2021 to July 2021 with the corresponding consumption of the preceding year i.e. 2020 is given below:

Month	Units	Month	Units
Feb-2020	89	Feb-2021	114
Mar-2020	121	Mar-2021	172
Apr-2020	231	Apr-2021	274
May-2020	497	May-2021	456
Jun-2020	530	Jun-2021	288
Jul-2020	576	Jul-2021	0

As evident from the above table, the normal consumption during the disputed months February 2021 to April 2021 is higher than the normal consumption of the Respondent recorded during the undisputed months i.e. February 2020 to April 2020. Even in the month of May 2021, the consumption charged by the Appellant is compatible with the consumption of May 2020. However, it drastically declined during the months of June 2021 and July 2021 as compared to the corresponding months of the undisputed year 2020, which indicates that perhaps the actual consumption was not recorded during these months. Therefore, the Appellant has the right to recover the charges for consumption missed by the meter of the Respondent for these two months. We have observed that the Respondent in his para-wise reply and also during the hearing showed his satisfaction with the decision



National Electric Power Regulatory Authority

of POI to charging him against certain units worked out as chargeable for the disputed months. However, we are of the considered view that the working of chargeable units needs to be rationalized to the extent of the above two months of June 2021 and July 2021.

Therefore, it would be fair and appropriate to revise the billing for the months of June 2021 and July 2021 on the basis of consumption of June 2020 to July 2020.

The units to be charged in this regard are worked out below:

Detection bill for the period June 2021 and July 2021

- A. Total units to be charged as recorded = $530+576 = 1,106$ units
during June 2020 and July 2020
- B. Total units already charged = $288+0 = 288$ units
during June 2021 to July 2021
- C. Net units to be charged as detection bill = $A - B = 1,106 - 288 = \mathbf{818 \text{ units}}$

The Respondent is liable to be charged a revised detection bill for net 818 units for the months i.e. June 2021 and July 2021. The impugned decision is liable to be modified to this extent.

7 Under these circumstances, we hold that:

7.1 the detection bill of Rs.87,848/- for 3,205 units for six months from 12.01.2021 to 12.07.2021 charged to the Respondent is illegal, unjustified, and contrary to Clause 9.1(a) of the CSM-2021 and the same is declared as null and void.

7.2 The Respondent may be charged the revised bill for net 818 units for the months,



National Electric Power Regulatory Authority

i.e. June 2021 and July 2021.

7.3 The billing account of the Respondent may be overhauled after adjusting payments made against the disputed detection bill.

8 The appeal is disposed of in the above terms.

Syed Zawar Haider
Member

Muhammad Irfan-ul-Haq
Member

Abid Hussain
Convener

Dated: 28/05/2022