



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

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No. NEPRA/Appeal/054/POI/2022/ */03/*

September 22, 2022

- |   |  |
|---|--|
| 1. Mst. Farah Naz Ayub,<br>Wd/o. Muhammad Ayub,<br>House No. A-113, Block No. 15,<br>Railway Colony, Federal B. Area,<br>Karachi                                | 2. Chief Executive Officer,<br>K-Electric, KE House,<br>39-B, Sunset Boulevard,<br>DHA-II, Karachi   |
| 3. Asif Shajer,<br>Deputy General Manager,<br>K-Electric, KE House,<br>39-B, Sunset Boulevard,<br>DHA-II, Karachi   | 4. Ms. Tatheera Fatima,<br>Deputy General Manager,<br>K-Electric, First Floor,<br>Block F, Elander Complex,<br>Elander Road, Karachi                             |
| 5. Muhammad Arif Shaikh,<br>Advocate High Court,<br>M.A. Shaikh Law Associates,<br>81-D, 7 <sup>th</sup> Floor, Farid Chamber,<br>Abdullah Haroon Road, Karachi | 6. Electric Inspector/POI<br>Karachi Region-II,<br>Plot No. ST-2, Block-N, North Nazimabad,<br>Near Sarina Mobile Market,<br>Main Sakhi Hassan Cowrangi, Karachi |

Subject: **Appeal Titled K-Electric Vs. Mst. Farah Naz Ayub 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.054/POI-2022

K-Electric Limited

.....Appellant

Versus

Mst. Farha Naz Ayub W/o Muhammad Ayub,  
House No. A-113, Block No.15, Railway Colony,  
Federal B. Area, Karachi

.....Respondent

### APPEAL U/S 38 OF 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:

Mr. Zeeshan Rafique  
Mr. Aryan

### DECISION

1. Brief facts leading to the filing of instant appeal are that Mr. Farha Naz (hereinafter referred to as the "Respondent") is a domestic consumer of K-Electric (hereinafter referred to as the "Appellant") bearing Ref No.LA-785001 with a sanctioned load of 1 kW and the applicable Tariff category is A-1(a). As per Site Inspection Report dated



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03.06.2021 of the inspection allegedly carried out by the Appellant, the Respondent was stealing electricity directly through an extra phase, the connected load was observed as 6.22 kW and the ground + first floors. Therefore, a detection bill of Rs.88,470/- for 3,369 units for six months from 19.11.2020 to 20.05.2021 was charged to the Respondent on the basis of 18% load factor of the connected load.

2. Being aggrieved, the Respondent filed a complaint dated 15.09.2021 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.88,470/- for 3,369 units for six months from 19.11.2020 to 20.05.2021 was cancelled.
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 an extra phase and the connected load was noticed as 6.22 kW during the checking dated 03.06.2021, therefore a detection bill of Rs.88,470/- for 3,369 units for six months from 19.11.2020 to 20.05.2021 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



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POI with regard to the prior notice and submitted that no notice is required to be served to the consumers for conducting a raid in case of the theft of electricity. As per the Appellant, the FIR was not lodged against the Respondent as he accepted 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.

#### 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 13.05.2022, wherein he denied the allegation of theft of electricity levelled by the Appellant, defended the impugned decision and submitted that the impugned decision was rendered after the verification of record and hearing to both parties, hence it does not need any interference by this Authority. The Respondent submitted that the documents submitted by the Appellant are fake, baseless and afterthought, which have been fabricated to penalize him in order to grab the detection bill. As per Respondent, neither mandatory notices under provisions of



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laws i.e. Electricity Act, NEPRA Act 1997, and Regulations made thereunder the Consumer Service Manual (CSM) nor inspection was carried out before the issuance of the disputed bill. The Respondent further submitted that the average consumption recorded @ 204 units/month for the period January 2020 to April 2022 negates the claim of the Appellant with regard to the use of an extra load of 6 kW. The Respondent prayed that the appeal be dismissed with cost.

### 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 site inspection dated 03.06.2021 was conducted in presence of Respondent, wherein he was found using an extra phase, and the connected load was observed as 6.22 kW. The Appellant further contended that the detection bill of Rs.88,470/- for 3,369 units for six months from 19.11.2020 to 20.05.2021 was debited based on the connected load. The Appellant defended the charging of the impugned detection bill and prayed that the same be declared as justified and payable by the Respondent.

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5.2. Learned counsel for the Respondent refuted the allegations of direct theft of electricity and illegal extension of load levelled by the Appellant. Learned counsel for the Respondent argued that no site inspection was carried out by the Appellant, hence there is no justification to recover the impugned detection bill. Learned counsel for the Respondent supported the impugned decision and prayed for 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:

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*"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 K-Electric, not below the rank of Sub Divisional Officer.*

*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) 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.



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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 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, therefore raising the detection bill on the basis of such claim is not justified.

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. 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.





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6.6 In view of the foregoing discussion, it is established that the Appellant having ignored the procedure laid down in Clause 9.1(a) of the CSM-2021, has failed to establish its claim regarding the theft of electricity by the Respondent. Therefore from the actions taken by the Appellant, metering and billing dispute arose, which falls under the jurisdiction of the POI. Therefore the objection of the Appellant in this regard is devoid of force and therefore rejected.

6.7 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 MS. 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 (Amendment) Act, 2018, 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;*



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

6.8 As far as the fate of the detection bill of Rs.88,470/- for 3,369 units for six months from 19.11.2020 to 20.05.2021 is concerned, it is observed that the impugned detection bill was debited on the basis of 18% load factor of the connected load i.e. 6.62 kW. However, the alleged connected load was neither verified by the POI nor the Appellant could regularize the same. To further ascertain the justification of the above detection bill charged @ 776 units per month for the disputed period December 2020 to May 2021 by the Appellant, the following analysis is done:

Detection units charged for the disputed period Dec-2020 to May-2021	= <b>752 units/month</b>
Average units charged for undisputed period before the dispute Dec-19 to May 2020	= $\frac{\text{Total units}}{\text{No. of months}} = \frac{1,032}{6}$ = 172 units/month
Average units charged for undisputed period after the dispute Dec-2021 to May-2022	= $\frac{\text{Total units}}{\text{No. of months}} = \frac{1,328}{6}$ = 221 units/month

The aforesaid analysis of the consumption data even does not support the contention of the Appellant regarding charging the detection bill as per month detection units charged are much higher than the average units charged during the undisputed consumption of corresponding months before and after the disputed period. Hence the detection bill of




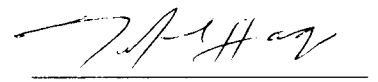
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Rs.88,470/- for 3,369 units for six months from 19.11.2020 to 20.05.2021 charged to the Respondent is unjustified and the same is declared as null and void.

6. Foregoing in view, the appeal is dismissed.

  
Syed Zavar Haider  
Member

  
Abid Hussain  
Convener

  
Muhammad Irfan-ul-Haq  
Member

Dated: 25/05/2022