



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

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No. NEPRA/AB/Appeal/072/ & 089/POI/2022/ 30/

March 18, 2022

- | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|
| 1. M/s. Burraque Flour Mills,
Through its Director,
Muhammad Iqbal Khan,
Plot No. E-146, Phase-II,
Site Super Highway, 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, Government of Sindh,
Plot No. ST-2, Block-N, North Nazimabad,
Near Sarina Mobile Market,
Main Sakhi Hasan Chowrangi, Karachi | |

Subject: **Appeal Titled K-Electric Vs. M/s. Burraque Flour Mills & M/s. Burraque Flour Mills Vs. K-Electric the Decision Dated 14.04.2021 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 17.03.2022, 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.072/POI-2021

K-Electric Limited

.....Appellant

Versus

M/s. Burraque Flour Mills, Through its Director
Muhammad Iqbal Khan, Plot No.E-146, Phase-II,
Site Super Highway, Karachi

.....Respondent

&

Appeal No. 089/POI-2021

M/s. Burraque Flour Mills, Through its Director
Muhammad Iqbal Khan, Plot No.E-146, Phase-II,
Site Super Highway, Karachi

.....Appellant

Versus

K-Electric Limited

.....Respondent

APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 14.04.2021 PASSED BY PROVINCIAL OFFICE OF INSPECTION KARACHI REGION-II, KARACHI

For K-Electric:

Mr. Asif Shajer General Manager
Ms. Tatheera Fatima Deputy General Manager
Mr. Najamuddin Sheikh Deputy General Manager
Mr. Zubair Asif Manager
Mr. Anas Masood Manager

For the Consumer:

Mr. Arsalan Mazhar Manager
Mr. Nawaz Khan



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DECISION

1. As per facts of the case, M/s. Burraque Flour Mills is an industrial consumer of the K-Electric bearing Ref No. BL-005871 with a sanctioned load of 425 kW and the applicable Tariff category is B-2b. The billing meter of the Consumer was checked by the K-Electric on 23.11.2020 and reportedly, its yellow phase was found dead due to the defective Current Transformer (CT) and the connected load was observed as 400 kW. Defective CT of the yellow phase of the billing meter of the Consumer was replaced with a new CT by the K-Electric on 25.11.2020. Thereafter, a notice dated 02.12.2020 was issued to the Consumer, and a detection bill of Rs.3,409,022/- for 181,528 units for the period June 2020 to November 2020 six (6) months was charged to the Consumer by the K-Electric on 16.12.2020 due to 32.87% slowness of the billing meter.
2. Being aggrieved, the Consumer filed a complaint dated 19.01.2021 before the Provincial Office of Inspection, Karachi Region-II, Karachi (hereinafter referred to as the POI) and challenged the above-said detection bill. The matter was decided by the POI vide its decision dated 14.04.2021 (hereinafter referred to as the impugned decision), wherein the detection bill of Rs.3,409,022/- for 181,528 units for the period June 2020 to November 2020 six (6) months was cancelled and the K-Electric was allowed to recover 60,510 units for two (2) months only.
3. Being dissatisfied with the impugned decision, both parties filed cross-appeals before the NEPRA. As the facts and subject matter of the appeals are the same, both have been clubbed and being disposed of through a single/consolidated decision.



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4. In its appeal, K-Electric contended that the billing meter of the Consumer was found 32.87% slow due to yellow defective phase during the checking dated 23.11.2020, therefore the detection bill of Rs.3,409,022/- for 181,528 units for the period June 2020 to November 2020 six (6) months was debited to the Consumer in December 2020. K-Electric defended the charging of the above detection bill with the plea that 6,908 units were even less charged for the disputed period as compared to the reading of the check meter installed at the dedicated PMT of the Consumer. As per K-Electric, the discrepancy of the burnt yellow phase was noticed late due to the COVID-19 and the implementation of Automatic Meter Reading (AMR) in the area, therefore the disputed detection bill was charged to the Consumer to recover the uncharged accumulated units due to burnt CT of yellow phase as per Clause 6.3 of the Consumer Service Manual (CSM). According to the K-Electric, the impugned decision does not contain any reasoning on the basis of whereof the Consumer is to be given any concession and relief. K-Electric finally prayed for setting aside the impugned decision. On the contrary, the Consumer opposed the impugned decision inter alia, on the grounds that the billing meter was checked by the K-Electric on 23.11.2020 and reportedly, its yellow phase was found defective; that he approached K-Electric vide an application dated 24.11.2020 for rectification of the fault in the billing meter; that the K-Electric team visited the premises on 25.11.2020 and replaced the defective CT of the yellow phase on the same day; that notice dated 02.12.2020 of K-Electric was received on 16.12.2020, which was replied on 19.12.2020, followed by a reminder dated 26.12.2020; that a detection bill of Rs.3,409,022/- for 181,528 units for the period June 2020 to November 2020



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six (6) months was debited by the K-Electric without taking into consideration of his reply; that the said detection bill was initially challenged before the Wafaqi Mohtasib vide complaint dated 30.12.2020 which was referred to the NEPRA; that the NEPRA Regional Office Karachi subsequently rejected his complaint with the observation that the case is under adjudication before the Wafaqi Mohtasib, therefore NEPRA cannot intervene the meter; that he filed a complaint before the POI on 19.01.2021 against the above detection bill; that the POI passed the impugned decision without consideration of written arguments and without checking of the billing meter, which is violative of Chapter 4 of the CSM; that the period of slowness if any was from the date of fault noticed i.e. 23.11.2020 till the date of replacement of the defective CT of the yellow phase of the billing meter i.e. 25.11.2020; that no other safe, effective, equally reasonable, advantageous and alternate remedy is available to file the instant appeal against the impugned decision.

5. Notice of the appeals was sent to both parties for reply/para-wise comments, which however were not filed.
6. After issuing notice, hearing in the matter was conducted in the NEPRA Regional Office Karachi on 20.01.2022, which was attended by both parties. At the beginning of the hearing, the K-Electric representatives pointed out that appeal No.089/2021 of the Consumer is time-barred and prayed for its dismissal. K-Electric representative repeated the arguments as contained in memo of the appeal and contended that the detection bill of Rs.3,409,022/- for 181,528 units for the period June 2020 to November 2020 six (6) months was debited to the Consumer



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due to 32.67% slowness observed in the billing meter on 23.11.2020. K-Electric representatives termed the above detection bill as justified and payable by the Consumer with the plea that the fault in the meter existed since long, however, the above detection bill was charged to the Consumer for six months only as per Chapter 9 of the CSM. According to K-Electric, actual consumption could not be charged during the disputed period June 2020 to November 2020, which may be verified through the readings of the check meter installed at the dedicated PMT of the Consumer. As per K-Electric, accumulated readings are recoverable under the provision of Chapter 6 of the CSM. K-Electric finally prayed to allow the entire period of the detection bill. On the contrary, the representative for the Consumer rebutted the stance of K-Electric and stated that neither prior notice was served nor the alleged inspection was conducted in presence of POI or the Consumer. The representative for the Consumer denied the allegation of theft of electricity and submitted that the meter under dispute was functioning correctly, hence there is no justification to charge the detection bill of Rs.3,409,022/- on account of 33% slowness of the billing meter. He further opposed the charging of the above-referred detection bill and stated that the actual consumption was recorded during the disputed period June 2020 to November 2020 as compared to the consumption before and after the dispute therefore the above-mentioned detection bill is liable to be set aside. He opposed the determination of POI for revision of the detection bill for 60,510 units and pleaded for withdrawal of the same.

7. Arguments were heard and the record placed before us was perused. Following are our observations:



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- i. At addressing the preliminary objection of limitation raised by K-Electric, it is observed that copy of the impugned decision dated 14.04.2021 was received by the Consumer on 15.04.2021 and the appeal was filed before NEPRA on 17.05.2021 i.e. after thirty-two (32) days. The appeal is therefore considered to have been filed within thirty (30) days after excluding seven (7) days allowed for dispatch under Regulation 4 (2)(b) of NEPRA (Procedure for Filing Appeal) Regulations, 2012. The relevant excerpt from the Regulation is reproduced below for the sake of convenience:

"Limitation for filing the appeal.—(1) Every appeal shall be filed within a period of thirty days from the date on which a copy of the order against which the appeal is preferred is received by the appellant: Provided that the Authority may, upon an application filed on this behalf, entertain an appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within the period. (2) Subject to anything contrary on the record the copy of the order against which an appeal is filed shall be presumed to have been received by the appellant if: (a) sent by courier, three days following the day it is dispatched by the Receipt and Issue department of the Authority; (b) sent by registered post, seven days following the date it is mailed by the Receipt and Issue department of the Authority; and (c) sent by hand delivery; on the production of the receipt showing the date it is served on the appellant."

The objection of the K-Electric not legally sustainable, hence dismissed.

- ii. The billing meter of the Consumer was checked by the K-Electric on 23.11.2020 and reportedly its yellow phase was found dead due to the defective CT, which was replaced with a new CT on 25.11.2020. The K-Electric charged a detection bill amounting to Rs.3,409,022/- for 181,528 units for the period June 2020 to November 2020 six (6) months to the Consumer due to 32.87% slowness of the



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billing meter in December 2020, which was assailed by him before the POI.

iii. According to Clause 4.4 of the CSM, the Consumer may be charged the detection bill maximum for two months in case of a slow/defective meter. However, in the instant case, K-Electric charged the above detection bill for a period of six months i.e. June 2020 to November 2020 due to a slow meter, which is inconsistent with the ibid clause of the CSM. Moreover, the disputed period of 32.67% slowness in the billing meter was not verified by the POI being the competent forum. Therefore there is no justification to charge the detection bill of Rs.3,409,022/- for 181,528 units for the period June 2020 to November 2020 six (6) months on account of 32.87% slowness of the billing meter, which is liable to be set aside being unjustified and violative of foregoing clause of the CSM.

iv. It is an admitted fact that the defective CT of the yellow phase of the billing meter was found on 23.11.2020, which was replaced with a new CT by the K-Electric on 25.11.2020. The Consumer is liable to be charged the detection bill for two retrospective months i.e. September 2020 and October 2020 and the bill of November 2020 with enhanced Multiplication Factor as per Clause 4.4 of the CSM. However, 32.87% slowness in these months need to be verified from the following analysis of the consumption data:

Disputed period					Corresponding undisputed period				
Month	off-peak	peak	units	MDI	Month	off-peak	peak	units	MDI
Sep-20	56,249	2,357	58606	242	Sep-19	84,393	5,749	90,142	322
Oct-20	66,584	861	67445	235	Oct-19	102,478	2,719	105,197	324
Nov-20	65,812	273	66085	228	Nov-19	84,346	494	84,840	342
Total	188,645	3491	192136	705	Total	271,217	8,962	280,179	988



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From the above analysis, it is confirmed that the billing meter of the Consumer remained 32.87% slow during the disputed months i.e. September 2020 to November 2020 as compared to the undisputed corresponding period of the previous year i.e. 2019. Therefore it would be judicious to charge 32.87% slowness for the disputed months i.e. September 2020 to November 2020 as per the below calculation:

Period: September 2020 to November 2020 (3 months)

A Units to be charged	= <u>Off-peak units already charged</u> (1-32.87% slowness) = $\frac{188,645}{0.6713}$ = 281,014 units	= <u>Peak units already charged</u> (1-32.87% slowness) = $\frac{3,491}{0.6713}$ = 5,200 units
B Total Units already charged	= 188,645 units	= 3,491 units
C = A-B Net chargeable units	= 281,014- 188,645 = 92,369 units	= 5,200- 3,491 = 1,709 units

The Consumer is liable to be charged net (92,369 off peak + 1,709 peak) units as a detection bill for the period September 2020 to November 2020. The Impugned decision is liable to be modified to this extent.

8. Summing up the foregoing discussion, we hold that:

- The detection bill of Rs.3,409,022/- for 181,528 units for the period June 2020 to November 2020 six (6) months charged by the K-Electric to the Consumer on account of 32.87% slowness of the billing meter is illegal, unjustified, inconsistent with Clause 4.4 of the CSM and same along with late payment surcharges is cancelled.



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- ii. The Consumer is liable to be charged the detection bill for (92,369 off peak + 1,709 peak) for the period September 2020 to November 2020.
- iii. The billing account of the Consumer may be revised after making the adjustment of payment made against the above detection bill.

9. In view of the above, both the appeals are disposed of.

Abid Hussain
Member/Advisor (CAD)

Nadir Ali Khoso
Convener/Senior Advisor (CAD)

Dated: 17.03.2022