



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

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No. NEPRA/Appeal/140/2021/ & 161/2021/304

November 21, 2022

- |   |  |
|---|--|
| 1. Syed Muhammad Kaleemuddin,<br>M/s. Super Sea Foods,<br>KS-128, E-1/4, Board Building Yards,<br>West Wharf, District Kemari, 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. Fazle Rabbi Sheikh,<br>Advocate Supreme Court of Pakistan,<br>Dhaka Law Associates,<br>Suite: 5 <sup>th</sup> Floor, Justice Fakhruddin Ebrahim Building,<br>Block 7 & 8, Sindh Muslim C.H.S,<br>Shahrah-e-Faisal, 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. Syed Muhammad Kaleemuddin & Syed Muhammad Kaleemuddin Vs. K-Electric the Decision Dated 14.09.2021 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 17.11.2022, 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 The Appellate Board

In the matter of

### Appeal No.140/POI-2021

K-Electric Limited

.....Appellant

Versus

Syed Muhammad Kaleemuddin, M/s. Super Sea Foods,  
KS-128, E-1/4, Board Building Yards,  
West Wharf, District Kimari

.....Respondent

&

### Appeal No.161/POI-2021

Syed Muhammad Kaleemuddin, M/s. Super Sea Foods,  
KS-128, E-1/4, Board Building Yards,  
West Wharf, District Kimari

.....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 14.09.2021 PASSED BY THE PROVINCIAL OFFICE OF INSPECTION KARACHI REGION-II KARACHI**

### For K-Electric:

Mr. Asif Shajer General Manager  
Ms. Tatheera Fatima Deputy General Manager  
Mr. Masahib Ali Manager  
Syed Asghar Abbas Manager  
Mr. Naveed Irshad Deputy Manager

### For the Consumer:

Nemo

## **DECISION**

1. As per facts of the case, M/s. Super Sea Foods (hereinafter referred to as the "Consumer") is a commercial consumer of K-Electric bearing Ref No.LA-418683







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with a sanctioned load of 3 kW and the applicable Tariff category is A-2(c). The billing meter of the Consumer was initially checked by K-Electric on 04.12.2020 and reportedly, low voltages were observed at the red and yellow phases. Notice dated 07.12.2020 was issued to the Consumer and the impugned meter was again checked by the Mobile Testing Van (MTV) of K-Electric on the same day, wherein it was found 36.15% slow due to defective red and yellow phases and the connected load was observed as 73 kW. Thereafter, a notice dated 14.01.2021 was issued to the Consumer regarding the alleged slowness of the meter. K-Electric issued another notice dated 28.01.2021 to the Consumer for the removal of the illegally extended load beyond the sanctioned load of 3 kW. Afterward, a detection bill of Rs.972,811/- for 36,038 units for six (06) months from 02.06.2020 to 03.12.2020 was charged to the Consumer by the K-Electric due to 36.15% slowness of the billing meter and added to the bill for February 2021.

2. Being aggrieved, the Consumer initially filed C.P. No. D-1735/2021 before the honorable High Court of Sindh, Karachi against the above detection bill. The honorable High Court vide order dated 31.03.2021 directed the Consumer to approach the Provincial Office of Inspection, Karachi Region-II, Karachi (hereinafter referred to as the "POI") for redressal of his complaint.
3. Subsequently, the Consumer filed a complaint before the POI on 21.05.2021 and challenged the above-said detection bill. The premises of the Consumer was inspected by the POI on 29.07.2021 in presence of both parties, wherein two





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generators were found installed, a 35 mm cable was installed to supply the electricity through the K-Electric network, and the connected load was observed as 112.798 kW against the sanctioned load of 3 kW. The matter was decided by the POI vide its decision dated 14.09.2021 (hereinafter referred to as the "impugned decision"), wherein the detection bill of Rs. 972,811/- for 36,038 units for six (06) months from 02.06.2020 to 03.12.2020 was cancelled and the K-Electric was allowed to recover 10,269 units as detection bill for two (2) months only i.e. 02.10.2020 to 03.12.2020. As per the impugned decision, the Consumer was directed to apply for the load extended beyond the sanctioned load, which may be regularized by the K-Electric after completion of codal formalities.

4. 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 are being disposed of through a single/consolidated decision.
5. In its appeal, K-Electric contended that the billing meter of the Consumer was found 36.15% slow due to defective red and yellow phases, and the connected load was noticed as 73 kW during the checking dated 07.12.2020, therefore after issuing notices dated 14.01.2021 and 28.01.2021, the detection bill of Rs.972,811/- for 36,038 units for six (06) months from 02.06.2020 to 03.12.2020 was debited to the Consumer in February 2021. K-Electric opposed the impugned decision mainly on the following grounds that the above detection bill was issued for six (06) months







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against the slowness observed in the meter due to unauthorized extension of load but the POI incorrectly curtailed the period of detection bill for six (06) months to two (02) months only, which is unjustified; that the abnormal voltages were noticed on red and yellow phases of the meter during the checking dated 04.12.2020, therefore the impugned meter was got checked by the MTV of K-Electric on 07.12.2020, wherein it was found 36.15% slow, as such the impugned decision is biased being contrary to the facts of the case; that the Consumer is using heavy unauthorized load due to which the meters were burnt out during the years 2013 to 2021 for which letters were sent to the Consumer for regularization of illegally extended load; that the Consumer got stay from the honorable High Court; that the illegally extended load of the premises was noticed as 112 kW against the sanctioned load of 3 kW during the POI joint inspection dated 29.07.2021; that the POI endorsed 50.05 kW and 40.9 kW MDI, hence the determination of the POI for not considering the Consumer accountable for the discrepancy occurred; that the actual consumption not recorded due to the slowness of the meter; therefore leftover units were charged to the Consumer under the purview of Clause 6.4.2 of the CSM and that the impugned decision is liable to be set aside.

The Consumer opposed the impugned decision, *inter-alia*, on the basis that the inspections dated 04.12.2020 and 07.12.2020 were carried out by the K-Electric without serving notice; that the K-Electric violated the instructions contained in Chapter 4 of the CSM by charging the detection bill beyond two billing cycles in





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the instant case; that K-Electric could not prove that alleged slowness caused by the Consumer, hence he cannot be held responsible for any technical fault in the metering equipment; that no discrepancy was pointed out by the meter reader during the monthly reading dated 03.12.2020; that Clause 4.3.4(c) of the CSM-2021 states that no previous charging shall be made against the Consumer if the meter was found working correctly till the last billing cycle; that the K-Electric did not install a check meter in series with the impugned meter to verify the alleged slowness and that the impugned detection bill of Rs.972,811/- for 36,038 units for six (06) months from 02.06.2020 to 03.12.2020 is liable to be cancelled in the interest of justice with cost.

### 6. Proceedings by the Appellate Board

Notices dated 03.12.2021 and 12.01.2022 were sent to the Consumer and K-Electric for filing reply/para-wise comments to the cross-appeals within ten (10) days. However, both parties failed to submit their replies/para-wise comments.

### 7. Hearing

7.1 Hearing in the matter of the subject Appeals was fixed for 04.03.2022 at Karachi and accordingly, the notices dated 28.02.2022 were sent to the parties (K-Electric and the Consumer) to attend the hearing. During the hearing, the learned counsel for the Consumer filed power of attorney and requested for the provision of a copy of the appeal No.140/POI-2021 for filing reply/parawise comments. Hence, the







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hearing is adjourned till the next date with the direction to K-Electric to provide a copy of the appeal No.140/POI-2021 to the Consumer. The hearing of the appeal was again fixed at Karachi on 11.04.2022 for which notices dated 04.04.2022 were issued to both parties. However on the date of the hearing, no one on behalf of the Consumer could appear before us to plead the case, therefore the hearing was adjourned.

7.2 The hearing in the subject matter was again fixed for 04.07.2022 at NEPRA Regional Office Karachi and accordingly, the notices dated 28.06.2022 were sent to the parties (i.e. the K-Electric and the Consumer). On the given date of the hearing, the representatives for the K-Electric were present while again no one entered an appearance for the Consumer. Since the hearing of the appeal had been adjourned twice and was rescheduled for the third time; therefore, the Appellate Board proceeded in the absence of the Consumer.

7.3 At the beginning of the hearing, the K-Electric representatives pointed out that appeal No.161/2021 of the Consumer is time-barred and prayed for its dismissal. K-Electric representative reiterated the arguments as contained in memo of the appeal and contended that the detection bill of Rs.972,811/- for 36,038 units for six (06) months from 02.06.2020 to 03.12.2020 was debited to the Consumer due to 36.15% slowness observed in the billing meter on 07.12.2020. K-Electric representatives termed the above detection bill as justified and payable by the Consumer with the plea that the fault in the two phases of the impugned meter





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occurred due to illegal extension of the load i.e. 112 kW, which is verified by the POI during the joint inspection dated 29.07.2021. According to K-Electric, actual consumption could not be charged during the disputed period 02.06.2020 to 03.12.2020 due to the malfunctioning of the meter, hence the above detection bill was charged to the Consumer for six months. As per K-Electric, the accumulated consumption is recoverable under the provision of Chapter 6 of the CSM. K-Electric finally prayed to allow the entire period of detection bill.

8. Arguments heard and the record perused. Following are our observations:
- 8.1 While addressing the preliminary objection of limitation raised by K-Electric, it is observed that copy of the impugned decision dated 14.09.2021 was received by the Consumer on 15.09.2021 and the appeal was filed before NEPRA on 18.10.2021 i.e. after thirty-three (33) 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 the 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*







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*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."*

In view of above the objection of the K-Electric is not legally sustainable, hence dismissed.

8.2 As per the record presented by the K-Electric, the meter of the Consumer was checked by Mobile Testing Van on 07.12.2020 whereby it was found slow by 36.15% and the connected load was observed as 73 kW. K-Electric served a notice dated 07.12.2020 to the Consumer regarding the above slowness of the meter requiring the Consumer to explain its position within seven (07) days. As such the alleged slowness was discovered in December 2020 and the dispute of billing pertains to the period 02.06.2020 to 03.012.2020, the matter shall be dealt with under the Consumer Service Manual-2010 (the "CSM-2010"). The Clause 4.4 of the CSM-2010 enumerates the procedure to confirm the slowness in the metering equipment and charge the Consumer accordingly.

8.3 Sub-clauses (b), (c), and (e) of Clause 4.4 of the CSM-2010 being relevant in the instant are reproduced below:

**"4.4 Meter Replacement**

*(b) Should the K-Electric at any time, doubt the accuracy of any metering equipment, the K-Electric may after informing the consumer, install another duly calibrated and tested metering equipment in series with the impugned metering equipment to determine the difference in consumption or maximum demand recorded by the check metering equipment and that recorded by the impugned metering equipment during a fixed*





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*period. If on such comparative test being made the impugned metering equipment should prove to be incorrect, the impugned metering equipment shall be removed from the premises with the written consent of the consumer, and the K-Electric in the absence of any interference or alteration in the mechanism of the impugned metering equipment being detected by the K-Electric shall install "correct meter" without any further delay.*

*(c) Where it is not possible for the K-Electric to install check metering equipment of appropriate capacity in series with the impugned metering equipment, to check the accuracy of the impugned metering equipment as described above, the K-Electric shall, after informing (in writing) the consumer, test the accuracy of the impugned metering equipment at the site by means of Rotary Sub-Standard or digital power analyzer. If incorrect, the impugned metering equipment shall be removed and immediately removed upon settlement/payment of the assessed amount. In case if a correct meter is not available then the multiplying factor shall be charged accordingly till the replacement with a correct meter.*

*(e) The charging of consumers on the basis of defective code, where the meter has become defective and is not recording the actual consumption will not be more than two billing cycles. The basis of charging will be % of the consumption recorded in the same month of the previous year or the average consumption of the last 11 months whichever is higher. Only the Authorized employee of K-Electric will have the power to declare a meter defective. However, the consumer has a right to challenge the defective status of the energy meter and the K-Electric will get the meter checked at the site with a check meter or a rotary sub-standard or digital power analyzer accompanied by an engineer of the metering and testing laboratory free of cost.*

Under sub-clause 'b' above, upon doubt about the accuracy of the metering equipment of the Consumer, the K-Electric was required to install a check meter, after informing the Consumer, to determine the difference in consumption or maximum demand recorded by the check metering equipment and the impugned metering equipment during a fixed period. In case of confirmation of slowness in







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the impugned meter, the same was required to be removed with the written consent of the Consumer.

- 8.4 Alternatively, K-Electric was required to follow the procedure given in sub-clause (c) of Clause 4.4 of the CSM-2010, which stipulates the checking of metering equipment after informing (in writing) the consumer, by means of Rotary Sub-standard or digital power analyzer.
- 8.5 K-Electric has claimed that the metering equipment was checked in presence of the Consumer, however, the Test check proforma dated 07.12.2020 as submitted by the K-Electric is not signed by the Consumer. Needless to say that the essence of clause 4.4 of the CSM-2010 is to enforce transparency by taking consumers on board while testing the accuracy of the metering equipment. Had the stipulated procedure been adopted by the K-Electric in letter and spirit, the dispute could have been avoided.
- 8.6 As far as the claim of K-Electric that the meter burnt due to illegal extension of load, it is observed that K-Electric could not produce any document which could substantiate that any action was taken for regularization of illegal extended load.
- 8.7 Notwithstanding and without prejudice to our observation about the violation of the stipulated procedure; in the interest of justice, the consumption data of the Consumer has been seen to confirm any abrupt variation/drop in the consumption pattern during the disputed period i.e July 2020 to December 2020 in comparison with consumption of corresponding months of the previous year 2019:





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Period before dispute		Disputed period		Increase/decrease (%)
Month	Units	Month	Units	
Jul-19	9406	Jul-20	15344	+63%
Aug-19	10924	Aug-20	11591	+6.1%
Sep-19	12386	Sep-20	7937	-36%
Oct-19	17417	Oct-20	11060	-36%
Nov-19	17930	Nov-20	10424	-42%
Dec-19	17599	Dec-20	7713	-56%

The above comparative statement of the consumption data shows that the impugned billing meter recorded higher consumption during the months i.e. July 2020 and August 2020 as compared to the consumption of corresponding months of the year 2019, however, a considerable decline in consumption of the Consumer noticed from September 2020 onwards vis-à-vis consumption during the same months of previous year i.e. 2019 which may indicate slowness in the metering equipment. It is however noted that the alleged slowness has not been attributed by the K-Electric to any act of the Consumer.

8.8 For charging the Consumer in the case of a slow meter, Clause 4.4(e) of the CSM-2010 is relevant which inter alia, states that the Consumer is liable to be charged the bills for two months in case of a slow meter. In view of the above discussion, the detection bill of Rs.972,811/- as raised by the K-Electric against 36,038 units for six months period is in violation of the above provision of the CSM-2010, hence the same is cancelled.

8.9 36.15% slowness in the billing meter of the Consumer was discovered by K-Electric on 04.12.2020, which is verified from the analysis of the consumption data in the table given at para 8.7 above. Thus, the version of the Consumer in the







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Appeal No.161/POI-2021 for withdrawal of the entire detection bill is not convincing, therefore rejected.

8.10 Based on the consumption pattern, the slowness in the impugned meter is prima facie established; therefore the Consumer is liable to be charged by K-Electric for two months on the basis of 36.15% slowness under Clause 4.4(e) of the CSM-2010. Hence the determination of the POI for revision of the bill for the cost of 10,269 units for two months is in line with the foregoing clause of the CSM-2010.

8.11 The billing account of the Consumer may be revised accordingly.

9. Foregoing in view, we do not find any reason to interfere with the impugned decision, the same is upheld and consequently, both the appeals are dismissed.

Syed Zawar Haider  
Member

Muhammad Irfan-ul-Haq  
Member

Abid Hussain  
Convener

Dated: 17/11/2022

