



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](http://www.nepra.org.pk) E-mail: [office@nepra.org.pk](mailto:office@nepra.org.pk)

No. NEPRA/Appeal/111/POI/2020/ 444

April 22, 2022

1. Muhammad Samin Khan,  
S/o. Qasim Khan,  
R/o. House No. B-115, Block-B,  
Mohallah Hussain De-Selva Town,  
North Nazimabad, 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. Sajjad A. Bapar,  
Advocate High Court,  
Office 7/1, Arkay Square,  
Shahrah-e-Liaqat, New Challi, Karachi

Subject: **Decision of the Appellate Board Regarding Review Petition Filed By Muhammad Samin Khan Vs. K-Electric Against the Decision of the Appellate Board Dated 29.11.2021 In The Matter Muhammad Samin Khan Vs. K-Electric**

Please find enclosed herewith the decision of the Appellate Board dated 22.04.2022, 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

**Application under Section 151 of the C.P.C 1908 filed by Mr. Muhammad Sameen Khan the Petitioner against the decision dated 29.11.2021 of NEPRA Appellate Board in the Appeal No.111/POI-2020**

Muhammad Sameen Khan, S/o Qasim Khan,  
R/o House No.B-115, Block-B, Mohallah Hussain De-Selva Town,  
North Nazimabad, Karachi ..... Petitioner

Versus

K-Electric Limited .....Respondent

For the Petitioner:

Mr. Sajjad Ahmed Bappar Advocate

For the Respondent:

Mr. Asif Shajer General Manager

Ms. Tatheera Fatima Deputy General Manager

Mr. Sohail Sheikh Deputy General Manager

Mr. Masahib Ali Manager

## **ORDER**

1. Briefly speaking, the Petitioner is a commercial consumer of the K-Electric having Ref No.AP-081952 with sanctioned load of 10 kW and the applicable tariff category is A-2(c). The Petitioner filed an application before the Provincial Office of Inspection, Karachi Region-II, Karachi ('the POI') and challenged the arrears of Rs.2,103,738/- till July 2020, which was disposed of by the POI vide decision dated 09.01.2020.
2. Through Appeal No.111/POI-2020, K-Electric assailed the decision dated 09.01.2020 of the POI before the NEPRA. In view of mutual settlement between the



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parties, the NEPRA Appellate Board disposed of the appeal vide decision dated 29.11.2021 (hereinafter referred to as 'the impugned decision').

3. Subsequently, the Petitioner filed an application dated 21.12.2021 before the NEPRA under Section 151 of C.P.C 1908, wherein he *inter alia*, prayed for withdrawal of the undertaking dated 19.11.2021 and for relisting of the above appeal for hearing afresh.
4. After issuing notice, the application was heard at the NEPRA Regional Office Karachi on 11.04.2022, wherein both the parties were in attendance. Learned counsel appearing for the Petitioner repeated the contents of the petition and argued that the undertaking submitted for the mutual settlement be withdrawn and the appeal be restored otherwise the Petitioner will face huge financial loss due to the calculation mistake in the mutual settlement. Learned counsel for the Petitioner stated that he is not authorized to enter into such agreement on behalf of the Petitioner, Reliance in the is regard was placed on the various judgments of the Courts reported as PLD 2017 Sindh 486, 2016 SCMR 40, 1987 CLC 1771 Karachi, 2006 PLD Karachi page 16 and 1993 SCMR 374. Learned counsel for the Petitioner submitted that the compromise between the parties was invalid, hence the impugned decision be set aside and the case be heard afresh. On the contrary, the representative for the K-Electric rebutted the version of learned counsel for the Petitioner and contended that the C.P.C 1908 applies to the Courts instead of the NEPRA. The representative for the K-Electric further contended that the application of the Petitioner was converted into the review petition by the NEPRA and the same has



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been admitted by the Petitioner, hence the same may be treated as the review petition under NEPRA Review Procedure Regulations, 2009 instead of an application under Section 151 of the CPC, 1908. The representative for the K-Electric pointed out that the NEPRA is empowered to adjudicate the review petition against its own decision and has no jurisdiction to entertain the application filed under Section 151 of the CPC, 1908. The representative for the K-Electric submitted that the application of the Petitioner was filed without an affidavit, hence the same should be rejected. The representative for the K-Electric averred that the Petitioner has also challenged the impugned decision before the High Court of Sindh, Karachi vide CP No. D-752/2022, and the NEPRA has been made the party. The representative for the K-Electric prayed that the NEPRA Appellate Board cannot decide the application of the Petitioner as the principle of *res-judicata* is applicable in the instant case.

5. In consideration of the above arguments of both the parties, we hold that since the matter is *sub-judice* before the honorable High Court of Sindh, Karachi wherein the NEPRA Appellate Board is impleaded as the Respondent No.3, therefore, the proceedings before us are adjourned till the disposal of CP No. D-752/2022 by the Honorable High Court of Sindh. Karachi.

Abid Hussain  
Member/Advisor (CAD)

Nadir Ali Khoso  
Convener/Senior Advisor (CAD)

Dated: 22.04.2022