



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

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No. NEPRA/Appeal/008/POI/2023/527

September 18, 2023

1. Kashif Latif,
Advocate High Court,
House No. C-547,
Shah Abdul Latif Bhittai Colony,
Korangi Crossing, Karachi
2. Chief Executive Officer,
K-Electric Ltd,
KE House, 39-B, Sunset Boulevard,
DHA-II, Karachi
3. Asif Shajer,
Deputy General Manager,
K-Electric Ltd, KE House,
39-B, Sunset Boulevard,
DHA-II, Karachi
4. Tatheera Fatima,
Deputy General Manager,
Distribution Legal, K-Electric Ltd,
1st Floor, Block F, Elander Complex,
Elander Road, Karachi
5. POI/Electric Inspector,
Karachi Region-I, Government of Sindh,
Adjacent to City School, PAF Chapter,
Baloch Colony, Shaheed-e-Millat Road,
Karachi

Subject: **Appeal Titled K-Electric Vs. Kashif Latif Against the Decision Dated 02.12.2022 of the Provincial Office of Inspection to Government of the Sindh Karachi Region-I, Karachi**

Please find enclosed herewith the decision of the Appellate Board dated 14.09.2023 (10 pages), regarding the subject matter, for information and necessary action accordingly.

Encl: **As Above**

(Ikram Shakeel)
Deputy Director (AB)

Forwarded for information please.

1. Director (IT) –for uploading the decision on NEPRA website



National Electric Power Regulatory Authority

Before The Appellate Board

In the matter of

Appeal No. 008/POI-2023

K-Electric Limited

.....Appellant

Versus

Kashif Latif Advocate High Court, House No.C-547,
Shah Abdul Latif Bhittai colony, Korangi Crossing, Karachi

.....Respondent

APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 02.12.2022 PASSED BY THE PROVINCIAL OFFICE OF INSPECTION KARACHI REGION-I, KARACHI

For the Appellant:

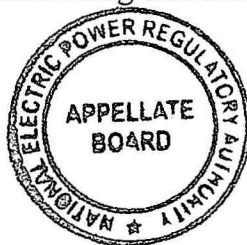
Mr. Asif Shajer General Manager
Ms. Tatheera Fatima Deputy General Manager
Mr. Suhail Ahmed Deputy General Manager
Mr. Masahib Ali Manager

For the Respondent:

Mr. Kashif Latif

DECISION

1. Briefly speaking, Mr. Kashif Latif (hereinafter referred to as the “Respondent”) is a domestic consumer of K-Electric (hereinafter referred to as the “Appellant”) having two connections i.e. first connection bearing Ref No. LA-154807 with sanctioned load of 1 kW and the applicable tariff category is A-1R and second connection bearing Ref No.LC-135943 having sanctioned load of 01 kW and the applicable tariff category is A-1R. The premises of the Respondent was inspected by the Appellant on 05.07.2021 and allegedly the Respondent was found using electricity directly and connected loads of the



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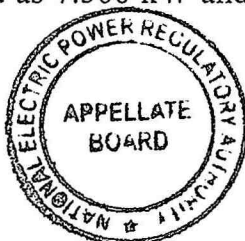


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first and second connections were noticed as 7.566 kW and 3.295 kW respectively. Therefore the Appellant charged two detection bills to the Respondent to account for the theft of electricity, detail of which is given below:

- Detection bill of Rs.95,508/- for 3,262 units for the period from 19.02.2021 to 17.07.2021 (6 months) was debited against the first connection.
- Detection bill of Rs.15,562/- for 692 units for the period from 20.05.2021 to 20.08.2021 (3 months) was debited against the second connection.

2. Being aggrieved with the above actions of the Appellant, the Respondent filed a complaint before the Provincial Office of Inspection Karachi Region-I, Karachi (hereinafter referred to as the "POI") and assailed the above detection bills. Subsequently, the complaint of the Respondent was disposed of by POI vide decision dated 02.12.2022 wherein the detection bills of Rs.95,508/- and Rs.15,562/- debited against the first and second connections of the Respondent respectively were cancelled. The Appellant was directed to waive the reconnection charges and late payment charges if any levied.
3. Subject appeal has been filed by the Appellant against the POI decision dated 02.12.2022 (hereinafter referred to as the "impugned decision") before the NEPRA. In its Appeal, 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 contended that the Respondent was stealing electricity directly during the checking dated 05.07.2021 and the connected load of the first and second connections were noticed as 7.566 kW and 3.295 kW respectively, therefore the



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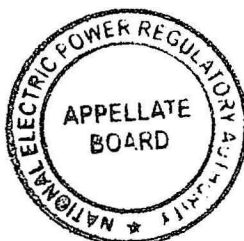


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detection bills of Rs.95,508/- for 3,262 units for the period from 19.02.2021 to 17.07.2021 and Rs.15,562/- for 692 units for the period from 20.05.2021 to 20.08.2021 were debited against the first and second connections respectively. The Appellant further contended that the above detection bill was served to the Respondent after the completion of codal formalities, however, the POI cancelled the above detection bills 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 theft of electricity. As per the Appellant, the FIR was not lodged against the Respondent as he admitted to the theft of electricity and agreed to pay the detection bill. According to the Appellant, the Site Inspection Report and billing statement reflect that the Respondent was involved in the theft of electricity by taking the hook, hence the impugned decision is liable to be set aside.

4. Proceedings by the Appellate Board

Upon the filing of the instant appeal, a Notice dated 01.02.2023 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days, which were submitted on 21.02.2023. In his reply, the Respondent denied the allegation of theft of electricity levelled by the Appellant and submitted that the entire proceedings including the site inspection were fabricated and based on concocted stories. The Respondent further submitted that the detection bills were based on such a high load, which is neither compatible with the existing connected load nor with the consumption



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pattern of the undisputed periods. As per Respondent, the Appellant neither served prior notice nor conducted the site inspection in his presence, hence there is no justification to charge any detection bill. The Respondent defended the impugned decision and prayed for upholding the same.

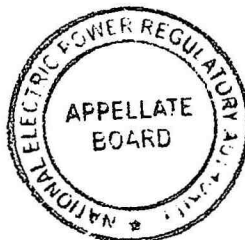
5. Hearing

5.1 Hearing in the matter of the subject Appeal was fixed for 05.05.2023 at Karachi and accordingly, the notices dated 10.04.2023 were sent to the parties (i.e. the Appellant and the Respondent) to attend the hearing. As per schedule, hearing of the appeal was conducted at the NEPRA Regional Office Karachi on 05.05.2023 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 Respondent was found stealing electricity directly during checking dated 05.07.2021, therefore, the detection bills of Rs.95,508/- for 3,262 units for the period from 19.02.2021 to 17.07.2021 and Rs.15,562/- for 692 units for the period from 20.05.2021 to 20.08.2021 were debited against the first and second connections respectively.

5.2 On the contrary, the Respondent denied the allegation of the Appellant regarding the theft of electricity and contended the site inspection report is baseless, hence the above detection bills are not justified. He supported the impugned decision and prayed for upholding the same.

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

6.1 In its appeal, the Appellant contended that POI has no jurisdiction to decide the matter



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in the case of direct theft. Clause 9.1 of the Consumer Service Manual 2021 (the "CSM") specifies the instances of direct theft of electricity by the 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:

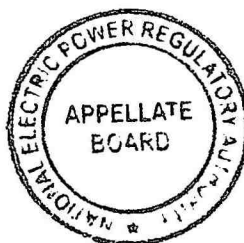
"9.1 DIRECT THEFT OF ELECTRICITY BY REGISTERED/UN- REGISTERED CONSUMERS OF K-ELECTRIC.

9.1.1 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.

9.1.2 All theft cases of direct hooking would be dealt by K-Electric strictly in accordance with relevant sections of the Pakistan Penal Code, 1860 (Act XLV of 1860) and the Code of Criminal Procedure, 1898 (Act V of 1898). 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 proof of theft and the same shall be handed over to the police authorities while reporting to the Police.

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

6.2 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 of the CSM-2021:





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

6.3 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 should have approached the Police for lodging of F.I.R., in the manner specified in the above-referred clause of CSM-2021, along with proof of theft of electricity; which in this case has never been done and claimed that since the Respondent confessed stealing of electricity and ready to pay the detection charges, therefore, there is no need to approach police. On contrary, the Appellant raised the above detection bill against the Respondent without following the procedure specified in Clause 9.1 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.

6.4 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



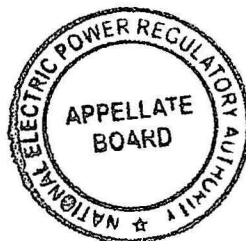


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metering, billing dispute and falls in the jurisdiction of the POI. The objection of the Appellant in this regard is devoid of force and therefore rejected.

6.5 As far as the fate of the detection bills i.e. first detection bill of Rs.95,508/- for 3,262 units for the period from 19.02.2021 to 17.07.2021 and second detection bill of Rs.15,562/- for 692 units for the period from 20.05.2021 to 20.08.2021 debited against the first and second connections respectively is concerned, it is observed that the impugned detection bills were debited based on connected loads, which are higher than the sanctioned loads of the first and second connections. In order to reach just conclusion, joint inspection of the premises was carried out by the NEPRA on 11.07.2023 in the presence of both parties, wherein the connected loads of the first and second connections of the Respondent were observed as 1.49 kW and 3.29 kW respectively. Thus, the Appellant could not prove the alleged connected load i.e. 7.566 kW of the first connection based on which the first detection bill was debited to the Respondent. To further ascertain the contention of the Appellant, the normal average consumption of the corresponding undisputed period is compared with the normal average units recorded during the disputed period of the first detection bills in the below table:

First detection bill: February 2021 to July 2021		
Period	Normal units/month	Detection units/month
Corresponding period before dispute February 2020 to July 2020	=Total units/ No. of Months = 3,288/06 =548 units	-
Disputed period February 2021 to July 2021	Total units/ No. of Months = 1,670/06 =278 units	822 units



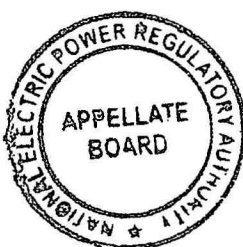


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The above table shows that the detection units charged for the disputed period i.e. February 2021 to July 2021 are much higher than the normal average consumption of the corresponding period before the dispute. It is further observed that the first detection bill was charged beyond three billing cycles to the Respondent 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.

6.6 Therefore, it is held that the first detection bill of Rs.95,508/- for 3,262 units for the period from 19.02.2021 to 17.07.2021 debited against the first connection 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.

6.7 It is an admitted fact that the normal average consumption recorded during the disputed period is lesser than the normal average consumption of the corresponding period before the dispute, which indicates that the impugned meter could not record actual consumption due to some unforeseen reasons. Therefore it would be fair and appropriate to revise the detection bill @ 548 units/month for the disputed period i.e. February 2021 to July 2021 as recorded during the corresponding undisputed period before the dispute i.e. February 2020 to July 2020. The impugned decision is liable to be modified to this extent.



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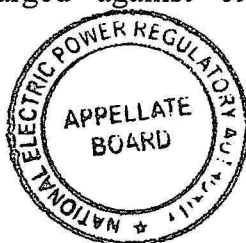
6.8 As regards the second detection bill of Rs.15,562/- charged against 692 units for three months i.e. May 2021 to July 2021 is concerned, the same is debited based on connected load i.e.3.295 kW, which was verified by the NEPRA during the joint inspection dated 11.07.2023. Since the discrepancy of theft of electricity is observed on 05.07.2021, the Respondent is liable to be charged the detection bill maximum for three months i.e. May 2021 to July 2021. However, before allowing the same, consumption data of the second connection of the Respondent is analyzed in the below table:

Second detection bill: May 2021 to July 2021		
Period	Normal units/month	Detection units/month
Corresponding period before dispute May 2020 to July 2020	=Total units/ No. of Months = 0/03 =0 units	-
Disputed period May 2021 to July 2021	Total units/ No. of Months = 570/03 = 190 units	420 units
The corresponding period after dispute May 2022 to July 2022	=Total units/ No. of Months = 948/03 =316 units	-

The above table shows that the detection units charged for the disputed period i.e. May 2021 to July 2021 are much higher than the normal average consumption of the corresponding periods before and after the dispute. Thus, we are of the view that the second detection bill of Rs.15,562/- charged against 692 units for three months i.e. May 2021 to July 2021 is unjustified and cancelled.

7. Under these circumstances, we hold that:

7.1 the first detection bill of Rs.95,508/- for 3,262 units for the period from 19.02.2021 to 17.07.2021 debited against the first connection of the Respondent and the second detection bill of Rs.15,562/- charged against 692 units for three months i.e.



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May 2021 to July 2021 are illegal, unjustified, and contrary to the provisions of the CSM-2021 and the same are cancelled.

7.2 The Respondent may be charged the first detection bill @ 548 units/month for the disputed period from February 2021 to July 2021 as per the normal average consumption of the corresponding period before the dispute and the second detection bill @ 316 units/month for the disputed period from May 2021 to July 2021 as per consumption of corresponding period after the dispute.

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

8. The appeal is disposed of in the above terms.

Abid Hussain
Member

Naweed Illahi Sheikh
Convener

Muhammad Irfan-ul-Haq
Member

Dated: 14-09-2023

