



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

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No. NEPRA/Appeal/115/POI/2022/526

September 18, 2023

1. Muhammad Idrees,
S/o. Abdul Salam,
Plot No. 16C, Malik Anwar Sector 16/B,
North Karachi, 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-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. Muhammad Idrees Against the Decision Dated 25.08.2022 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 14.09.2023 (06 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.115/POI-2022

K-Electric Limited

Versus

.....Appellant

Muhammad Idrees S/o. Abdul Salam,
Plot No.16-C, Malik Anwar Sector 16/B,
North Karachi, Karachi

.....Respondent

APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 25.08.2022 PASSED BY THE PROVINCIAL OFFICE OF INSPECTION KARACHI REGION-II, KARACHI

For the Appellant:

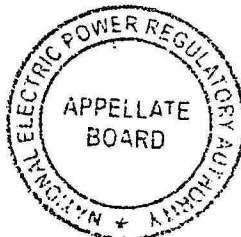
Mr. Asif Shajer General Manager
Ms. Tatheera Fatima Deputy General Manager
Mr. Sohail Sheikh Deputy General Manager
Mr. Masahib Ali Manager
Mr. Amir Masood Manager

For the Respondent:

Mr. Muhammad Idrees

DECISION

1. Brief facts of the case are that Mr. Muhammad Idrees (hereinafter referred to as the "Respondent") was allotted Hook Connection bearing No. 133293. K-Electric (the "Appellant") charged the assessed bills for the period from September 2016 to October 2021. . The Respondent defaulted in making payments of the above-said bills, therefore the arrears increased to the tune of Rs. 5,653,350/- till October 2021.



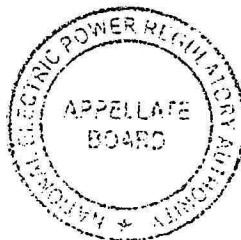
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Subsequently, the Appellant sanctioned the industrial connection on the premises of the Respondent having Ref No.AP-093143 with connected load of 18 kW and transferred the disputed arrears of Rs. 5,653,350/- of hook connection for the period from September 2016 to October 2021 to the billing account of the industrial connection of the Respondent.

2. Being aggrieved with the above actions of the Appellant, the Respondent initially filed a complaint before the Provincial Office of Inspection, Karachi Region-II, Karachi (the "POI") on 30.11.2021 and challenged the arrears of Rs.5,653,350/- till October 2021. Meanwhile, the Respondent assailed the above-said arrears before the honourable High Court of Sindh, Karachi by filing CP.No. D-583/2022. The honorable High Court vide order dated 11.05.2022 referred the matter to the POI for the decision. The complaint of the Respondent was disposed of by the POI vide decision dated 25.08.2022, wherein the arrears of Rs.5,653,350/- pertaining to the period from September 2016 to October 2021 were cancelled and the Appellant was directed to charge the revised bills @ Rs.20,000/-per month for the period from September 2016 to October 2021.
3. Being dissatisfied, the Appellant filed subject appeal before the NEPRA against the decision dated 25.08.2022 of the POI, which was registered as Appeal No.115/POI-2022. The Appellant opposed the impugned decision *inter alia*, on the following grounds; (1) the POI is not authorized to decide the cases of theft of electricity in which meter has been bypassed; (2) the premises of the Respondent was inspected time and again and on all occasions, the Respondent was found using electricity through the use of hook connection; therefore the assessed bills for the period from



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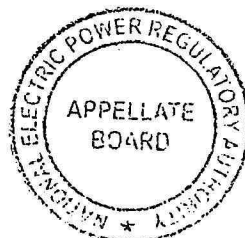


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September 2016 to October 2021 were debited to the Respondent; (3) the Respondent defaulted in making payments of monthly bills, hence the arrears accumulated to the tune of Rs.5,653,350/- till October 2021; (4) the Respondent filed applications of new industrial connection thrice out of which two were rejected; however third application was entertained after submission of the undertaking by the Respondent regarding payment of the dues pertaining to the previous hook connection; (5) the impugned decision was passed without due consideration of facts, hence does not cover the fair justice and the same is liable to be set aside.

4. Notice dated 18.10.2022 for filing a reply/para-wise comments to the appeal was served to the Respondent, which however were not filed.
5. Hearing of the subject appeal was initially conducted at NEPRA Regional Office Karachi on 28.10.2022, which however was adjourned due to non-appearance of the Respondent. After issuing notices dated 10.04.2023, hearing of the appeal was again conducted at NEPRA Regional Office Karachi on 05.05.2023, wherein both the parties were present. The representatives for the Appellant raised the preliminary objection regarding the jurisdiction of the POI and contended that the POI has no jurisdiction to adjudicate upon in the matters of direct theft i.e. no involvement of metering equipment. The POI will come into play if there is illegal abstraction of electricity through an electricity meter. The Appellant further contended that the matter of direct theft of electricity can only be adjudicated by the Civil Court as per the judgment of the Supreme Court of Pakistan reported in *PLD 2012 SC 371*, hence the impugned decision rendered by the POI is unlawful and liable to be dismissed.

The Appellant also referred the decisions of Appellate Board titled "K-Electric vs



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Bride Groom”, “K-Electric vs Samina Yousaf” and “K-Electric vs Anees Ahmed” wherein it was held that POI has no jurisdiction to adjudicate upon complaints where there is direct theft and prayed for acceptance of this appeal.

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

6.1 At first, the preliminary objection of the Appellant regarding the jurisdiction of the POI needs to be addressed. The Respondent was found using hook connection in September 2016 therefore the assessed bills were charged to the Respondent by the Appellant w.e.f. September 2016 and onwards. Subsequently, the Respondent applied for an industrial connection, which was sanctioned by the Appellant, however, the arrears of Rs.5,653,810/- for the period from September 2016 to October 2021 were included in the billing account of the industrial connection of the Respondent.

6.2 This whole scenario shows that the Respondent was involved in the direct theft of electricity for which Clause 9.1(a) of the CSM-2021 is relevant. Therefore, having found the alleged direct theft of electricity 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 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.

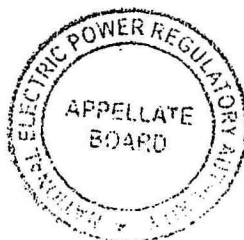


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- 6.3 However, the Appellant instead of taking action against the Respondent as per the above-referred clause of CSM-2021, debited assessed billing to the Respondent, which does not warrant in the eyes of the law. Hence objection of the Appellant regarding the jurisdiction of POI without following the due process for establishing direct theft of electricity as laid down in Chapter 9 of the CSM-2021 has no force and the same is rejected.
- 6.4 Moreover, the Appellant was found negligent while providing the legitimate connection to the premises of the Respondent as the Appellant provided the industrial connection to the Respondent without recovery of outstanding dues accumulated against the hook connection. The Appellant though claimed that the industrial connection was sanctioned after the submission of the undertaking for the payment of outstanding dues of the hook connection but the Appellant did not produce such document to justify their claim.
- 6.5 In view of the above, the Appellants are under obligation to withdraw the arrears of hook connection amounting to Rs.5,653,810/- from the billing account of the industrial connection of the Respondent. The Appellants are further restrained from the disconnection of electricity of the industrial connection of the premises due to non-payment of disputed arrears.
- 6.6 As regards, the impugned decision for revision of the bills @ Rs.20,000/-per month for the period from September 2016 to October 2021 is concerned, the POI has no jurisdiction to decide the fate of billing debited to the Respondent against hook connection. Reliance is placed on the judgment of the honorable Supreme Court of



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Pakistan reported as PLD 2012 SC 371. Hence, the impugned decision is withdrawn to this extent.

6.7 However, the Appellant may approach appropriate forum for recovery of disputed arrears of Rs.5,653,810/- pertaining to the direct theft of electricity.

7. 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

