



Registrar

National Electric Power Regulatory Authority
Islamic Republic of Pakistan

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No. NEPRA/ADG(CAD)/TCD-09/41450-52

November 16, 2020

Chief Executive Officer,
K-Electric Limited, KE House No 39-B,
Sunset Boulevard Phase-II, Defence Housing Authority,
Karachi.

Subject: **DECISION IN THE MATTER OF REPRESENTATION FORWARDED BY PRESIDENT'S SECRETARIAT UNDER SECTION 39 OF THE REGULATION OF GENERATION, TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE FINDINGS OF WAFAQI MOHTASIB IN THE MATTER OF K-ELECTRIC VS. BILAL MUJTABA REGARDING SHIFTING OF PMT**
Complaint # KE-74/02/2018.

Please find enclosed herewith the decision (04 pages) of the Member (Consumer Affairs) regarding the subject matter for further necessary action and compliance within thirty (30) days.

Encl: As above


(Iftikhar Ali Khan)
Director
Registrar Office

Copy to:

1. Mr. Ayaz Jaffar Ahmed,
Director (Finance & Regulation),
K-Electric Limited, KE House No. 39-B,
Sunset Boulevard Phase-II, Defence Housing Authority,
Karachi
2. Mr. Bilal Mujtaba,
R/o C-14, Block No. 5/11, Shah Faisal Colony,
Karachi.



BEFORE THE
NATIONAL ELECTRIC POWER REGULATORY AUTHORITY (NEPRA)
Complaint No. KE-74/02/2018

Mr. Bilal Mujtaba, **Complainant**
R/o C-14, Block No. 5/11, Shah Faisal Colony,
Karachi.

Versus

K-Electric Limited **Respondent**
KE House No 39-B,
Sunset Boulevard Phase-II, DHA, Karachi.

Date of Hearings: 14th July 2018
08th September 2018
19th October 2018
26th March 2019
04th October 2019

Date of Site Inspection: 18th September 2018
09th October 2019

On behalf of:
Complainant: Mr. Bilal Mujtaba

Respondent: 1) Mr. Asif Shajer, DGM (Regulations)
2) Mr. Imran Hanif, Manager (Regulations)

K.D.A.: 1) Mr. S.M. Sajjad, Assistant Executive Engineer K.D.A.

Subject: **DECISION IN THE MATTER OF REPRESENTATION FORWARDED BY**
PRESIDENT'S SECRETARIAT UNDER SECTION 39 OF THE REGULATION
OF GENERATION, TRANSMISSION AND DISTRIBUTION OF ELECTRIC
POWER ACT, 1997 AGAINST THE FINDINGS OF WAFAQI MOHTASIB IN THE
MATTER OF K-ELECTRIC VS. BILAL MUJTABA REGARDING SHIFTING OF
PMT

DECISION

This Decision shall dispose of the complaint filed by Mr. Bilal Mujtaba (hereinafter referred to as the "Complainant") against K-Electric Limited (hereinafter referred to as the "Respondent" or "KE"), under Section 39 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (hereinafter referred to as the "NEPRA Act").

2. Brief facts of the case are that Mr. Bilal Mujtaba (the Complainant) filed a complaint with Wafaqi Mohtasib (Ombudsman)'s Secretariat, Karachi where the case was decided in favor of the Complainant. KE preferred representation before the President's Secretariat (Public), Islamabad. Accordingly, the President's Secretariat referred the matter to NEPRA for disposal. In view of forgoing, the parties were advised to submit their detailed comments under section 39 of the NEPRA Act.

3. In response to above, the Complainant submitted that KE had installed a PMT on his property and requested that KE be directed to pay rent for usage of the premises along with compensation/rent for the period when his plot was being used by KE and he further requested for shifting of the PMT from his property. He further submitted that instead of payment of any compensation/rent, KE demanded Rs. 11,86,667/- for shifting of PMT from his plot. KE vide letter dated March 28, 2018 reported that the electrical infrastructure in the area was installed in open places strictly following all safety and technical standards and obtaining clearance from relevant civic agencies. KE is willing to facilitate the consumer's request; however, the cost of relocation of service connections and obtaining authorization pertaining to the right of way from civic agency will be consumer's responsibility as per provisions of Consumer Service Manual (CSM).

4. In order to resolve the issue, various hearings were held at NEPRA Regional Office, Karachi. During the hearings both parties; KE and the Complainant reiterated their earlier versions. The Complainant informed that the plot was allotted in the year 1974 whereas KE installed the PMT in year 1986. During the hearing, the representative of KE informed that the PMT is installed on the public property and not on the property of the Complainant. KE officials further committed that if it is established that PMT is installed on the Complainant's property then KE will shift the PMT from the plot of the Complainant at its own cost. However, the Complainant was not able to provide any documents from which it could be ascertained that the PMT is installed on the Complainant's property.

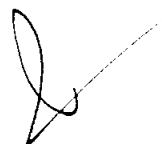
5. Further, a joint site inspection was also carried out in presence of the Complainant and KE officials on September 18, 2018. The Complainant informed that he has left 03 feet from road side due to presence of KE's PMT and claimed that KE's PMT is installed on his property. During the site inspection, KE officials informed that the PMT was installed about 20 years ago. Another hearing was held on October 04, 2019 wherein relevant civic agency i.e. Karachi Development Authority (KDA) was also invited to attend the hearing to confirm whether PMT is situated at the public property or otherwise. Further, another joint site inspection was also carried out in presence of the Complainant, KE and KDA officials on October 09, 2019 to inspect whether the said PMT is installed on the public property or on the property of the Complainant. During the site inspection, the representative of KDA confirmed that the PMT is located over the plot of the Complainant however, no documentary evidence was provided in writing. Accordingly, the Complainant was advised to produce documentary evidence duly verified by KDA to establish that the said PMT is installed on his property however no documents were provided by the Complainant, therefore, proceedings in the matter were closed by this office.

6. Upon request of the Complainant; the issue was taken up with KDA for confirmation that whether the PMT is installed on the Complainant's property or otherwise. In response, KDA vide its letter dated September 01, 2020 has informed that the said plot is being affected by the KE's PMT approximately 5ft inside the plot. The said letter has been verified through NEPRA representatives physically from Karachi Development Authority.


7. The case has been analyzed in detail in light of written/verbal arguments of the parties and the following has been concluded:

- i. The Complainant informed that the plot was allotted in the year 1974 whereas KE installed the PMT in year 1986. The complainant approached for shifting of PMT at a later stage. The issue is time barred and NEPRA cannot intervene in issues in which cause of action is beyond one year time period in the light of NEPRA Rules. The Complainant filed a complaint before Wafaqi Mohtasib (Ombudsman)'s Secretariat, Karachi whereby the case was decided in his favor and KE was directed to pay compensation/rent for usage of area/land of the complainant for occupying and using his plot. However, KE preferred representation before the President's Secretariat (Public), Islamabad against the decision of Wafaqi Mohtasib, accordingly, the President's Secretariat referred the matter to NEPRA for disposal. In view of the said, NEPRA initiated proceedings in the matter and the parties were advised to submit their detailed comments under section 39 of the NEPRA Act.
- ii. The KE had installed the PMT over the Complainant's property bearing Plot No. C-14, Block No. 5/11, Shah Faisal Colony, Karachi.
- iii. According to prevailing rules, a licensee may not lay down or place any electric supply-line or other work in through or against any building, or on, over or under any land not dedicated to public use without the consent of the local authority or of the owner/occupier of the concerned land. In this case, no permission was sought from the owner of the property.
- iv. KE has informed that it installed PMT by obtaining clearance from relevant civic agencies and the PMT is installed outside the boundary wall of the Complainant's premises and in case if it is proved that the PMT is installed inside the premises, KE will shift it at its own.
- v. The revised Consumer Service Manual (CSM) envisages that "If any person constructs a house, shop or a building etc. near /under any existing distribution facility and subsequently applies for relocation of the same, it shall be relocated at the applicant's expense along with provision of right of way of by the applicant. DISCO cannot construct any distribution facility over any house/building etc. without consent of the owner/consumer. If the DISCO constructs distribution facility over any house/building etc. without the consent of the owner/consumer, the DISCO shall relocate the facility at its own cost, on request of the owner/consumer". In this case, the PMT is installed inside the said plot.
- vi. Karachi Development Authority (KDA) has verified that the plot is affected by the PMT of KE.

8. As stated above, decision in the matter has already been given by the Wafaqi Mohtasib in favour of the Complainant and KE preferred representation before the President of Pakistan. Accordingly, the President Secretariat referred the matter to NEPRA for decision. Further, KE representatives in the hearing assured to shift the PMT at its own cost from the Complainant's plot if it is established that the same is installed on the plot of the Complainant.



9. Foregoing in view, it is hereby directed to shift the PMT installed at the Complainant's property on KE's cost at a suitable location in consultation with the Complainant and KDA. Compliance report be submitted within thirty (30) days. This order is applicable in the instant case only and should not be quoted as precedent for any other case because every case has different nature. In future, if any other relevant case is received, the same will be decided on the basis of the circumstances of that case.


(Rehmatullah Baloch)
Member (Consumer Affairs)

Islamabad, November 16, 2020