



National Electric Power Regulatory Authority
ISLAMIC REPUBLIC OF PAKISTAN
Ataturk Avenue (East) Sector G-5/1, Islamabad.
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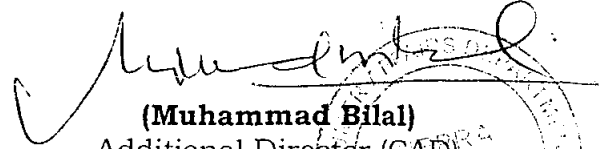
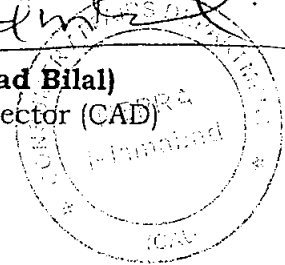
**Consumer Affairs
Department**

TCD.01/101/-2023
March 10, 2023

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 MOTION FOR LEAVE FOR REVIEW FILED
BY K-ELECTRIC LIMITED AGAINST THE DECISION OF NEPRA
CONSUMER COMPLAINTS TRIBUNAL IN THE MATTER OF COMPLAINT
OF M/S AL-TAMEER PROPERTIES REGARDING LOAD ASSESSMENT**
Complaint No. KElectric-KHI-14732-08-22

Please find enclosed herewith the decision of the NEPRA Consumer Complaints Tribunal dated March 10, 2023 regarding the subject matter for necessary action and compliance within thirty (30) days.


(Muhammad Bilal)
Additional Director (CAD)


Encl: As above

Copy to:

- 1) Mr. M. Imran Hussain Qureshi
Chief Regulatory Affairs Officer & Govt. Relations Officer,
K-Electric Limited Office, 56 A, Street No. 88, G-6/3,
Islamabad.
- 2) Mr. Abid Hussain, Advisor,
Provincial Office Consumer Affairs,
Office # 101, 1st Floor,
Balad Trade Centre, Aalamgir Road,
B.M.C.H.S., Bahadurabad,
Karachi.
- 3) M/s. Al Tameer Properties,
Office No. M-3, Falaknaz Arcade,
Opposite Airport Police Station, Main Shahra e Faisal,
Karachi.
Ph: 021-34696061



BEFORE THE
NATIONAL ELECTRIC POWER REGULATORY AUTHORITY
(NEPRA)

Motion for leave for review in Complaint No. KHI-14732-08-22

K-Electric Limited (KE)

KE House No. 39-B,
Sunset Boulevard Phase-II, Defense Housing Authority
Karachi.

.....

Petitioner

VERSUS

M/s Al-Tameer Properties

Office No. M-3, Falaknaz Arcade
Opposite Airport Police Station, Main Shahra-e-Faisal
Karachi.

.....

Complainant

Date of Hearing: January 31, 2023

On behalf of

Petitioner:

- 1) Mr. Asif Shajer (GM Regulation)
- 2) Mr. Fareed Ahmed (GM)
- 3) Mr. Jan Mohsin Aftab (DGM Corporate Litigation & Legal Affairs)

Complainant:

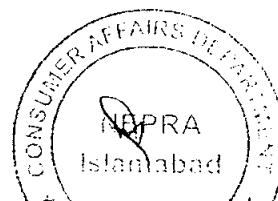
- 1) Mr. Fayaz Ilyas, CEO M/S Al-Tameer Properties

Subject: DECISION IN THE MATTER OF MOTION FOR LEAVE FOR REVIEW FILED BY K-ELECTRIC LIMITED AGAINST THE DECISION OF NEPRA CONSUMER COMPLAINTS TRIBUNAL IN THE MATTER OF COMPLAINT OF M/S AL-TAMEER PROPERTIES REGARDING LOAD ASSESSMENT

DECISION

Through this decision, a motion for leave for review filed by K-Electric Limited (hereinafter referred to as the "K-Electric" or "Petitioner") dated November 01, 2022 against the decision of NEPRA Consumer Complaints Tribunal dated September 23, 2022 in the matter of complaint filed by M/s Al-Tameer Properties (hereinafter referred to as the "Complainant" or "Sponsor") against KE, under Section 39 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (hereinafter referred to as the NEPRA Act), is being disposed of.

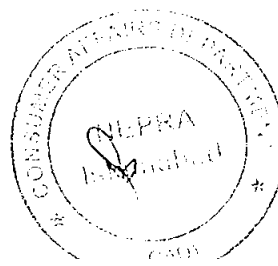
2. Brief facts of the case are that a complaint was received from the Complainant wherein it was stated that they have completed successful projects in Karachi and most of the projects are connected by chance and not by planning. K-Electric makes assessment of load of such



projects in totality rather than individually which results in higher assessment of load. In this regard, the Complainant mentioned case ID No. 0910900881. The Complainant added that some societies have handed over plots to the clients at present and such societies are only 5% occupied, therefore, the housing schemes be provided partial load from nearest feeders. Moreover, the Complainant raised some general issues pertaining to hiring of consultants, assessment of load on urban / rural area basis and assessment of load on Marla/Square Yard basis.

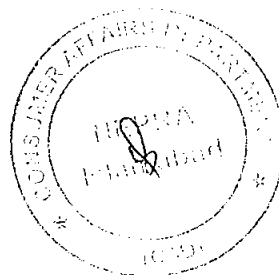
3. The issue was taken up with K-Electric limited. In response, KE reported that it has been observed over the period of time in several instances that the developers initiate a project in phases not providing the complete picture to avoid feeder charges, grid sharing charges, grid land cost etc. Further, various developers launch societies/housing schemes with different names but under the same ownership to avoid the scheme charges as prescribed in NEPRA Consumer Service Manual (CSM). KE further informed that estimate is prepared in the initial stage with respect to the requirement of the scheme and the entire area master plan is prepared once, which must be followed in a uniform manner. In case of partial energization requirement, the entire cost of the scheme has to be paid in full in order to avoid any abandoned scheme cases in future. KE added that it makes assessment of load as per provisions of CSM.

4. In order to proceed further, a hearing was conducted on August 31, 2022 at NEPRA Head Office, Islamabad which was attended by the representative of the Complainant in person and K-Electric via video link. The Complainant submitted that they purchased a piece of land in June 2005 measuring 88.09 acres situated at Deh Malh Karachi and LOP of the same was approved by Malir Development Authority on February 01, 2007 and at that time there was no intention to develop another project. They developed the project in the name of Al-Tameer Properties, "the Dreams". They purchased another piece of land measuring 38 acres 28 Ghuntas in the year 2007 and layout plan of the same was approved by the Malir Development Authority on April 14, 2010. They developed this project in the name of Al-Tameer Properties, the "Dreams Phase-I, Sector N". They approached K-Electric for provision of connection in the year 2019 for Al-Tameer Properties, "the Dreams" vide Case ID No. 0910900881 and K-Electric assessed the load as 13460 kW. In this regard, an estimate was issued on December 17, 2019 amounting to Rs. 259.057 million. The same was not paid due to financial constraints. They applied to K-Electric for electrification of Al-Tameer Properties, the Dreams Phase-I, Sector N, vide Case ID No. 110932858 on March 16, 2021. K-Electric has considered their both projects in totality and has demanded piece of land for construction of grid station. K-Electric representative in their written / verbal arguments submitted that they are in compliant with the provisions of CSM read with clarification issued by NEPRA on January 19, 2022 which provides that if there are different housing schemes having different names approved by the concerned civic agency, adjacent to each other, belonging to same owner / companies / partner; the load of such schemes is to be considered/assessed in totality. In view of the said, K-Electric has considered both projects as a single and load of the project has been assessed above 10 MW which requires provision of piece of land by the sponsors to K-Electric. Regarding partial load approval, K-Electric reported that the estimate is prepared in the initial stage with respect to the requirement of the scheme and the entire area master plan is prepared once, which must be followed in a uniform manner. In case of partial energization requirement, the entire cost of the scheme has to be paid in full in order to avoid any abandoned scheme cases in future. Regarding the other issues raised by the Complainant, K-Electric informed that they are following the procedure laid down in CSM.



4. The case was examined in detail in light of record made so available by both the parties, arguments advanced during the hearing and applicable law. The following was concluded:

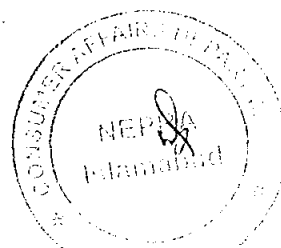
- i. The Sponsor purchased a piece of land in June 2005 measuring 88.09 acres situated at Deh Malh Karachi and LOP of the same was approved by Malir Development Authority (MDA) on February 01, 2007. The Project was developed in the name of Al-Tameer Properties, "the Dreams".
- ii. The Sponsor purchased another piece of land in the year 2007 and the layout plan of the same was approved by Malir Development Authority on April 14, 2010. They developed this project in the name of Al-Tameer Properties, the "Dreams Phase-I, Sector N".
- iii. The Sponsor approached K-Electric for electrification of Al Tameer Properties, "the Dreams" vide case ID No. 0910900881. In this regard, an estimate was issued on December 17, 2019 amounting to Rs. 259.047 million which was not paid by the Sponsor.
- iv. The Sponsor later applied to K-Electric for electrification of Al Tameer Properties, "the Dreams Phase-I, Sector N" vide case ID No. 110932858 on March 16, 2021.
- v. CSM envisages that in case of Housing societies/schemes having load above 10 MW to 20MW; DISCO may provide connection from its own grid station subject to availability of capacity/load in its grid and with mutual consent. In such case DISCO shall recover 100% grid sharing charges including transmission line charges and a piece of land i.e. minimum 12 Kanal for GIS and 20 Kanal for AIS within the housing scheme/ society.
- vi. K-Electric has considered their both projects in totality and has demanded for a piece of land for construction of grid station. K-Electric was of the view that it is following the provisions of Consumer Service Manual (CSM) read with clarification issued by NEPRA on January 19, 2022 which provides that if there are different housing schemes having different names approved by the concerned civic agency, adjacent to each other, belonging to same owner / companies / partner; the load of such schemes is to be considered in totality.
- vii. KE added that the Sponsor did not pay the estimate issued for the 1st project. Later, the Sponsor again approached and applied for provision of connection for 2nd project therefore the load was assessed in totality for both previous and later project. In response, the Sponsor submitted that estimate issued by KE was on higher side as KE assessed load of single storey houses as per the criteria prescribed in CSM for double storey houses.
- viii. The ground taken by K-Electric was not correct as NEPRA issued the said letter to stop the sponsors from misuse of provisions of Consumer Service Manual (CSM). However, in the instant case, both pieces of land were purchased in different times and also the concerned civic agency approved the LOPs in the year 2007 and 2010. Moreover, the electrification request of Al-Tameer Properties, "The Dreams" was registered in the year 2019 vide case ID No. 0910900881 and for Al-Tameer Properties, the Dreams Phase-I, Sector N; the request for electrification was registered on March 16, 2021 vide Case ID No. 11093285 much before the issuance of NEPRA's clarification dated January 19, 2022. In view of the said, the NEPRA's letter dated January 19, 2022 was not applicable in this case.



5. Accordingly, K-Electric was directed vide decision dated September 23, 2022 to treat both cases separately and issue demand notice to the sponsor for electrification as per provisions of Consumer Service Manual.

6. Being aggrieved with the decision of NEPRA Consumer Complaints Tribunal, K-Electric filed a motion for leave for review under NEPRA (Review Procedure) Regulations, 2009 vide letter dated November 01, 2022. KE in its review has inter alia submitted as under:

- i. The boundary wall separating both the projects i.e. the Dreams & the Dreams, Phase-I, Sector N constructed on the pretext of the separate societies has now been removed which have apparently amalgamated both the projects. The load assessment of the two separate projects is only done on combined basis if they are amalgamated on ground/ or situated adjacent to each other having same ownership in line with the practices followed by all DISCOS since long and as per the clarification issued by NEPRA dated January 19, 2022.
- ii. The Complainant's suggestion that partially developed projects should be energized through an ad-hoc arrangement from the nearest available network without assessing the Ultimate Load Requirement of the project is not justified as it will result in abandoned schemes later on with illegal extension of network.
- iii. At the time of receipt of New Connection (NC) application in the year 2019, no information was available with KE that the owner of both adjacent plots is same as no application was received for electrification of the other plot and therefore, KE intimated the owner of "The Dreams" to construct a boundary wall between the two plots to isolate the project. Accordingly, the two plots were isolated and therefore, the load of The Dreams project was assessed individually. KE added that subsequently, in March 2021 the same applicant/owner submitted another new connection application for the adjacent project namely Al-Tameer Properties, the Dreams Phase-1 Sector N vide case ID 110932858 where it transpired that the owner of both the projects is the same. Further, during the survey by KE team it transpired that the boundary wall separating the two projects had been removed again and both projects have been amalgamated on ground.
- iv. KE further added that the spirit of clarification of NEPRA was to stop misuse of provisions of CSM by the sponsor(s), whereas, the said Complainant/applicant/sponsor intends to grossly misuse the provisions of CSM by avoiding Grid Sharing Charges/land requirement for Grid Construction. KE contested that owner of both the lands are same and as such the combined load assessment by KE is fully compliant with the clarification issued by NEPRA. KE submitted that approval of LOP in different years for individual assessment of load is not valid as it has no nexus with the clarification issued by NEPRA for combined load assessment on the basis of same ownership of adjacent plots.
- v. KE further submitted that NC for The Dreams was registered in 2019 and NC for The Dreams Phase-I was registered in March 2021, the clarification of NEPRA issued on January 19, 2022 does apply in this case as the projects have not yet been executed and are at the initial stage. Further, the case of new connection of The Dreams Phase-I registered in March, 2021 was under consideration and the requirement of Grid Sharing Charges/provision of piece of land was raised in accordance with the clarification issued by NEPRA.



7. K-Electric's review motion was admitted for hearing. Accordingly, a hearing was held on January 31, 2023 which was attended by KE representatives in person and the Complainant via video link. During the hearing KE reiterated its earlier version. The Complainant also reiterated his earlier stance and further submitted that KE has assessed higher load than actual

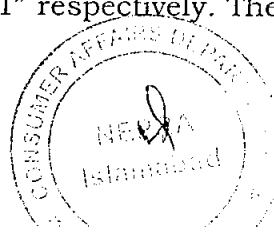
8. The case has been analyzed in detail in light of verbal/written arguments of both the parties, documents made so available on record and applicable law. Following has been concluded:

- i. Both projects belong to the same owner(s). The approval for layout plans of both the projects were granted by the concerned civic agency set apart by a period of almost three years which constitutes established rights of being separate projects.
- ii. The registration of electricity case by K-Electric on the dates isolated through more than two years also supports the logical reasoning of both the projects being distinguished from each other. Moreover, the request for electrification was submitted to K-Electric much before the clarification issued by NEPRA on January 19, 2022 therefore, the said clarification does not have any legal bearing to be applied in this case.
- iii. Furthermore in order to physically separate both the projects, the boundary wall between both the projects should be full scale as also argued by K-Electric.
- iv. According to CSM read with NEPRA's clarification dated March 26, 2021 issued regarding revised CSM, the clause 1(IV) stipulates that the criteria for load assessment only corresponds to houses with double storey (ground+1) and the same shall be taken as half for single storey which essentially needed to be considered by K-Electric for issuance of an estimate in this case.

9. In view of the forgoing, we have perused the case, written/ verbal arguments of the parties and the applicable law. Following has been concluded:

- i. The Sponsor purchased land for two projects in different times i.e. year 2005 & 2007.
- iii. Layout plans of both project are separate & were approved by MDA in different times i.e. February 01, 2007 & April 14, 2010.
- iv. The Sponsor applied for connection for his first project in the year 2019 and for second in the year 2021 and at that time there was no such policy for evaluation of load in totality.
- v. Later, a clarification was sought by HESCO and not by KE; regarding assessment of load for adjacent projects.
- vi. Accordingly, a clarification was issued by NEPRA on January 19, 2022. In this case, applications for electrification for both projects were registered with KE earlier to the said clarification of NEPRA therefore, it cannot be applied retrospectively.
- vii. KE is also having benefit by charging grid sharing cost from minimal load whereas earlier KE was charging grid sharing cost above 1 MW.

10. In light of discussion, it has been clear that both projects under discussion are separate and were approved by Malir Development Authority in the year 2007 and 2010. The clarification was sought by HESCO which was clarified vide letter dated January 19, 2022, therefore, this clarification can only be applied from its date of issuance and not retrospectively. In this case, the electrification requests were registered with K-Electric in the year 2019 and in the year 2021 for "The Dreams" & "The Dreams, Phase 1" respectively. The reason behind



issuance of clarification was to avoid misuse of charging feeder cost / grid sharing charges etc. The sponsor is of the view that K-Electric has assessed the load of their projects on higher side, therefore the demand notice(s) were not paid and considering both projects amalgamated will cause additional burden to the allottees. Foregoing in view, this office is of the opinion that both projects are separate and are required to be dealt separately. The Sponsor has to construct/maintain a full scale boundary wall as pointed out by KE during the hearing, between both the projects i.e. the Dreams and the Dreams Phase -I, Sector N.

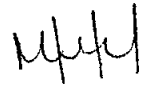
11. A motion seeking review of any order is competent only upon the discovery of new and important matter of evidence or on account of some mistake or error apparent on the face of record. The perusal of the decision sought to be reviewed clearly indicates that all material facts and representations made were examined in detail and there is neither any occasion to amend the impugned decision nor any error inviting indulgence, as admissible in law, has been pointed out. Therefore, we are convinced that the review would not result in withdrawal or modification of the impugned decision. Hence, the motion for review is dismissed and the decision dated September 23, 2022 is up held.

12. Compliance report in the matter be submitted within thirty (30) days, positively.



(Lashkar Khan Qambrani)

Member Consumer Complaints Tribunal
Director (CAD)



(Moqees ul Hassan)

Member Consumer Complaints Tribunal
Assistant Legal Advisor (CAD)



(Naweed Illahi Shaikh)

Convener Consumer Complaints Tribunal
Director General (CAD)

Islamabad, March 10, 2023