

THE ENERGY AND WATER UTILITIES REGULATORY
AUTHORITY ACT

(CAP. 414)

RULES

(Section 40(1))

ENERGY AND WATER UTILITIES REGULATORY AUTHORITY
(RULES OF PROCEDURE), RULES 2006

PART I

PRELIMINARY PROVISIONS

1.-(1) These Rules may be cited as the Energy and Water Utilities
Regulatory Authority (Rules of Procedure), Rules 2007.

Citation

(2) These Rules shall govern the actions, rights and obligations of the
Energy and Water Utilities Regulatory Authority (EWURA) and the
public and private participants in the regulated sectors.

2.-(1) In these Rules, unless the context other wise requires—

Interpre-
tation

“Act” means the Energy and Water Utilities Regulatory Authority Act;
“Authority” means the Energy and Water Utilities Regulatory Authority
established under section 4 of the Act or as known by its acronym
‘EWURA’;

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“Board” means the Board of Directors of the Authority;

“Chairman” means the Chairman of the Board of Directors of the
Authority;

“Director-General” means the Director-General of the Authority;

“interested person” means any person with financial or social interest in
a proceeding before the Authority;

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“Interrogatory” means a formal written question submitted by the Authority or by one Party to another and required to be answered on oath;

“Licence” means a valid and legally binding authorization issued by the Authority to provide a Regulated Service;

“Licencee” means the holder of a Licence to provide a Regulated Service;

“Member” means a member of the Board;

“Party” means a party to a Proceeding before the Authority and Parties shall be construed accordingly;

“person” means a natural or a public body, company, or association or body of persons, corporate or unincorporate;

“petition” means an application, a complaint, an appeal, a reply, a rejoinder, supplemental pleadings, and any document required by law to be submitted to the Authority in relation to the proceedings before the Authority;

“petitioner” means a person who has submitted a Petition;

“proceedings” means a complaint, an inquiry, rulemaking process or other proceedings of any nature that the Authority may hold in the discharge of its functions under the Laws;

“Secretary” means the Secretary of the Board;

“regulated sector” include electricity, petroleum, natural gas, or water and sewerage;

“regulated service” means any service supplied or offered for supply in a Regulated Sector;

“Tariff” means any rate charged to customer for the sale or provision of regulated goods or services.

(2) Words or expressions occurring in these Rules which are not defined shall bear the same meaning as in the Act or the regulated sector legislation.

(3) Where procedures are not provided for in these Rules, the Authority may do whatever is necessary and permitted by law to enable it to effectively adjudicate on a matter before it.

PART II

INVESTIGATION AND COLLECTION DATA

3.-(1) The Authority may, at any time, investigate or require information with respect to any matter within the purview of the Authority.

Investigation and collection of data

(2) The Authority may issue directions to any person to provide the Authority with any books, accounts, records and such other information as may be necessary in the execution of its functions.

(3) If any information obtained as specified in these Rules appears to the Authority to be insufficient or inadequate, the Authority may give directions for furnishing of additional information.

(4) In connection with the discharge of its responsibilities the Authority may direct a notice of inquiry to be issued and proceed with the matter in accordance with these Rules.

(5) The Authority may take the assistance of any Person, as it may consider necessary in the collection or authentication of data and shall determine the terms and conditions for engagement of such Person.

4. If a report or information obtained by the Authority is relied upon by the Authority to form its opinion in any Proceeding, the Authority shall give the Parties to the Proceeding a reasonable notice to review the findings and opportunity for making comments on the report or information.

Public Comment

PART III

PROCEEDINGS BEFORE THE AUTHORITY

5. The Authority may from time to time hold such proceedings as it deems appropriate in the execution of its functions.

Proceedings before the Authority

6.-(1) All Petitions shall be filed in hard copy, typewritten or printed legibly or in such other manner as the Authority may determine.

Petition and pleadings before the Authority

(2) Notwithstanding the provision of subrule (1), petitions may be filed electronically or in such other manner as the Authority may determine.

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Electronic
access to
proceedings

7. The Authority may develop such procedures as it deems appropriate for the electronic filing of petitions and submission of information with the Authority and for access to public information through a website maintained by the Authority for this purpose.

Initiation
of
Proceedings

8.-(1) The Authority may initiate any proceedings on its own motion or on a petition filed by any affected person.

(2) Where the Authority initiates Proceedings under subrule (1) it shall do so by way of a notice pursuant to the procedures established by the Authority.

Presentation
and
scrutiny
of
pleadings

9.-(1) The Authority may reject any petition which does not conform to the provisions of these Rules giving reasons for its decision.

(2) The Authority shall not reject a petition for defect without giving an opportunity to the petitioner to correct the defect within a specified time. The Authority shall advise the petitioner in writing of the defects in the petition filed.

(3) As soon as the petition and all necessary documents are lodged and the defects and objections, if any, are cured or withdrawn and the petition has been scrutinized, numbered and registered, the petition shall be admitted by the Authority.

(4) The Authority may admit a petition for hearing without requiring the attendance of a party.

(5) The Authority shall not reject any petition without giving the Petitioner an opportunity to be heard.

(6) If the Authority admits a petition, it may give such orders and directions as it deems necessary for service of notices to the respondent and other interested persons and for the filing of comments on the Petition in such form as the Authority may direct.

Service of
notices
and
processes
issued by
the
Authority

10.-(1) A notice of petition accompanying the petition and all supporting documents shall be served on the respondent at his or its last known address or through publication in a newspaper of wide circulation.

(2) Where any petition is required to be made public, it shall be published as the Authority may determine.

11.-(1) A Respondent shall file a reply to a petition within twenty one (21) days from the date the notice is served on the Respondent.

Filing of
reply,
opposition
and
objection

(2) The respondent shall serve a copy of the reply together with supporting documents on the petitioner or his authorized representative and file proof of such service with the Authority at the time of filing the reply.

(3) Any person to whom a notice of inquiry on a petition is issued and who intends to oppose or support the petition shall file comments within such period and in such a manner as may be determined by the Authority.

(4) Where the respondent states additional facts that the Authority determines to be necessary to resolve the matter, the Authority shall allow the petitioner to file a rejoinder.

12.-(1) The Authority shall determine the manner, place and time of any hearing.

Hearing
of the
matter

(2) The Authority may decide on a matter on the petition or may require parties to produce evidence in the matter.

(3) The Authority may direct parties to file written submissions in the matter.

(4) The Authority may decide on a matter without a hearing.

(5) If the Authority decides not to hold a hearing, the Authority shall provide interested parties the opportunity to file written comments for consideration by the Authority.

(6) The Authority shall on its own motion or at the request of a Party direct a pre-hearing settlement of the matter.

(7) The pre-hearing settlement of any matter shall be carried out pursuant to the procedures prescribed by the Authority.

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- Power of the Authority to call for further documentation
- 13.-(1) The Authority may require the parties to produce such other evidence as it considers necessary.
- (2) The Authority may direct the summoning of witnesses and the production of any document, requisition of any public record from any office, examination by the Authority of the books, accounts or other documents or information in the custody or control of any person which the Authority considers relevant for the matter.
- Expert Opinion and Consultation
- 14.-(1) At any stage of a proceeding the Authority may refer any question to any person whom the Authority considers qualified to provide expert advice.
- (2) Notwithstanding the provision of subrule (1) the Authority shall not be bound by any such advice.
- (3) At any stage of a proceeding the Authority may consult any person with regard to any information or document before it.
- Decision of the Authority
- 15.-(1) The Authority shall issue an order announcing its decision on every Proceeding that comes before it.
- (2) The reasons given by the Authority in support of an order shall form a part of the order and shall be available for inspection.
- (3) All orders of the Authority shall be communicated to the parties in the proceedings under the signature of the Chairman, the Director General or the Secretary.
- Review
16. The Authority may review its decision on any petition upon receipt of new or additional fact that is vital or was withheld by a party that had it been known when considering the petition, the Authority would have arrived at a different decision.
- Inspection of records and supply of certified copies
- 17.-(1) Records of every proceeding, except those parts determined by the Authority to be confidential materials, shall be open to inspection by any person.
- (2) Any interested person shall be entitled to obtain electronic and or certified copies of Pleadings, an order, a decision, directions and reasons

in support of the decision given by the Authority subject to payment of a fee and complying with other terms which the Authority may direct.

18.-(1) The fees payable under these rules shall be published and may be revised from time to time.

Fees and remittances

(2) Fees and remittances to the Authority shall be paid by money order, bank draft or cash.

(3) All cash shall be paid at the counter of a bank designated by the Authority.

19.-(1) The Authority shall establish the methodologies and procedures for determining Tariffs and calculating the licensee's revenue requirement.

Tariff determination

(2) The Authority may, at any time and upon issuance of not less than 30 days notice to all interested persons, add, amend, alter, revise, substitute or otherwise change the methodologies and procedures as it considers appropriate in respect of the establishment of Tariffs in any Regulated Sector.

(3) The Authority may at any time establish the terms and conditions determining the licensee's revenue, prices and Tariffs.

20.-(1) No revision to any Tariff shall be effective unless notice of a proposed change is given to the Authority and unless the proposed change is approved by the Authority.

Tariff changes by Licensee

(2) As soon as practical, but no later than twenty-one (21) calendar days from the date of any application to change any Tariff, the Authority shall issue a notice of application to all interested persons.

(3) The Authority may determine the procedures to be followed in a Tariff change case.

(4) There shall be three Tariff change procedures namely-

- (a) Tariff changes pursuant to an Order of the Authority;
- (b) a simple Tariff change; or
- (c) a general rate case.

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Filing of
information

21.-(1) The Authority may require a Licencee to file any information as it deems necessary, whether or not a change in Tariff is expected.

(2) The Licencee shall, every year, provide to the Authority the details of its calculation for the ensuing financial year of the expected aggregate revenue from charges which the Licencee believes to have been permitted to recover in accordance with the terms of the Licence, including the latest approved tariffs attached thereto, the expected aggregate demand and the cost of service to meet such demand and the revenue requirement to support such demand. The Authority may further order the annual filing of asset valuations and any other information deemed appropriate.

(3) In the event the licensee provides all the requisite information in the manner prescribed by the Authority and furnishes all other or further information as the Authority may direct, the Authority shall notify the licensee of its decision to consider the application.

(4) The Authority may order the licensee to file a petition to revise its Tariffs.

Content
of
Petition
to Revise
Tariffs

22.-(1) In filing a petition for Tariff review, a petitioner shall submit all such information required for Tariff determination under paragraph 21.

(2) A petition for Tariff review shall include all additional and further information applicable to such Tariff review and shall state reasons for such a petition.

(3) A petition for Tariff review shall be submitted to the Authority in five copies.

(4) Notwithstanding the provisions of sub paragraphs (1), (2) and (3), the Authority may direct such number of copies of the application for Tariff review to be filed in the manner and form that the Authority deems necessary, including electronic filing of the petition, information or data relevant to the petition.

(5) The Authority may request further information from a Licencee at any time during a Tariff revision procedure.

(6) The Authority shall have access to complete information before approving or rejecting a petition to revise a Tariff.

(7) The Tariff allowed and the Licensee's revenue requirement permitted in any financial year may at any time be adjusted by the Authority on its own motion or on application by the Licensee.

(8) In any Tariff to be fixed for the subsequent period, the Authority must be satisfied that such adjustments for the excess amount or shortfall in the amount actually realized is necessary and is in the public interest.

(9) If a licensee desires any deviation from previously approved tariffs, the licensee shall give the justification for such request.

(10) The Authority may on its own motion revise an approved Tariff if public interest requires.

(11) The Authority may prescribe procedures for filing of a Petition to revise Tariffs.

24.--(1) A licensee may file a petition for a simple Tariff change with the Authority.

Simple
Tariff
change

(2) A simple Tariff change is limited to one subject or several closely related subjects and has an impact on the petitioner's current Tariff of not more than one percent change.

(3) Where the Authority determines that a petition warrants consideration as a simple Tariff change, the Authority shall inform the licensee of its decision.

(4) The Authority shall make a decision within thirty (30) days from the date of receipt of a complete Petition for Tariff review.

25.--(1) When a Petition to change Tariffs is filed by a Petitioner and the Authority designates a proceeding as a general rate case, the Authority shall issue notice to all interested persons that a matter relating to Tariff and prices charged is at issue

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General
rate
case

(2) In a general rate case every component of a licensee's revenue requirement may be placed at issue.

(3) The Authority may grant, deny or modify the revenue requirement requested and may find that a revenue requirement different from one proposed by a licensee is just, fair and reasonable.

(4) The Authority may approve, reject or modify the charges proposed by a licensee and may find that charges different from those proposed by a licensee are just, fair and reasonable.

(5) The Authority may make such decisions regarding rate design as it deems appropriate, including abolishing, reducing or creating:

- (a) categories charges;
- (b) components of charges;
- (c) customer classes or rate groupings; and
- (d) absolute or relative differences among and between existing classes or rate groupings of customers.

(6) In a general rate case, the Tariffs, prices, practices, rules, regulations, services, equipment, facilities, classifications and customer relations of the licensee are at issue, and the Authority may address any of them in its decision.

Publica-
tion of
Tariffs

26. The licensee shall publish duly approved changes in Tariffs in such form as the Authority may direct from time to time.

PART V

MISCELLANEOUS PROVISIONS

Expert
Opinion

27. Nothing in these Rules shall prevent the Authority from seeking expert opinion on any tariff or regulatory issue as necessary outside formal Proceedings.

Dar es Salaam,
20th March, 2007

HARUNA MASEBU,
Director General