

**ENERGY AND WATER UTILITIES REGULATORY AUTHORITY
(EWURA)**

COMPLAINT NUMBER: GA.71/135/205

CHRISTIAN SILVANUS NCHIMBI.....COMPLAINANT

VERSUS

TANZANIA ELECTRIC SUPPLY COMPANY LIMITED.....RESPONDENT

AWARD

*(Made by the Board of Directors of EWURA at its 133rd Ordinary Meeting held at
Dar es Salaam on the 30th day of October, 2018*

1.0 Background Information:

On 17th April, 2018 Mr. Christian Silvanus Nchimbi a resident of Mnarani, Magomeni Area within the Municipality of Mtwara ("the Complainant") filed a complaint at the Energy and Water Utilities Regulatory Authority ("the Authority") against the Tanzania Electric Supply Company Limited (TANESCO) ("the Respondent"). The Complainants claim for cancellation of a utility debt owed to the Respondent of the sum of TZS 865,656.70 and cessation of deductions of payments on his LUKU purchases for satisfaction of the said debt.

The Complainant states that he got connected to electricity supply services in 2011 and used a conventional meter. He alleges his bills started going high un-proportional to his actual consumption and that on 21st October, 2016 was issued a bill that showed that he owed the Respondent the sum of TZS 404,115.70. Following this bill he complained to the Respondent, who conducted a meter audit and test between 10th October, 2016 and 9th

November, 2016. The Meter test results showed that his conventional meter was running faster compared to the test meter at a difference of 3.7 units for the ten days of testing. He claims that to his surprise on 22nd November, 2016 was issued with yet another bill which showed that he owed the Respondent the total sum of TZS 865,656.70 as a bill for September and October, 2016 combined. The Complainant further disputes the bills stating that they are unjustified and unrealistic. He says he tried to get explanations from the Respondent but none was given except threats that if he did not pay the service would be suspended. He says he ended up paying on protest TZS 58,000.00 a lesser amount which is equivalent to his normal monthly bills. The disputed debt was later credited to his new LUKU account which prompted him to file this complaint to the Authority in April, 2018.

Upon receipt of the Complaint, the Authority ordered the Respondent to file a reply/defence to the Complainant's claims via the summons to file defence issued on 20th April, 2018. The Respondent replied on 30th May, 2018 and stated that the disputed debt owed by the Complainant is a lawful debt which originates from October and November bills as final readings of the ousted conventional meter. The Respondent concluded with a prayer that the Complaint should be dismissed and the Complainant be ordered to pay the bills.

Efforts to resolve the dispute through mediation did not succeed thus; the matter was referred to the Division of the Authority for hearing.

2.0 Hearing Stage:

During hearing which commenced on 13th August, 2018, the Complainant appeared in person whereas the Respondent was represented by Miss Wemael Msuya, learned advocate and Zonal Legal Officer of the Respondent in charge of the Southern Zone. The following issues were framed for determination:

2.1 Whether the bill issued by the Respondent for September and October, 2016 in total sum of TZS 865,656.70 is lawful;

2.2 What are the remedies available?

At the hearing the Complainant stood as the only Complainant's witness "CW" and tendered three exhibits namely the bill dated 21st October, 2016 was admitted as exhibit "C1", bill dated 21st September, 2017 admitted as exhibit "C2" and a collection of bills dating back from 2012 to June, 2016 admitted as exhibit "C3".

The Respondent on the other hand had two witnesses Miss Judith Bwenge an accountant as "RW1" and one Emmanuel Kilimba an electrical technician as "RW2". The said witnesses tendered a meter audit report which was admitted as **Exhibit "R1"**.

3.0 The Decision:

In arriving at the decision, the Authority has considered the applicable laws which include the EWURA Act, Cap. 414, the Electricity Act, Cap. 131 ("the Act"), the EWURA (Complaints Handling Procedure) Rules, Government Notice Number 10 of 2011, The Electricity (Supply Services) Rules, Government Notice Number 4 published on 13th January, 2017, and The Electricity (General) Regulations Government Notice number 63 published on 4th February, 2011. The Authority has also considered the oral testimony of the witnesses together with documentary evidence tendered during the proceedings. The decision on the issues raised is as follows:

3.1 Whether the bill issued by the Respondent for September and October, 2016 in total sum of TZS 865,656.70 is lawful;

The Complainant testified that he was issued a bill for TZS 404,115.70 as a bill for September, 2016 issued on 21st October, 2016. He stated that he protested the bill but was advised by EWURA-CCC to pay his normal bill so he paid TZS 55,000.00. The following month he was issued with a similar

bill including the balance from the previous month which made it to be TZS 865,676.70 inclusive of all other charges. This was the last bill before a LUKU meter was installed. According to the witness no justification or explanation was offered by the Respondent in relation to the two bills. When the Respondent saw that the Complainant was not paying the debt they decided to credit the same on his LUKU meter account in September, 2017 so that it could be paid through LUKU purchases.

In the bid to justify the bill, the Respondent's witnesses testified that the Complainant's bill for September, 2016 came out at the sum of TZS 404,115.70 which shocked the billing department as well. The billing accountant informed the technical department who visited the Complainant. Both witnesses stated that upon visiting the Complainant they discovered that the meter reading was by far above the readings recorded in their system. RW2 tendered a meter audit report exhibit R1. He further said that after verifying these readings they conducted a test to ascertain the accuracy of the meter by installing a LUKU meter to run parallel with the conventional meter. The test was done for ten days and results showed that the conventional meter recorded a higher reading than the LUKU meter by 3.7kWh. RW2 further said since the meter readings were different from the ones recorded in their system, there was a possibility that most of the Complainant's bills were based on estimations; that being the case reconciliation was necessary to determine whether he paid more or less. When asked what the bill was for August, 2016 he said it was TZS 64,000.00.

The burden of proof in this question lies heavily on the Respondent's side to justify the bills. We have considered the evidence both oral and documentary but came to the conclusion that it greatly falls short to justify the bills. The meter audit report R1 shows nothing more than just the final readings and condition of the meter at the time of the audit. The Respondent's side was unable to produce records showing how the TZS 865,676.70 was incurred for only two months of September and October. We are of the view that if there was a significant difference between the meter reading and database records, reconciliation ought to have been

done. The fact that it is now two years since the anomaly was discovered but no reconciliation has been done leaves a lot to be desired. It raises doubt as to whether what was said by the Respondent's witnesses about the Complainant under paying his bills is actually true.

We further examined C3 which is the Complainant's previous bills for the period between 2012 and 2016 and observed that the highest bill ever to have been accepted and paid by the Complainant was the bill for September, 2013 issued on 4th November, 2013 for the sum of TZS 79,646.35 for which the Complainant paid the sum of TZS 80, 000, 00. The difference between the disputed bills and the previous highest accepted bill is so significant that unless some justification is given will be unjust to compel the Complainant to pay.

In view of the above we find and hold that the Respondent has failed to explain the immediate and abnormal rise in the Complainant's bill for September and October, 2016. Consequently the said bills are declared unlawful.

3.2 *What are the remedies available?*

At the hearing the Complainant prayed for cancellation of the bills which amounted to TZS 865,676.70, refund of his payments, caseation of deductions from his LUKU purchases and compensation for disturbance. The Respondent only prayed for an order that the Complaint be dismissed and therefore the Complainant should continue paying the debt through his LUKU purchases.

Following our decision on the first issue, we hereby partly allow the Complaint by ordering that the Complainant should pay an equivalent of his highest ever acceptable bill which is TZS 80,000.00 for each month. This means he should pay the total sum of TZS 160,000.00 for both September and October, 2016. We understand that the Complainant has made several payments already. Therefore any payment in excess of what he ought to have paid should be refunded to him in either cash or token of electricity. No further order as to costs or general damages.

GIVEN UNDER SEAL of the Energy and Water Utilities Regulatory Authority (EWURA) at Dar es Salaam this 30th day of October, 2018.



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NZINYANGWA E. MCHANY
DIRECTOR GENERAL