

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

COMPLAINT NUMBER: EWURA /33/1/445

BETWEEN

**DODOMA URBAN WATER SUPPLY AND SANITATION
AUTHORITY.....COMPLAINANT**

VERSUS

TANZANIA ELECTRIC SUPPLY COMPANY LIMITED.....RESPONDENT

RULING

*(Made by the Board of Directors of EWURA at its 122nd Ordinary Meeting held at
Dar es Salaam on the 15th day of September, 2017)*

This is a ruling on the preliminary objection raised by the Respondent against the complaint filed by the Complainant at EWURA. Briefly the main complaint is that the Complainant filed the complaint seeking an order of the Authority to prevent the Respondent from claiming from the Complainant the sum of TZS 337,708,161.15 as unpaid VAT for the period from July, 2015 to February, 2016. The basis of the rejection of the Respondent's claim is that the Respondent wrote to the Complainant on 29th February, 2016 informing them that they were to start paying their bill inclusive of VAT with effect from February, 2016. The Complainant therefore seeks to rely on that letter to reject a subsequent call to pay VAT with effect from July, 2015

when the law was promulgated. The matter could not be mediated thus was referred to the Division for hearing.

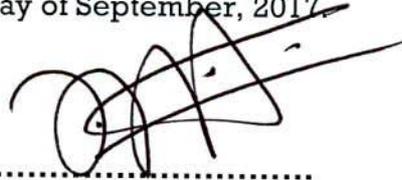
When this matter came for hearing, the Respondent's advocate Miss Theresia Masangya orally raised an objection that the Authority is not a proper forum for determination of the matter. According to the Respondent's counsel, the matter before us involves Government taxes which she believed the same not to be within the mandate of the Authority to determine. The Respondent's counsel therefore sought guidance from the Authority as to whether the Authority was lawfully seized with the jurisdiction of the matter. On the other hand, the Complainant contended that the dispute involved two licensees and that the claimed VAT is part and parcel of the bill served by the Respondent every month. Therefore the Authority was the proper forum to adjudicate the matter.

Having considered the arguments from both parties as well as the provisions of the EWURA Act we came to the following conclusion. The mandate and functions of EWURA are well spelt out in the EWURA Act Cap. 414 particularly under section 7 (1) (b) (iv) which states that one of the functions of the Authority shall be to "*regulate rate and charges*". In the light of the cited provision we are therefore faced with only one issue is VAT a charge or rate capable of being regulated by the Authority?.

The rates and charges referred to under Section 7 above are only those set and regularly reviewed by the Authority as per section 17 of the EWURA Act Cap.414 which includes tariffs. VAT is a Value Added Tax imposed by the VAT Act, 2014 Act No.10 of 2014. Although VAT is levied on goods and services some of which form part of the regulated goods and services that by itself does not make VAT a rate or charge or tariff regulated by EWURA. VAT is imposed by law as a tax not the Authority and we so hold that it is neither a rate, charge, tariff nor is it capable of being enforceable by the Authority. VAT is administered by the relevant authority which is through the Tanzania Revenue Authority and other institutions established

under the law. EWURA therefore has no jurisdiction to determine a matter solely based on VAT. VAT and other Government taxes have their own mechanism of enforcement which involves the Tanzania Revenue Authority, Tax Appeals Board, Tax Appeals Tribunal and the Court of Appeal of Tanzania. Based on the above argument we therefore declare that the matter has been brought to the wrong forum and that the Authority does not have the jurisdiction to entertain and determine this matter. Consequently the objection is sustained and the Complaint is hereby dismissed with no order as to costs.

GIVEN UNDER SEAL of the Energy and Water Utilities Regulatory Authority (EWURA) in Dar es Salaam this 15th day of September, 2017.



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ENG. GODWIN SAMWEL
DIRECTOR GENERAL