

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

COMPLAINT NUMBER: EWURA/33/1/377

BETWEEN

KAYENI LAIZER COMPLAINANT

VERSUS

TANZANIA ELECTRIC SUPPLY COMPANY RESPONDENT

AWARD

**(Made by the Board of Directors of EWURA at its 162nd Extra-Ordinary
Meeting held at Dar es Salaam on 18th October 2016)**

1.0 Background Information

On 15th February 2015, the Energy and Water Utilities Regulatory Authority ("the Authority") received a complaint from Mr. Kayeni Laizer ("the Complainant") against the Tanzania Electric Supply Company (TANESCO) ("the Respondent") disputing the Respondent's allegations of meter tampering and power theft at his Mine located at Block D Mererani Area ("the Premises") and claiming a refund of the excess money paid for the alleged power theft and reconnection fees to the tune of TZS 12,057,341.00.

The Complainant alleges that his claim is based on the letter dated 11th January 2016 from the Respondent demanding from him payment of TZS 12,057,341.00 being the amount of money worth the alleged power theft. Consequently, the Complainant prays for an Order declaring that he did

3.0 **Decision**

Our decision considered the requirements of the relevant laws including the EWURA Act, Cap. 414, the Electricity Act. Cap. 131, the Electricity (General) Regulations G No. 63/2011, the Energy and Water Utilities Regulatory Authority (Consumer Complaints Settlement Procedure) Rules, GN No. 10/2013 and the TANESCO Client Service Charter. We also considered oral testimonies of witnesses together with the exhibits tendered, submissions made and good petroleum industry practices. Our decisions on the issues raised during hearing of the matter are as follows:

Issue No. 1: Whether the Complainant is Liable for Meter Tampering and Power Theft

It is worth noting that the evidence relied upon to determine this matter is the evidence given by the Complainant as the matter was heard *ex-parte*. This is due to failure by the Respondent to submit its defence as required by the law. Nevertheless, when deciding the complaint, we were mindful of the required standards of the law in proving *ex-parte* cases. CW1 testified that the Complainant neither tampered with the Respondent's seal nor was he responsible for the alleged power theft. CW1 relied on the Meter Audit Report tendered and admitted as Exhibit "C2" to deny allegations of the alleged meter tampering and power theft. CW1 testified that according to the said Report, the Respondent's Team which carried out the meter audit observed that there was no meter bypass, meter tampering or meter defects. He testified that the Report clearly showed that there was no evidence of tampering. CW1 testified that the Report suggested that there was no seal at the meter box a fact which he vehemently disputed arguing that the meter was installed high on an electric pole phase 3 which not only was it not inaccessible but also dangerous to tamper with. CW1 testified that if there were any defects with the said meter, the Respondent would be responsible for it. CW1 further testified that they do not even know how the seal looks like and would not be able to recognize it.

of small load. CW3 testified that the meter was replaced with a new LUKU meter on 4th December 2013. CW3 testified that between July and September 2015 their power consumption was low due to lack of power supply. According to the Site Visit Inspection the meter which the Respondent alleges to have been tampered with by the Complainant is the one that was found on the site and is still being used by the Complainant. This fact is supported by electricity purchases collectively admitted as Exhibit "C5". The Respondent only sealed the meter and continued to use it.

We have critically examined all the testimonies and evidences tendered, together with the closing written submission by the Complainant. Exhibit "C2" which was prepared by the Respondents after the suspected power theft and upon conducting the meter audit, clearly indicates that there was no meter tampering. However, Exhibit "C1" which is the letter from the Respondent to the Complainant on power supply disconnection owing to meter tampering, tend to suggest that the Complainant had tampered with the meter contrary to what is stated in the earlier Meter Audit Report. This is a direct contradiction on the part of the Respondent. Apart from the contradiction noted, we found it surprising that the said meter which is said to have been tampered with by the Complainant was not replaced after the Respondents became aware of the alleged tampering and that the same meter was found on the site by the Division of the Authority on the date of Site Visit Inspection.

In view of the above, we are satisfied that the Complainant was able to discharge the burden of proof, on the balance of probabilities, in proving that he was not liable for the alleged meter tampering and power theft. Based on the foregoing and in the final analysis our decision in the first issue is in the negative to the effect that the Complainant is not liable for meter tampering and power theft as alleged by the Respondents.