

THE ENERGY AND WATER UTILITIES REGULATORY AUTHORITY

(EWURA)

COMPLAINT NUMBER EWURA/33/1/196

BETWEEN

MR. MANYAFU MWANDETE COMPLAINANT

VERSUS

**TANZANIA ELECTRIC SUPPLY
COMPANY LIMITED..... RESPONDENT**

AWARD

**(Made by the Board of Directors of EWURA at its 105th Ordinary Meeting
held at Dar es Salaam on the 10th day of February 2016)**

1.0 Background Information

On 14th January 2013, the Energy and Water Utilities Regulatory Authority (“the Authority”) received a complaint from Mr. Manyafu Mwandete (“the Complainant”) disputing a debt amounting to TZS 1,197,907.46 allegedly owed to the Tanzania Electric Supply Company (“TANESCO”) (“the Respondent”). The Complainant alleges that the outstanding debt belongs to an unknown customer with Customer Reference No. CA4376 connected with meter number 04115497689. The Complainant alleges that the said meter was illegally removed by his tenants from an unknown house in Magomeni Area and installed at his house located at Mbezi Ndumbwi area

in Dar es Salaam ("the Premises"). The Complainant alleges that he was the one who reported his tenants to the Respondents for the illegal connection. The Complainant disputes the debt on grounds that it was his tenants who consumed the power illegally.

Upon receipt of the complaint, the Authority wrote to the Respondent instructing them to present their reply to the complaint pursuant to Rule 5 (1) of the Energy and Water Utilities Regulatory Authority (Complaints Handling Procedure) Rules, GN No. 10/2013. The Respondent failed to file its defence and hence the matter was referred to the Division of the Authority for *ex-parte* hearing. Hearing of the matter took place on 3rd September, 2015.

2.0 Hearing Stage

On 3rd September, 2015, when the matter came for hearing the Complainant appeared in person. During hearing the following issues were framed for determination:

1. whether the Complainant is liable to pay the outstanding debt of TZS 1,197,907.64;
2. whether in the meantime the Complainant should be given a new meter; and
3. what reliefs are the parties entitled to, if any.

During the hearing Mr. Manyafu Mandete the Complainant stood as the only witness and he tendered various documents as exhibits.

3.0 Decision

In arriving to our decision, we have considered the relevant laws which include the EWURA Act, Cap. 414, the Electricity Act, Cap. 131("the Act"), TANESCO's Customer Service Charter and the Energy and Water Utilities

Regulatory Authority (Complaints Handling Procedure) Rules, GN No. 10/2013. We have also considered the oral testimony of the Complainant together with the exhibits submitted, final submissions of the Complainant and good electricity industry practices.

Our decisions on the issues raised during hearing of the matter are as follows:

Issue No. 1: Whether the Complainant is liable to pay the outstanding debt of TZS 1,197,907.64?

The Complainant disputes the outstanding debt of TZS 1,197,907.64 on grounds that it was his tenants who consumed the power illegally. From the facts of the case it would appear that there was no customer/supplier relationship between the Complainant and the Respondent as the power is alleged to have been connected to the premises illegally. The Complainant testified that the premises were not connected to power before the said premises were let to some tenants. In addition, looking at the Respondent's letter to the Complainant dated 22nd October, 2012, ("Exhibit C3"), the Respondent stated that the meter which was found at the premises had been illegally obtained from another house in Magomeni Area. This implies that during all the disputed time the Complainant had no direct relationship with the Respondent.

In determining this issue we evaluated the oral testimony of the Complainant and the evidence submitted by him. The Complainant denies liability on power theft and further alleges that, in order to show good intention, he was the one who reported his tenants to the Respondent and to the Police Force for consuming power illegally. However, looking critically at the evidence submitted by the Complainant, we did not find any evidence indicating that the Complainant had communicated to the Respondent about the ongoing power theft that was taking place at his premises. Looking at the facts of the complaint it is clear that exhibit C3

was sent to the Respondent after inspection of the premises and the discovery of power theft.

The facts of the complaint when looked together with exhibit C3 they do not carry a strong message that can be relied upon to establish, albeit on balance of probabilities, the story that the Respondent acted with good intentions to report his tenants to the Respondent and the Police. Evidence tendered during hearing indicated that the Complainant reported his tenants to the Police one day after the Respondent had demanded for payment of the outstanding debt of TZS 1,197,907.64. It is not clear as to why the Complainant waited several days after he became aware of the power theft to report the criminals to the Police.

Furthermore, under normal circumstances one would expect the Complainant to have detected the illegal activities which were going on to the premises as the evidence indicate that he stays in Dar es Salaam where the premises is also located. It is strange for a landlord who has let his premises to tenants not to know that there is power that has been illegally connected to his house for such a period as the Complainant is trying us to believe. During hearing the Complainant failed to adduce evidence to show why he did not have frequent access to the premises which would have limited his chances of knowing any illegal activities that took place at the premises. In view of the foregoing, it is hard to believe that the Complainant was not completely aware of what was going at the Premises.

Let us also express our concern on the attempts, by the Complainant either ignorantly or in collusion with his tenants, to defraud the Respondent of its revenues. We believe the Complainant, if indeed an innocent man; he can assist the Respondent in locating the culprits who were behind the illegal connection at the Premises. Any attempt to defraud the Respondent or any other utilities cannot be condoned.

Based on the foregoing and in the final analysis we are satisfied that the Complainant has failed to discharge the burden of proof, on balance of probabilities, to the effect that, he is not liable to pay the outstanding debt of TZS 1,197,907.64.

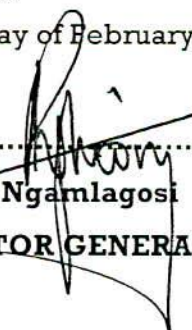
Issue No. 2: Whether in the meantime the Complainant should be given a new meter?

Since our decision in issue number one is in the affirmative to the effect that the Complainant is liable to pay the outstanding debt of TZS 1,197,907.64 our holding in issue number should be in the negative. It is our considered opinion that the Complainant cannot be entitled to a new meter until the outstanding balance owed to the Respondent is settled to the Respondent's satisfaction.

Issue No. 3: What remedies to the parties, if any?

Conclusively and in the final analysis we have decided to as we hereby dismiss the complaint with no orders as to costs. In further directive the Respondent is hereby ordered to investigate on the power theft incident at the Premises and take appropriate action against all involved.

GIVEN UNDER SEAL of the Energy and Water Utilities Regulatory Authority (EWURA) in Dar es Salaam this 10th day of February, 2016.

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Felix Ngamlagosi
DIRECTOR GENERAL