

THE ENERGY AND WATER UTILITIES REGULATORY AUTHORITY

(EWURA)

COMPLAINT NUMBER EWURA/33/1/199

BETWEEN

MR PAUL MMBANDO COMPLAINANT

VERSUS

TANZANIA ELECTRIC SUPPLY

COMPANY LIMITED..... RESPONDENT

AWARD

**(Made by the Board of Directors of EWURA at its 96th Ordinary Meeting
held at Dar es Salaam on the 12th day of May 2015)**

1.0 Background Information

On 5th March 2013, the Energy and Water Utilities Regulatory Authority ("the Authority") received a complaint from Mr. Paul Mmbando ("the Complainant") complaining against the Tanzania Electric Supply Company Limited ("TANESCO") ("the Respondent") for disputed electricity bills at its premises located at Shanty town in Moshi Municipality.

The Complainant alleges that the Respondent unilaterally raised the bill for conventional meter that was no longer used by the Complainant. The Complainant stated that he has been the Respondent's customer since 1980's with a conventional electricity meter number 40506044. Sometime in November 2011, the Respondent replaced the said conventional electricity meter with LUKU meter number 22114572906. It was on 21st November 2011 when the Complainant paid for his last electricity bills raised from the conventional meter.

The Complainant alleges that on 7th December 2012, he failed to purchase LUKU token as its LUKU account could not recharge due to the outstanding bill. In making follow up with the Respondent, he discovered that the Respondent unilaterally included a bill of TZS 1,277,292.42 in his LUKU account and thus he was denied an access to purchase electricity power to his LUKU account. Since he could not purchase power, the Complainant was compelled to use his 2.5 KW Gasoline electricity generator as an alternative source of power.

The Complainant further alleges that when he approached the Respondent to discuss the matter, he was advised by the Respondent's Senior Revenue Officer that he has to deposit at least half of the money of the disputed bill in his LUKU in order to purchase electricity. In March 2013, the Complainant decided to pay under protest the whole amount claimed by the Respondent. The Complainant concluded by stating that the handling of the disputed bill and stoppage of electricity supply services by the Respondent subjected him to mental distress and financial loss. The Complainant demands to be compensated by the Respondent, TZS 4,700,000 being the costs of fuel for generator, making follow ups, refund of the paid

disputed bill of TZS 1,277,292.42. The Complainant also prayed for an order to compel the Respondent to cancel from his LUKU meter the disputed bill of TZS 1,277,292.42.

Upon receipt of the complaint, on 5th March 2013, the Authority wrote to the Respondent instructing them to present their reply to the complaint in terms of Rule 5 (1) of the Energy and Water Utilities Regulatory Authority (Consumer Complaints Settlement Procedure) Rules, GN No. 8 of 2008. The Respondent, for reasons known to themselves, did not present a reply and thus, the Division of the Authority decided to hear the matter *ex-parte*.

2.0 Hearing Stage

On 27th May 2014, the matter came for the first hearing. The Complainant was represented by Patrick Paul, learned advocate from Patrick Paul Advocates. The following issues were framed for determination:

1. whether the Complainant was in arrears of unsettled electricity bills accrued from the conventional meter;
2. whether the Complainant is liable to pay the Respondent the disputed bill of TZS 1,277,292.42; and
3. what are the remedies to the parties?

The hearing of the matter took two days from 27th to 28th May 2014, thereafter the Complainant was ordered to submit its written closing submissions within two weeks after the date of hearing. We are very thankful for the submissions made by the Complainant's counsel.

During the hearing, the Complainant, Mr. Paul Mmbando stood as the witness (CW1) and he tendered various documents as exhibits.

3.0 **Decision**

In arriving to our decision, we have considered the applicable laws which include the EWURA Act, Cap. 414, the Electricity Act, Cap. 131 ("the Act") and the Energy and Water Utilities Regulatory Authority (Complaints Handling Procedure) Rules, GN No. 10/2013. We have also considered oral testimonies of the witness together with the exhibits, closing submission 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 was in arrears of unsettled electricity bills accrued from the conventional meter

Before analyzing testimony of the witness, exhibits tendered and submission made by the Complainant's counsel we have observed that this could have been a straight forward case had the Respondent responded to the Complainant allegation within twenty one days (21) after they were served with summons as required by the law. On the other hand the Complainant too has not been much helpful because he has not submitted sufficient information one could have expected the Complainant to submit. For instance, the Complainant submitted only two payment receipts when required by the Authority to submit documents showing consumption power of electric power with regards to the disputed conventional meter.

After evaluating the scant evidence submitted by the Complainant we observed a rather unusual consumption pattern on part of the Complainant as there are many months where meter reading recorded zero (0) unit as per exhibit "C2", while CW1, in his oral testimony, has never informed the Authority that there was a point where his premise was unoccupied. It is very strange for the premise that uses power and occupied to record zero unit for several months.

Going through exhibit "C2" it shows that the Complainant had consumed power from November 2010 to November 2011 before installation of the LUKU meter, though the reading was done in April 2012. Therefore the recorded bill is for the period when the Complainant was using conventional meter and not otherwise and thus it was our considered opinion that the Complainant was in arrear before the installation of the LUKU meter. However, we have also observed from exhibit "C2" that from 1st November 2011 to 15th April 2012, the Complainant has been charged service charges by the Respondent on conventional meter amounting to TZS 28,765.16 while he has already installed LUKU meter.

Conclusively our decision to the first issue is to the effect that the Complainant was in arrears of the bill that arisen out of the conventional meter by the time the LUKU meter was installed. With regard to the service charges, we find the act of the Respondent charging the Complainant the service charges to a conventional meter which is no longer used by the Complainant is incorrect and the Complaint has to be refunded the paid amount of service charge amounting to TZS 28,765.16.

Issue No. 2: Whether the Complainant is liable to pay the Respondent the disputed bill of TZS 1,277,292.42

Since our decision in the first issue has been in the affirmative, it follows therefore that the Respondent was right in demanding the payment for outstanding bill from the Complainant. The question as to whether such outstanding bill amounts to TZS 1,277,292.42 or not, we must admit, as we stated above, that both the Complainant and the Respondent were not of much help to us in this matter. In short we are unable to ascertain on the accuracy of the PAID UP outstanding bill of TZS 1,277,292.42.

With regard to the service charges charged by the Respondent to the Complainant even after the installation of the LUKU meter, it is our decision that the Respondent should refund to the Complainant the extra amount of TZS 28,765.16 he has paid as service charges to a conventional meter.

Issue No. 3: What are the remedies to the parties?

The Complainant demands to be compensated by the Respondent TZS 4,700,000 being the costs of fuel for generator, making follow ups, refund of the paid disputed bill of TZS 1,277,292.42. The Complainant also prayed for an order that the Respondent be ordered to cancel from his LUKU meter the disputed bill of TZS 1,277,292.42. Additionally, the Complainant also prayed for any other remedies that the Authority may deem appropriate to grant.

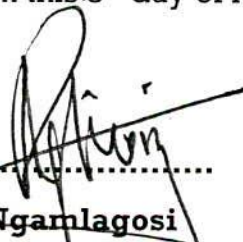
As per our reasoning while deliberating on the first and second issue, we are declining to allow the claim for the amount of TZS

4,700,000 as the Complainant has failed to substantiate this claim due to lack of any supporting evidence. With regard to the extra service charge amounting to TZS 28,765.16 paid by the Complainant, we have already found that such demand was not correct and thus the Complainant is entitled to be reimbursed.

Based on the foregoing and in the final analysis we have decided that the complaint be partly allowed and:

- (a) the Complainant be entitled to be reimbursed TZS 28,765.16 being the extra money he has paid as service charge while he was using LUKU meter; and
- (b) the Respondent shall bear the costs of this complaint.

GIVEN UNDER SEAL of the Energy and Water Utilities Regulatory Authority (EWURA) in Dar es Salaam this ^{12th} 8th day of May 2015.


.....
Felix Ngamlagosi
DIRECTOR GENERAL