

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

**COMPLAINT NUMBER: EWURA/33/1/390**

**BETWEEN**

**Ms TINY EVELYN .....COMPLAINANT**

**AND**

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

---

**AWARD**

---

*(Made by the Board of Directors of EWURA at its 170<sup>th</sup> Extra-Ordinary Board  
Meeting held in Dar es Salaam on 7<sup>th</sup> day of June, 2017)*

**1.0 Background Information:**

On 13<sup>th</sup> June, 2016, Ms. Tiny Evelyn of Shanti Town, Kanisa Road in Moshi Municipality, ("the Complainant") lodged a complaint at the Energy and Water Utilities Regulatory Authority ("EWURA") ("the Authority") against the Tanzania Electric Supply Company Limited, ("TANESCO") ("the Respondent"). The Complainant filed this complaint disputing the supplementary bill and penalty raised by the Respondent amounting to TZS. 4,000,000.00, for allegedly tampering with electricity infrastructure and illegally consuming electricity. The Complainant prays that the Respondent be ordered to waive the unlawful supplementary bill amounting to TZS

4,000,000.00, restore electricity supply services at the Complainant's premises and any other remedy the Authority may deem fit to grant.

The Complainant stated that on 1<sup>st</sup> July, 2015, the Respondent disconnected electricity supply services to her residence at Shanti Town Area in Moshi Municipality on allegations that she had illegally connected electricity to her house or otherwise tampered with electricity infrastructure of the Respondent. The Complainant stated that upon following up the matter with the Respondent's office she was issued with a bill of TZS 4,000,000.00, which she was told was the value of the electricity she illegally used as well as the penalty for tampering with the Respondent's infrastructure.

The Complainant further stated that she was very aggrieved with the said bill due to the fact that she did not illegally connect and use electricity. Following that discontent the Complainant approached the Respondent's Regional Manager who instructed that electricity supply services should be restored at her premises. Additionally, the Complainant stated that following the directives of the Respondent's Regional Manager Electricity supply services was restored at her premises but when she was unable to buy electricity due to the debt that had been added to her account. Having failed to reach an understanding, the Complainant filed this Complaint to the Authority.

Upon receipt of the complaint the Authority ordered the Respondent to file a reply/defence to the Complainant's claims via a summons to file defence issued on the 12<sup>th</sup> May, 2016. The Respondent replied on the 10<sup>th</sup> June, 2016 where they prayed for dismissal of the complaint arguing that the disconnection of electricity supply services at the Complainant's house was lawful. The Respondent went further to say that during the routine inspection by the Respondent's officers the Complainant was found to have tampered with the former's electricity infrastructure by illegally tapping electricity from

the Respondent's supply lines. The Respondent further stated that the inspection which led to this dispute was conducted in the presence of and witnessed by an adult relative of the Complainant who was found at the premises. The Respondent insisted that the Complainant must pay for electricity illegally consumed and the penalty for tampering with the Respondent's infrastructure. Efforts to mediate the parties did not merit thus the matter was referred to the Division for hearing.

## **2.0 Hearing Stage:**

During hearing which commenced on 17<sup>th</sup> January, 2017, the Complainant appeared was represented by Patrick Mbando, learned advocate whereas the Respondent was represented by Karonda Kibamba, learned advocate and the Principal Zonal Legal Officer of the Respondent. The following issues were framed for determination:

- 1. whether the Complainant tampered with the electricity infrastructure of the Respondent;*
- 2. whether the Respondent was entitled to disconnect power from the Complainant's house;*
- 3. whether the TZS 4,000,000.00 bill was justified; and*
- 4. what remedies if any are the parties entitled to? .*

At the hearing the Complainant testified herself as CW1 along with two other witnesses namely Jacob Anandumi Mushi CW2 who is the Complainant's spouse and one Regina Richard Mbowe CW3 a granddaughter of the Complainant who is said to have been at home when the Respondent's officers disconnected power supply and inspected the electric infrastructures. The Respondent on the other side had four witnesses and tendered five exhibits. The Respondent's witnesses include RW1 one Aloyce Mndolwa a Safety

Officer, RW2 Ismail Kisale Salum, Sanya Juu, Siha District Manager, RW3 Musa Ally Jongo, a Technician, and RW4 Philipo Theopist Kessy, an Accountant responsible for customer billing.

### **3.0 The Decision**

In arriving at our decision, we have 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 2013, and The Electricity (General) Regulations Government Notice Number 63 published on 4<sup>th</sup> February, 2011. We have also considered the oral testimonies of the witnesses together with documentary evidence tendered during the proceedings. Our decision on the issues raised is as follows:

#### **3.1 Issue No. 1: Whether the Complainant tampered with electricity infrastructure of the Respondent**

In determining this issue we have looked at the testimony of RW1, RW2 and RW3 who were at the scene on the material date and exhibits R1 and R2. In their testimonies the three witnesses stated that they arrived at the Complainant's premises and found a cable that had been illegally hooked at the electricity supply lines. The illegal tapping was found hooked before the meter which is also located at the top of the pole and therefore bypassing the meter. Further evidence was adduced of the circumstances which enabled the Complainant to engage into the alleged illegal power tapping without the knowledge of neither the public nor the Respondent. The witnesses stated that the pole supplying electricity to the Complainant is located within the Complainant's premises thus making it easy for the Complainant to tamper with its infrastructure. The Respondent tendered exhibit R2 a photograph

taken showing the illegal cable hooked at the supply lines immediately before the meter. Other features appearing in the photo include a huge bolt and an iron bar affixed to the pole and the meter. These features except the hooked cable itself were witnessed by the Division of the Authority during site visit after the hearing. The only explanation offered by the Complainant was a total denial of any tampering with the Respondent's infrastructures.

We have also examined exhibit R5 which contains information on revenue recovery calculations and consumption trend and noted that the Complainant did not purchase electricity from the Respondent for four consecutive months from November, 2014 to February, 2015 inclusive as well as in May, 2015. Furthermore the account statement of the Complainant registers no transactions for the period between November, 2014 and July, 2015. The explanation offered by the Complainant that her family had moved to Iringa Region during that period does not suffice because according to her testimony the family shuttles between Iringa and Moshi for over a year and not just four months which is in dispute. Besides, the Complainant testified during hearing that at all material times there was someone at the premises which makes it almost impossible for the Complainant's house to stay for more than four months without using power.

Furthermore, we have noted with surprise that this key person who is said to stay at the premises all the time was not called to testify. Could an adverse inference be drawn against such person? Could the person who stays at the Complainant's house be the culprit in all these misdeeds with or without the consent of the Complainant? Could such person possess some inside information about what was happening in as far as the allegation of tampering with the Respondent's infrastructures at the Complainant's house during all the time he/she stays there?

It is against the aforementioned analysis, that we are compelled, albeit on balance on probabilities, to decide the first issue in the affirmative i.e. that the Complainant has tampered with the Respondent's infrastructures.

### **3.2 Issue No. 2: Whether the Respondent was entitled to disconnect power supply to the Complainant's house**

Having answered the first issue in the affirmative we have looked at the second issue in the light of the provisions of the Electricity (General) Regulations, GN No. 63/ 2011. Regulation 7 of GN No. 63 states that and we quote:

*7-(1) where the licensee complains under the procedures prescribed under these regulations that the equipment and properties were tampered with maliciously or negligently causing physical or financial loss directly or indirectly to the licensee, the licensee shall:*

*(a) immediately disconnect power supply at the customer premises;*

Although the Respondent did not indicate exactly the provision under which they disconnected or discontinued the power supply services from the Complainant's house; we are of the view that as per our holding in the first issue the Respondent was entitled to disconnect power from the Complainant's house as required by Regulation 7 of GN No. 63/2011.

### **3.3 Issue No. 3: Whether the TZS 4,000,000.00 bill was justified**

Having found the Complainant to be in violation of Regulation 7(1) of GN No. 63/2011, the Respondent proceeded to exercise its rights provided for under Regulation 7(1) (a) which is disconnecting power supply services from the

former's house. The next action taken by the Respondent was to compute and demand from the Complainant the amount of financial loss suffered as a result of the alleged tampering of the Respondent's infrastructures. The demand for revenue recovery by the Respondent was rightly done in accordance with Regulation 7(1) (b) of GN No. 63/2011. However, we have gone a step further in order to satisfy ourselves on the appropriateness or otherwise correctness of the amount demanded. In his testimony RW4 the Respondent Billing Accountant said that since this was a case of tampering with the Respondent's infrastructures, the computation of the additional bill was done based on the customer's load compared to actual purchases of electricity for the period of twelve (12) months plus interest. Regulation 7(1) (d) of GN No. 63/2011 allows the Respondent to use either the customer's load or the customer's consumption trend. When RW4 was asked why he did not compute the loss based on the customer's consumption trend he said tampering with licensee's infrastructure is an offence, therefore using the customer's load is more appropriate as it entails an element of punishment for the unlawful act.


Whereas we are a bit hesitant to agree with the explanation given by RW4 on why they opted to compute the supplementary bill based on the customer's load as opposed to customer's trend; we are in agreement with the way the computation was done by the Respondent save for the computation period used. The Respondent used twelve months which is the maximum period prescribed by the regulation 7 cited above, however we are of the view that the computation should cover only the period for which the Complainant did not transact. This reduces the time from twelve to six months which includes the months of November, 2014, December, 2014, January, 2015, February, 2015, April, 2015 and May, 2015. In the circumstances where there are allegations or proof of meter tampering, or power theft, calculation of the revenue loss based on the customer's load as opposed to customer's

consumption trend may give a close to the “actual consumption”. Based on the foregoing our decision on this issue is partly in the affirmative.

**3.4 What remedies if any, are the parties entitled to?**

The Complainant prays for an Order against the Respondent to waive the unlawful supplementary bill amounting to TZS 4,000,000.00, restore electricity supply services to the Complainant’s premises and any other remedy the Authority may deem fit to grant. The Respondent on the other side prays for the dismissal of the complaint and that the Complainant be ordered to pay the supplementary bill. Having decided in the affirmative for issues number one, and two and partly in the affirmative for issue number three above, we hereby partly allow the complaint and order the Complainant to pay a supplementary bill covering the duration of six months plus interest at the rate of 12% per annum with effect from 1<sup>st</sup> July 2015 to the date of full payment. No orders as to costs.

**GIVEN UNDER SEAL** of the Energy and Water Utilities Regulatory Authority (EWURA) at Dar es Salaam this 7<sup>th</sup> day of June 2017.

  
.....  
**EDWIN KIDIFFU**  
**SECRETARY TO THE BOARD**