

Energy and Water Utilities Regulatory Authority (Petroleum Products Price Setting) (Amendment)

GOVERNMENT NOTICE NO 74 Published On 7/2/2020

THE ENERGY AND WATER UTILITIES REGULATORY AUTHORITY ACT

(CAP. 414)

RULES

(Made under section 40(c), (d) and (j))

THE ENERGY AND WATER UTILITIES REGULATORY AUTHORITY (PETROLEUM PRODUCTS PRICE SETTING) (AMENDMENT) RULES, 2020

Citation

GN. NO.
5 of 2009

1. These Rules may be cited as the Energy and Water Utilities Regulatory Authority (Petroleum Products Price Setting) (Amendment) Rules, 2020 and shall be read as one with the Energy and Water Utilities Regulatory Authority (Petroleum Products Price Setting) Rules, 2009 hereinafter referred to as the “principal Rules”.

Amendment of
Schedules

2. The principal Rules are amended by deleting Schedule I, Schedule II and Schedule III and substituting for them the following:

SCHEDULE I

PETROLEUM PRODUCTS PRICING FORMULA FOR IMPORTATION OF
PETROLEUM PRODUCTS USING DAR ES SALAAM PORT

Weighted Average of Actual Exchange Rates of the Previous Month (M-1) plus the Difference between the Weighted Average of Actual Exchange Rates of the Previous Month (M-1) and that of three months ago (M-3)		Exchange Rate		
WT Average Actual Conversion Factors of the Previous Month (M-1)				
		Petrol	Diesel	Kerosene
DESCRIPTION	UNIT	PRICE	PRICE	PRICE

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	Weighted Average Platt's FOB	TZS/L			
Plus	Weighted Average Premium as per Quotation (Freight+Insurance+Premium)	TZS/L			
Sub Total	COST CIF DSM	TZS/L			
LOCAL COSTS PAYABLE TO OTHER AUTHORITIES					
	Wharfage (\$10/MT + 18% VAT)	TZS/L			
	Railway Development Levy (1.5% CIF)	TZS/L			
	Customs Processing Fee (TZS 4.80/L)	TZS/L	4.80	4.80	4.80
	Weights & Measures Fee (TZS. 1.00/L)	TZS/L	1.00	1.00	1.00
	TBS Charge (TZS 1.24/L)	TZS/L	1.24	1.24	1.24
	TASAC Fee (TZS 3/L MSP & GO, TZS 2/L IK) + 18% VAT	TZS/L	3.54	3.54	2.36
	Actual Demurrage Cost	TZS/L			
	Surveyors Cost (Actual TENDERED rates)	TZS/L			
	Financing Cost (1.00% CIF)	TZS/L			
	Regulatory Levy	TZS/L	6.10	6.80	3.50
	Evaporation Losses (0.5% MSP, 0.30% GO & IK) CIF	TZS/L			
	Petroleum Marking Cost (\$6.077/CM VAT Inc)	TZS/L			
	TOTAL LOCAL COSTS (LC)	TZS/L			
GOVERNMENT TAXES					
	Fuel Levy	TZS/L	313.00	313.00	-
	Excise Duty	TZS/L	379.00	255.00	465.00
	Petroleum Levy	TZS/L	100.00	100.00	150.00
Sub Total	TOTAL GOVERNMENT TAXES	TZS/L	792.00	668.00	615.00
	OMC's Overheads & Margins	TZS/L	119.00	119.00	119.00
	Charges payable to Executive Agencies	TZS/L	1.03	1.03	1.03
	Service Levy payable to LGAs (0.3% of turnover net of excise duty)	TZS/L			
	WHOLESALE PRICE CAP	TZS/L			
	Retailers Margin	TZS/L	105.00	105.00	105.00

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	Charges payable to Executive Agencies	TZS/L	5.44	5.44	5.44
	Transport Charges (Local)	TZS/L	10.00	10.00	10.00
	Service Levy payable to LGAs (0.3% of turnover net of excise duty)	TZS/L			
Price	PUMP PRICE CAP (DSM)	TZS/L			

SCHEDULE II

PETROLEUM PRODUCTS PRICING FORMULA FOR IMPORTATION OF
PETROLEUM PRODUCTS USING TANGA PORT

Weighted Average of Actual Exchange Rates of the Previous Month (M-1) plus the Difference between the Weighted Average of Actual Exchange Rates of the Previous Month (M-1) and that of three months ago (M-3)		Exchange Rate			
WT Average Actual Conversion Factors of the Previous Month (M-1)					
		Petrol	Diesel	Kerosene	
DESCRIPTION		UNIT	PRICE	PRICE	PRICE
	Weighted Average Platt's FOB	TZS/L			
Plus	Weighted Average Premium as per Quotation (Freight+Insurance+Premium)	TZS/L			
Sub Total	COST CIF TANGA	TZS/L			
LOCAL COSTS PAYABLE TO OTHER AUTHORITIES					
	Wayleave Charges (\$3/MT + 18% VAT)	TZS/L			
	Railway Development Levy (1.5% CIF)	TZS/L			
	Customs Processing Fee (TZS 4.80/L)	TZS/L	4.80	4.80	4.80
	Weights & Measures Fee (TZS. 1.00/L)	TZS/L	1.00	1.00	1.00
	TBS Charge (TZS 1.24/L)	TZS/L	1.24	1.24	1.24
	TASAC Fee (TZS 3/L MSP & GO, TZS 2/L IK) + 18% VAT	TZS/L	3.54	3.54	2.36
	Actual Demurrage Cost	TZS/L			
	Surveyors Cost (Actual TENDERED rates)	TZS/L			
	Financing Cost (1.00% CIF)	TZS/L			

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	Regulatory Levy	TZS/L	6.10	6.80	3.50
	Evaporation Losses (0.5% MSP, 0.30% GO & IK) CIF	TZS/L			
	Petroleum Marking Cost (\$6.077/CM VAT Inc)	TZS/L			
	TOTAL LOCAL COSTS (LC)	TZS/L			
	GOVERNMENT TAXES				
	Fuel Levy	TZS/L	313.00	313.00	-
	Excise Duty	TZS/L	379.00	255.00	465.00
	Petroleum Levy	TZS/L	100.00	100.00	150.00
Sub Total	TOTAL GOVERNMENT TAXES	TZS/L	792.00	668.00	615.00
	OMC's Overheads & Margins	TZS/L	119.00	119.00	119.00
	Charges payable to Executive Agencies	TZS/L	1.03	1.03	1.03
	Service Levy payable to LGAs (0.3% of turnover net of excise duty)	TZS/L			
	WHOLESALE PRICE CAP	TZS/L			
	Retailers Margin	TZS/L	105.00	105.00	105.00
	Charges payable to Executive Agencies	TZS/L	5.44	5.44	5.44
	Transport Charges (Local)	TZS/L	10.00	10.00	10.00
	Service Levy payable to LGAs (0.3% of turnover net of excise duty)	TZS/L			
Price	PUMP PRICE CAP (TANGA)	TZS/L			

Energy and Water Utilities Regulatory Authority (Petroleum Products Price Setting) (Amendment)

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SCHEDULE III

PETROLEUM PRODUCTS PRICING FORMULA FOR IMPORTATION OF
PETROLEUM PRODUCTS USING MTWARA PORT

Weighted Average of Actual Exchange Rates of the Previous Month (M-1) plus the Difference between the Weighted Average of Actual Exchange Rates of the Previous Month (M-1) and that of three months ago (M-3)		Exchange Rate			
WT Average Actual Conversion Factors of the Previous Month (M-1)					
		Petrol	Diesel	Kerosene	
	DESCRIPTION	UNIT	PRICE	PRICE	PRICE
	Weighted Average Platt's FOB	TZS/L			
Plus	Weighted Average Premium as per Quotation (Freight+Insurance+Premium)	TZS/L			
Sub Total	COST CIF MTWARA	TZS/L			
LOCAL COSTS PAYABLE TO OTHER AUTHORITIES					
	Wharfage (\$10/MT + 18% VAT)	TZS/L			
	Railway Development Levy (1.5% CIF)	TZS/L			
	Customs Processing Fee (TZS 4.80/L)	TZS/L	4.80	4.80	4.80
	Weights & Measures Fee (TZS. 1.00/L)	TZS/L	1.00	1.00	1.00
	TBS Charge (TZS 1.24/L)	TZS/L	1.24	1.24	1.24
	TASAC Fee (TZS 3/L MSP & GO, TZS 2/L IK) + 18% VAT	TZS/L	3.54	3.54	2.36
	Actual Demurrage Cost	TZS/L			
	Surveyors Cost (Actual TENDERED rates)	TZS/L			
	Financing Cost (1.00% CIF)	TZS/L			
	Regulatory Levy	TZS/L	6.10	6.80	3.50
	Evaporation Losses (0.5% MSP, 0.30% GO & IK) CIF	TZS/L			
	Petroleum Marking Cost (\$6.077/CM VAT Inc)	TZS/L			

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	TOTAL LOCAL COSTS (LC)	TZS/L			
	GOVERNMENT TAXES				
	Fuel Levy	TZS/L	313.00	313.00	-
	Excise Duty	TZS/L	379.00	255.00	465.00
	Petroleum Levy	TZS/L	100.00	100.00	150.00
Sub Total	TOTAL GOVERNMENT TAXES	TZS/L	792.00	668.00	615.00
	OMC's Overheads & Margins	TZS/L	119.00	119.00	119.00
	Charges payable to Executive Agencies	TZS/L	1.03	1.03	1.03
	Service Levy payable to LGAs (0.3% of turnover net of excise duty)	TZS/L			
	WHOLESALE PRICE CAP	TZS/L			
	Retailers Margin	TZS/L	105.00	105.00	105.00
	Charges payable to Executive Agencies	TZS/L	5.44	5.44	5.44
	Transport Charges (Local)	TZS/L	10.00	10.00	10.00
	Service Levy payable to LGAs (0.3% of turnover net of excise duty)	TZS/L			
Price	PUMP PRICE CAP (MTWARA)	TZS/L			

Dodoma
31st January, 2020

NZINYANGWA MCHANY
Director General
Energy and Water Utilities Regulatory Authority

THE UNITED REPUBLIC OF TANZANIA
SPECIAL SUPPLEMENT

No. 1

9th January, 2009

to the Gazette of the United Republic of Tanzania No. 2 Vol. 90 dated 9th January, 2009
Printed by the Government Printer, Dar es Salaam; by Order of Government

GOVERNMENT NOTICE No. 5 published on 9/1/2009

**THE ENERGY AND WATER UTILITIES REGULATORY
AUTHORITY ACT
(CAP. 414)**

RULES

Made under section 40(c) (d) and (j)

**THE ENERGY AND WATER REGULATORY AUTHORITY (PETROLEUM
PRODUCTS PRICE SETTING) RULES, 2009**

ARRANGEMENT OF RULES

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GENERAL PROVISIONS**

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THE ENERGY AND WATER UTILITIES REGULATORY
AUTHORITY ACT
(CAP. 414)

RULES

Made under section 40(c) (d) and (j)

THE ENERGY AND WATER REGULATORY AUTHORITY (PETROLEUM
PRODUCTS PRICE SETTING) RULES, 2009

PART I
GENERAL PROVISIONS

1. These Rules may be cited as the Energy and Water Utilities Regulatory Authority (Petroleum Products Price Setting) Rules, 2009. Citation

2. These Rules shall govern the regulation of petroleum prices in Mainland Tanzania. Applica-
tion

3. In these Rules, unless the context otherwise requires- Interpre-
tation
Cap. 414
"Act" means the Energy and Water Utilities Regulatory Authority, Act;
"applicable laws" means laws governing production, distribution and regulation of petroleum products and includes the Act;
"Authority" means the Energy and Water Utilities Regulatory Authority (EWURA) established under section 4 of the Act;
"bulk quantity" means a single quantity of two hundred litres or more of a petroleum product;
"bulk customer" means any person supplied or having a contract to be supplied with a petroleum product in bulk quantity";
"customer" means any person supplied or applied to be supplied with petroleum product;
"CIF Cost" means the amount of FOB Cost plus freight charges and insurance premiums to be determined by the Authority pursuant to rule 5;

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Cap. 2

“declared State of Emergency” means the state of emergency declared pursuant to Article 32 of the Constitution of the United Republic of Tanzania;

“FOB cost” means an average of the cost of procuring a petroleum product at its source as determined in the pricing formula;

“indicative price” means a price of a petroleum product computed by using the pricing formula”;

“licence” means an authorization issued by the Authority to conduct a licensed activity pursuant to these Rules;

“licensed activity” means an activity related to wholesale and retail business;

“petroleum product” includes motor spirits (petrol), gas oil (diesel), kerosene, Jet-A1, Aviation gas (AvGas), fuel oil, industrial diesel oil and Liquefied Petroleum Gas, but shall not include natural gas;

“price gouging” means a situation where the weighted average wholesale price or pump price is above the indicative price by seven and a half (7.5%) percent;

“pricing formula” means a formula developed by the Authority for the purpose of regulating a wholesale price or pump price under these Rules;

“pump price” means the maximum price at which a retailer offers a petroleum product for sale, to a customer at a retail outlet, computed by the Authority by using the pricing formula;

“regulated supplier” means any person engaging in an activity in relation to regulated service, and includes any person whom the Authority declares as such under section 40(6) of the Act;

“retail outlet” means any place where petroleum product is sold or offered for sale to a customer on retail basis; it includes the buildings, storage tanks and dispensing pumps in respect of which a retailer is conducting a retail business;

“retailer” means any person conducting a retail business;

“retail sale” means the sale or offer for sale of petroleum product at a retail outlet;

“wholesaler” means any person engaged in the importation or supply of a petroleum product in bulk quantity for the purpose of wholesale business in Tanzania;

“wholesale business” means an activity necessary to the supply or importation of a petroleum product in bulk quantity; and

"wholesale price" means the maximum price at which a wholesaler sells a petroleum product to a retail or a bulk customer, as computed by the Authority using the pricing formula.

PART II

POWERS OF THE AUTHORITY TO INTERVENE

4.-(1) The Authority shall intervene for purposes of regulating wholesale price or pump price where-

Powers to
intervene

- (a) it has determined the existence of price gouging in the petroleum market;
- (b) there is evidence or proof of price fixing in the petroleum market; or
- (c) in the event of a Declared State of Emergency.

(2) Notwithstanding the generality of sub-rule (1), where the Authority intervenes to set wholesale price or pump price, it shall issue a Compliance Order to a regulated supplier pursuant to section 39 of the Act.

(3) Any person who-

- (a) offers or sells a petroleum product at a price which exceeds the wholesale price or the pump price as determined by the Authority;
 - (b) either individually or jointly with another person creates an artificial shortage of a petroleum product;
 - (c) disobeys the Compliance Order; or
 - (d) willfully refuses to carry on business in accordance with or conduct its licensed activity,
- commits an offence and shall, on conviction, be liable to a fine of not less than three million shillings or to imprisonment for a term of not less than five years or to both.

PART III
PRICING FORMULA

The Authority to develop the formula

5.-(1) For effective implementation of the purposes of sections 7(1), 17 and 19 of the Act, the Authority shall determine appropriate wholesale price and pump price in accordance with the Pricing Formula specified in the Schedule to these Rules.

(2) The pricing formula referred to under sub-rule (1) shall be in use for a period specified by the Authority in a notice to the general public published at least twice in two Kiswahili language and two English language daily newspapers of wide circulation.

(3) The pricing formula shall contain the following informations-

- (a) the CIF Cost;
- (b) local charges and levies;
- (c) Government taxes;
- (d) distribution cost; and
- (e) distribution margins.

(4) The pricing formula shall be subject to the Authority's procedures on tariff setting.

(5) The Authority may amend the Pricing Formula-

- (a) upon request by a regulated supplier; or
- (b) on its own motion.

PART IV
MARKET MANIPULATION

Interdiction

6.-(1) No person shall, in connection with the delivery of a regulated service, employ any fraudulent, manipulative or deceptive device or contrivance, in contravention of applicable laws or these Rules.

(2) No person shall, in matters relating to the delivery of a regulated service, directly or indirectly-

- (a) use or employ any device, scheme or artifice to defraud;
- (b) make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or
- (c) engage in any act, practice or course of business that operates or would operate as a fraud or deceit upon any person.

(3) No person shall provide information to the Authority related to the delivery of a regulated service where person—

(a) knew, or within the circumstances ought to have known that such information was false or misleading; and

(b) intended information should affect the data compiled by the Authority for statistical or analytical purposes with respect to the market for petroleum products.

(4) For the purpose of these Rules, fraudulent, manipulative or deceptive acts, shall include or be implied by—

(a) false reporting; or

(b) misleading announcements made by a regulated supplier.

(5) Any person who contravenes the provision of this Rule commits an offence and shall, on conviction, be liable to a fine of not less than three million shillings or to imprisonment for a term of not less than five years or to both.

PART V MONITORING AND ENFORCEMENT

7.-(1) The Authority shall—

(a) establish within its organization:

- (i) a toll-free hotline that any person may call to report an incident of price gouging; and
- (ii) a programme to develop and distribute to the public

Monitor-
ing

Energy and Water Regulatory Authority (Petroleum Products Price Setting)

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informational materials to assist consumers in detecting and avoiding price gouging; and

- (b) conduct an investigation to determine whether any regulated supplier has violated a provision of these Rules, and upon such finding take appropriate action as provided for under these Rules and any other applicable laws.

(2) A regulated supplier who conducts wholesale business shall be obliged to supply information related to its licensed activity which shall include—

- (a) import returns, including FOB Price, freight charges and insurance premiums;
- (b) import documents which shall include bill of lading, invoices and related documents;
- (c) wholesale price for each petroleum product when they revise such prices;
- (d) sales volumes by type of a petroleum product and by regions;
- (e) stock positions on a monthly basis;
- (f) distribution margins and cost; and
- (g) annual reports.

(3) A regulated supplier shall provide the information referred to under sub-rule (2) of Rule 7 to the Authority not more than seven working days after it has been received, generated or upon such time as the Authority may determine.

(4) Any person who contravenes the provisions of sub-rule (3) commits an offence and shall, on conviction, be liable to a fine of not less than one million shillings for every day on which the contravention occurs or continues.

(5) A retailer shall, at all times, ensure that pump prices at the retail outlet are displayed in a conspicuous manner that is clearly visible from the road.

(6) The pump price boards shall be located in clearly visible places in front of petrol stations and shall show prices charged, discounts offered and any trade incentives or promotions on offer.

(7) Any person who contravenes the provisions of sub-rules (5) and (6) commits an offence and shall, on conviction be liable to a fine of not less than three million shillings or imprisonment for a term of not less than five years or to both.

8.—(1) Any person who contravenes the provisions of these Rules where no specific penalty prescribe is commits an offence and shall, on conviction, be liable to a fine of not less than three million shillings or to imprisonment for a term of not less than five years or to both.

Fines and penalties

(2) A person commits an offence under these Rules if he aids, abets, counsels, procures or conspires with others to commit such offence.

(3) Where a person charged with an offence under these Rules is a body corporate, every person who, at the time of the commission of the offence was a director, manager or officer of the body corporate may be charged jointly in the same proceedings with such body corporate.

(4) Where the body corporate is convicted of an offence under these Rules, every such director, manager or officer of the body corporate shall be deemed to be guilty of the offence, unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

(5) For the purposes of these Rules, any partner of a firm shall be jointly and severally liable for the acts or omissions of any other partner of the same firm done or omitted to be done in the course of such firm's business.

PART VI

POWERS OF THE AUTHORITY

9.—(1) The Authority may summon any person it believes to be capable of supplying information necessary to assist the Authority to discharge its duties or perform its functions.

Power to summon

Energy and Water Regulatory Authority (Petroleum Products Price Setting)
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- (2) Summons issued under sub-rule (1) may require a person to—
- (a) furnish information in writing;
 - (b) produce any document to the Authority; or
 - (c) appear before the Authority to give evidence.

(3) Any person who without lawful excuse refuses or fails to comply with a summons to provide information commits an offence and shall, on conviction, be liable to a fine of not less than three million shillings or to imprisonment for a term of not less than five years or to both.

Powers to suspend or revoke a licence

10. Notwithstanding the provisions of these Rules, the Authority may suspend or cancel the licence of any regulated supplier who contravenes the provisions of these Rules.

General powers of the Authority

11.—(1) Subject to the provisions of the Act, the Authority shall have powers to do all things which are necessary or desirable to give effects to the provisions of these Rules.

(2) Nothing in these Rules shall be construed to limit or affect in any way the Authority's power to bring enforcement actions or take any other measure under these Rules the Act, or other applicable laws.

PART VII
GENERAL

Sulphur content

12. All petrol stations selling or offering for sale diesel with a sulphur content of five hundred parts per million (500 ppm) shall clearly mark the dispensing pumps with the name of the product.

Prohibition to use other pumps

13. No person shall sell or offer for sale any other petroleum product from a pump designated for diesel with a sulphur content of 500ppm.

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G.N. No. 5 (contd.)

SCHEDULE

PETROLEUM PRODUCTS PRICING FORMULA

Average Platt's Average (7 Days)			EXCHANGE RATE (7 Days Interbank Selling Rates)			
CONVERSION FACTORS			0.736	0.833	0.833	0.786
DESCRIPTION			Petrol	Diesel 5000 ppm	Diesel 500 ppm	Kerosene
			UNIT	PRICE	PRICE	PRICE
Plus Plus	Average Platt's FOB.....	USD/MT				
	Freight and Premium.....	USD/MT				
	Insurance (0.1% C & F).....	USD/MT				
Sub Total	COST CIF DAR	USD/MT	-	-	-	-

LOCAL COSTS PAYABLE TO OTHER AUTHORITIES

Wharfage 1.6% of CIF + 20% VAT.....	USD/MT				
Destination inspection 1.2 % of FOB.....	USD/MT				
SUMATRA USD 0.25 per MT.....	USD/MT				
TBS 0.20% of C & F.....	USD/MT				
TBS Application and Testing Fees.....	USD/MT				
TIPER fees USD 0.15 per MT. Plus 20% VAT.....	USD/MT				
Ocean loss (0.5% MSP, 0.30% GO & IK) CIF.....	USD/MT				
Demurrage (Estimate) 3 days per vessel.....	USD/MT				
Evaporation Losses (0.5% MSP, 0.30% GO% IK) CIF....	USD/MT				

Energy and Water Regulatory Authority (Petroleum Products Price Setting)

G.N. No. 5 (contd.)

Average Platt's Average (7 Days)		EXCHANGE RATE (7 Days Interbank Selling Rates)			
CONVERSION FACTORS		0.736	0.833	0.833	0.786
DESCRIPTION		Petrol	Diesel 5000 ppm	Diesel 500 ppm	Kerosene
	UNIT	PRICE	PRICE	PRICE	PRICE
Surveyor's Costs (\$ 0.15/MT)	USD/MT				
Financing Cost (1.750% CIF)...	USD/MT				
Sub Total LOCAL COSTS (LC).....	USD/MT				
Landed cost - Dar es Salaam (CIF + LC).....	USD/MT				
Landed cost Tzs per Litre.....	Tzs Ltr				

GOVERNMENT TAXES

	Fuel Levy.....	Tzs/Ltr				
	Excise duty.....	Tzs/Ltr				
Sub Total	TOTAL GOVERNMENT TAXES.....	Tzs/Ltr				
Plus	EWURA LEVY.....	Tzs/Ltr				
Plus	OMC's Overheads & Margins.....	Tzs/Ltr				
	WHOLESALE PRICES.....	Tzs/Ltr	101.11	101.11	101.11	101.11
Plus	Dealers Margin.....	Tzs/Ltr	53.49	53.49	53.49	53.49
Plus	Transport Charges (Local).....	Tzs/Ltr				

Dar es Salaam
07 January, 2009

HARUNA MASEBU,
Director General
Energy and Water Utilities Regulatory Authority