Energy & Petroleum Regulatory Authority

IN THE REPUBLIC OF KENYA

ENERGY AND PETROLEUM REGULATORY AUTHORITY

DISPUTE NO: EPRA/PEACP/CP/4/599/2024

FATUMA NYAGUTHII CHEGE .... PLAINTIFF

VERSUS

KENYA POWER PLC ....RESPONDENT

DETERMINATION

A. BACKGROUND

1. The dispute between Fatuma Nyaguthii Chege (Plaintiff) and Kenya Power PLC (Respondent) was reported to the Authority through a letter dated 12th June 2024.
2. The Authority directed the Respondent, via a letter dated 25th June 2024, to address the matter and thereafter provide feedback on the actions taken to resolve it.
3. The Plaintiff wrote to the Authority on 7th November 2024 enquiring whether the Respondent had provided any feedback on the matter.
4. The Authority forwarded the Plaintiff's letter to the Respondent by email on 11th November 2024. The Respondent responded by email dated 20th November 2024 stating that meter number [redacted] is registered in the name of Ruth M'Mbwaya Agesa and was intended to be installed in Kisumu (and not at the Plaintiff's Nyeri supply).
5. Subsequently, the Authority invited the parties to a hearing by letter dated 26th June 2025, and the hearing was held on 2nd July 2025.

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6. The dispute concerns alleged illegal disconnection of the Plaintiff's supply and an irregular electricity bill claimed at approximately KSh 189,001.89 in relation to the Plaintiff's Nyeri account (A/C [redacted]). In the course of correspondence, the Respondent also referenced meter number [redacted]—registered to a third party and associated with Kisumu—giving rise to a dispute on attribution of the charges and the basis for the disconnection.

B. PLAINTIFF'S CASE

7. The Plaintiff is a consumer of electricity supplied by the Respondent under Account No. [redacted] serving her residence in Nyeri County, and she also maintains a separate premise at Nyaribo.
8. She averred that in 2022 she was issued with an outrageous bill of approximately KSh. 150,000 for alleged consumption at her Nyeri residence, which she disputes as irregular and unsupported by verifiable meter readings.
9. She averred that she made several visits to the Respondent's Nyeri office and lodged written complaints on the disputed billing, but the same were not addressed and she continued to receive estimated/unclear charges.
10. The Plaintiff further averred that in January 2023 the Respondent disconnected supply to her Nyeri premises and thereafter disconnected supply to her other premises at Nyaribo; owing to the prolonged disconnection, she installed a solar system for basic supply. She also stated that she was never notified of any meter test nor served with any test results.
11. The Plaintiff therefore prays for the following:
    1. That the Respondent reconnects power supply to all her premises/accounts forthwith and maintains supply pending the final determination.
    2. That the Authority declares the disputed bill unfair and invalid, orders reversal of any unproven charges/penalties, and directs a transparent reconstruction of her account(s) based on actual readings/tokens, together with disclosure of the complete billing ledger and any meter-test documentation.

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C. RESPONDENT'S CASE

12. The Respondent confirmed receipt of the Plaintiff's complaint through her advocates, Waweru Macharia & Co. Advocates, as well as the Authority's letter dated 25th June 2024.
13. The Respondent averred that meter number [redacted] is registered in the name of Ruth M'Mbwaya Agesa and was intended for a supply point in Kisumu, not at the Plaintiff's Nyeri premises; the Respondent also indicated that the **last token purchase** recorded against that meter was on 19th November 2024.
14. The Respondent averred that, based on the meter/account records, an outstanding balance of KSh. 189,001.89 was due as at the time of its email response on 20th November 2024 in relation to the subject meter/account.
15. The Respondent further averred that a meter test was conducted on the subject meter and that the results showed the meter to be in good working condition.
16. The Respondent averred that estimated bills had been posted to the Plaintiff's account during the disputed period.

D. DISPUTE RESOLUTION PROCESS

17. Upon receiving the Plaintiff's complaint vide letter dated 12th June 2024, the Authority opened file EPRA/PEACP/CP/4/599/2024 and, by its letter dated 25th June 2024, required the Respondent to investigate, take remedial action, and report within fourteen (14) days. On 7th November 2024 the Plaintiff sought an update. The Authority forwarded the Plaintiff's letter to the Respondent by email on 11th November 2024. The Respondent replied on 20th November 2024, stating that meter [redacted] is registered in the name of Ruth M'Mbwaya Agesa and was intended for Kisumu, and referenced activity (including a last token on 19/11/2024). The response did not resolve the issues on the Plaintiff's Nyeri account [redacted], nor did it provide a billing reconciliation or meter-test records.
18. Persisting concerns and the absence of a mutually acceptable resolution prompted the Authority, pursuant to Regulation 7 of the Energy (Complaints and Disputes Resolution) Regulations, 2012, to convene a hearing. By letter dated 26th June 2025

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the parties were invited, and the hearing was held on 2nd July 2025. During the hearing, the Panel interrogated the basis for disconnection and billing attribution—specifically the linkage (if any) between A/C [redacted] and meter [redacted] the use of estimated bills, and whether the meter test was notified to and served upon the Plaintiff.

19. At the hearing, the Authority issued interim directions, including an express directive to the Respondent to restore electricity supply to all premises owned by the Plaintiff pending determination, and for the Plaintiff to provide the list of affected meter numbers to facilitate reconnection. Parties were accorded an opportunity to resolve the dispute amicably; however, no settlement was reached, necessitating this Determination.

E. ISSUES FOR DETERMINATION

20. Based on the facts, evidence and investigations, the following are the issues for determination:
    i. Whether the Authority has the mandate/jurisdiction to determine this dispute.
    ii. Whether the Plaintiff is obligated to pay the outstanding bill of KSh. 189,001.89 debited on meter no. [redacted]

F. ANALYSIS OF THE DISPUTE

i. Whether the Authority has the mandate/jurisdiction to determine this dispute

21. The Energy and Petroleum Regulatory Authority (EPRA) (hereinafter "the Authority") is established under Section 9 of the Energy Act, Cap 314.
22. The functions of the Authority are well enumerated under Section 10 of the Energy Act, Cap 314. The Authority derives its mandate to adjudicate complaints and or disputes, such as the case at hand from Sections 10 (u), (dd), (gg) and (qq) of the Act.

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23. Additionally, Section 11 of the Energy Act, Cap 314, opines that the Authority shall have all powers necessary for the performance of its functions under this Act and in particular, the Authority shall have the power to—

"…. (i) investigate and determine complaints or disputes between parties over any matter relating to licences and licence conditions under this Act;

(k) issue orders or directions to ensure compliance with this Act;

(l) impose such sanctions and fines not exceeding one hundred thousand shillings per violation per day for a maximum of thirty days….:

24. The dispute at hand pertains to electrical energy supply and therefore falls under the provisions of sections 159 and 160 of the Energy Act, Cap 314. More particularly, Section 159(3) of the Energy Act states that:

"If any dispute arises under this section as to recalculation of electrical energy consumed by consumer or as to interference with any meter, such dispute shall be referred to the Authority for determination."

25. The Energy Act, Cap 314 repealed the Energy Act No. 12 of 2006 but carried with it transitional provisions under Section 224 (2) (e) which provides;

(e) any subsidiary legislation issued before the commencement of this Act shall, as long it is not inconsistent with this Act, remain in force until repealed or revoked by subsidiary legislation under the provisions of this Act and shall, for all purposes, be deemed to have been made under this Act.

26. The Authority, by dint of Sections 224 (*supra*) is further guided by the Energy (Complaints and Dispute Resolution) Regulations 2012 (hereinafter "the Regulations"), when handling complaints and disputes.

27. Regulation 4 of the Regulations stipulates that;

4. These regulations shall apply to complaints and disputes in the following areas—

(a) ***billing****, damages, disconnection, health and safety, electrical installations, interruptions, licensee practices and procedures, metering, new connections*

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and extensions, reconnections, quality of service, quality of supply, tariffs, way leaves, easements or rights-of-way in relation to the generation, transmission, distribution, supply and use of electrical energy.

(b) damages, adulteration and under-dispensing of products, licensee practices and procedures, health and safety in relation to the importation, refining, exportation, wholesale, retail, storage or transportation of petroleum products; and

(c) any other activity and/or matter regulated under the Act.

28. In light of the foregoing statutory provisions, the Authority is therefore duly vested with the jurisdiction to determine the dispute at hand.

ii. **<u>Whether the Plaintiff is obligated to pay the outstanding bill of Ksh. 189,001.89 debited on meter no.</u>** [redacted]

29. From the evidence, the Plaintiff's supply under Account No. [redacted] (Nyeri) was disconnected in January 2023. The Respondent's justification for the disconnection and the outstanding sum of KSh 189,001.89 referred to activity and readings associated with meter number [redacted], which the Respondent itself indicated is registered to Ruth M'Mbwaya Agesa and intended for a supply point in Kisumu. The record also reflects that estimated bills were posted to the Plaintiff's account during the disputed period and that a meter test was said to have found the subject meter in proper working condition.

30. However, the Plaintiff maintains that the bill is erroneous and unexplained, that she was disconnected in January 2023, yet billing continued thereafter, and that she was not notified of any meter test nor served with its results. She also disputes any lawful association between her Nyeri account and the Kisumu-linked meter referenced by the Respondent.

31. The Authority notes that the Respondent bears the burden to prove the lawfulness of disconnection (including pre-disconnection notice, stated reasons, and arrears attributable to the correct account) and to substantiate billing with verifiable data

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attributable to the customer's own meter/account. A customer cannot be compelled to pay amounts that are not clearly explained, properly served, and correctly attributed.

32. In this matter, the Respondent has not produced pre-disconnection notices or reason codes for A/C [redacted], has not furnished a reconciled billing ledger distinguishing estimates vs actual readings/tokens for that account, has not demonstrated a lawful asset mapping that ties meter no [redacted] to the Plaintiff, and has not shown that the meter test was requested with customer notification and that the results were served on the Plaintiff.

33. Consequently, the Authority finds that the Respondent did not lawfully justify the disconnection of the Plaintiff's premises on the present record. The disconnection is therefore set aside, and supply is to be restored to the Plaintiff's premises.

34. As to the Ksh. 189,001.89 bill, the Authority finds that the Respondent has not established that this sum is attributable to the Plaintiff's A/C [redacted] (or any other account in her name) by reference to a complete and proper asset mapping. In the absence of such proof and absent evidence of notification and service of any meter-test results the amount is not collectible from the Plaintiff as presently framed and remains unproven pending production of the requisite records.

G. <u>DETERMINATION</u>

21. The Authority has considered the Plaintiff's and Respondent's case and based on the facts and evidence presented and investigations made, therefore makes the following determination:

   a) The bill of Ksh. 189,001.89 is hereby dismissed. This follows the Respondent's failure to lawfully attribute the bill to the Plaintiff, particularly given the reference meter number [redacted] is registered to a third party.

   b) The Respondent is hereby directed to ensure that the Plaintiff's electricity supply is restored at all her premises.

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c) Each party shall bear their own costs of the suit.

d) This Determination is final and binding upon both parties.

e) Parties are at liberty to exercise their right of appeal to this decision at the Energy and Petroleum Tribunal pursuant to the provisions of the Energy Act, Cap 314.

DATED AT NAIROBI THIS ...12th... DAY OF ...AUGUST...2025.

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CPA CYPRIAN M. NYAKUNDI

FOR: DIRECTOR GENERAL