Energy & Petroleum Regulatory Authority

IN THE REPUBLIC OF KENYA

ENERGY AND PETROLEUM REGULATORY AUTHORITY

DISPUTE NO: EPRA/PEACP/CP/4/727/2025

PETRO OIL KENYA LIMITED .... PLAINTIFF

VERSUS

KENYA POWER PLC ....RESPONDENT

DETERMINATION

A. BACKGROUND

1. The dispute between Petro Oil Kenya Limited (Plaintiff) and Kenya Power (Respondent) was first reported to the Authority through a letter dated 17th May 2025.
2. The dispute is on alleged faulty meter No.[redacted] Account No.[redacted] belonging to the Plaintiff.

B. PLAINTIFF'S CASE

3. It is the Plaintiff's case that meter no.[redacted] was installed at their petrol station located at Jua Kali Area in Eldoret and that the meter was operating well until February 2025.
4. The Plaintiff avers that in the month of February 2025, it was noticed that the meter display was not working, and no bill was being raised to Petro Oil Kenya. The Plaintiff added that the issue was raised with KPLC office in March and April of 2025 and a reference number 67945 was provided.

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5. The Plaintiff further avers that the Respondent's staff did their investigation and concluded that the meter in question was faulty and the fault was internal and did not result from any external interference either from the Plaintiff staff or any other person. He claimed that the KPLC staff disconnected the power supply and went away with the subject meter on 5th May 2025.
6. The Plaintiff further state that they wrote a commitment letter to the Respondent regarding charges to be estimated during the period when the meter was not working as initially requested by the Respondent. The Plaintiff however states that the Respondent demanded they sign a liability form for "hanged neutral" which they dispute since the meter was faulty and raised charges of Kshs.67,524 prior to installing a new meter and monitoring the Plaintiff's consumption.
7. The Plaintiff avers that they are yet to have a new meter installed and are incurring generator expenses of approximately Kshs. 3000 per day to keep the business running.
8. The Plaintiff prays for the Authority's intervention to resolve the dispute.

C. RESPONDENT'S CASE

9. It is the Respondent case that on 05.05.2025, when its team were on their normal duties, they established that the Claimant's installation was defective because of a hanging neutral. Upon examination, the team established that the Claimant had removed the neutral conductor from the meter, insulated by a tape and left hanging hence interfering with the functionality of the meter number [redacted]
10. The Respondent added that, the team took photos and went ahead to prepare an installation inspection report which the Plaintiff refused to sign.
11. The Respondent avers that the Plaintiff act of interfering with the installation is a criminal offence under Section 168 and 169 of the Energy Act and urges the Authority find that the Claimant is in breach and not deserving any orders for reconnection from the Authority.

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12. The Respondent states that it disconnected the Plaintiff and advised them to visit Its office for guidance on computation and recovery of the lost units.
13. The Respondent stated that, Section 159(2) of the Energy Act 2019 authorises the Respondent to determine the reasonable quantity of electrical energy supply and recalculate the charges due from consumer as appropriate from the date the licensee determine the meter to have been interfered with. They added that the Act authorizes the Respondent to replace the meter at the cost of the consumer who interfered with it, if the subject meter is no longer suitable for ascertaining the quantity of electrical energy supplied.
14. The Respondent states that the averments that in the month of February 2025 the Plaintiff noticed the meter was not working is not factual as the Plaintiff has not disclosed the person who established the meter display was not working. In addition, the Respondent states that the Plaintiff admits that they were not receiving bills for the period the meter was faulty and finally that the expense of approximately Ksh.3000 per day to keep the business operating are denied since the Claimant has not provided any supporting documentation.
15. The Respondent thus prays for the following:
    a) The claim against the Respondent be dismissed with costs to the Respondent.
    b) The Authority to allow the Respondent to compute the electricity bill from the date the meter and the installation was established to have been interfered with.
    c) Order the Plaintiff to settle the computed bill.
    d) Order the Plaintiff to meet the costs for replacing a new meter in the event it is established that the meter is faulty.

D. DISPUTE RESOLUTION PROCESS

16. Upon receiving the Plaintiff's complaint, the Authority, pursuant to Regulation 7 of the Energy (Complaints and Disputes Resolution) Regulations 2012, directed the

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parties vide a letter dated 27th May 2025 to file their documents in the matter. Thereafter, vide a letter dated 13th June 2025, the Authority invited the parties for a hearing on 18th June 2025.

17. Through the hearing, Parties were accorded an opportunity to state their case. The Respondent was asked to reconnect the Plaintiff and collect all evidence on the alleged tampered meter before reconnection. The Respondent asked for time to reconcile all the evidence since they were given a short notice to the hearing meeting.

18. The Authority hereby renders its determination on the matter based on the documents and evidence submitted.

E. ISSUES FOR DETERMINATION

19. Based on the facts, evidence and investigations, the following are the issues for determination:

    a) Whether the Plaintiff interfered with the subject meter?

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20. A technical analysis of the disputes elucidates that the Respondent's reliance on the hanging neutral as sole proof of meter tampering is fundamentally undermined by the meter's missing security seal, an omission the Respondent conspicuously failed to acknowledge. An intact seal would have been the first line of defence against deliberate interference. Without a seal, the meter's internal electronics cannot be deemed reliable, yet the Respondent has not investigated potential internal faults or environmental factors, instead treating the missing seal as proof of "consumer interference" by omission.

21. Compounding this lapse is the Respondent's failure to authenticate its photographic evidence or explain its billing calculation. No certificate of electronic evidence or chain-of-custody documentation has been produced to verify when, how, or by whom the photos were taken, leaving their evidentiary value in doubt.

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22. Equally opaque is the methodology for estimating the 3,200 kWh "lost units" and arriving at the Kshs. 67,524 charges. The Respondent has provided neither the data set nor the averaging rules used, nor a breakdown of applicable tariff components. In the absence of both a validated meter inspection record and a transparent reconstruction of historical consumption, neither the Plaintiff nor the Authority can assess the fairness or accuracy of the disputed bill.
23. To this end therefore, the Authority finds that there is no evidence to support the Respondent's assertion that the Plaintiff had interfered with the subject meter.
24. The Authority is therefore guided by_Section 159(1) of the Energy Act, 2019 on defective meters which provides that:

    (1) *Where a meter used to register the quantity of electrical energy supplied by a licensee to any consumer is found to be defective through no fault of the licensee or the consumer, the licensee may; in consultation with the consumer, determine the reasonable quantity of electrical energy supplied and recalculate the charges due to or from the consumer as appropriate for up to a maximum period of six months from the date the meter is established to be defective:*

    Provided that if the consumer had reported any suspected defect in the meter and the licensee did not within thirty days examine the meter, the licensee shall not be entitled to recover from the consumer any charges for more than thirty days from the date the meter was established to be defective.

    (2) *Where any meter used to register the quantity of electrical energy supplied by any licensee to any consumer is found to be defective through interference by the consumer, the licensee may determine the reasonable quantity of electrical energy supplied and recalculate the charges due from consumer as appropriate from the date the licensee determines the meter to have been interfered with:*

    Provided that if the subject meter is no longer suitable for ascertaining the quantity of electrical energy supplied, the licensee shall be entitled to repair or replace the meter at the cost of the consumer who interfered with it.

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25. The bolded provision under Section 159(1) is applicable in this circumstance. The Plaintiff in his dispute stated that he raised the issue to the KPLC Eldoret office and they obtained a reference number 67945. In the absence of evidence to controvert that position by the Respondent, the Authority is inclined to hold that the Plaintiff had reported the defect in the meter. The Respondent then asserts that it visited the Plaintiff's premises on 5th May 2025 on routine inspection. This could thus be taken to be the Respondent's actioning of the raised complaint by the Plaintiff which they did not bother to address in their responses or submissions. Nothing stopped the Respondent from producing the said reference, if at all it exits, to counter the said assertions which leads the Authority to hold the same to be the correct position.

26. To this end, and by virtue of the above stated Section, the Respondent shall not be entitled to recover from the Plaintiff any charges for more than thirty days from the date the meter was established to be defective. As such, the Respondent can only calculate the average consumption for a period of thirty days.

F. DETERMINATION

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

    a) There is no evidence that the Plaintiff interfered with the subject meter.

    b) The Respondent shall recalculate and only recover from the Plaintiff any charges for a maximum of thirty days from the date the meter was established to be defective. As such, the Respondent shall recalculate the average monthly consumption of the Plaintiff for a period of one month and bill the same on the Plaintiff.

This determination is final and binding upon both parties. The 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, 2019.

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DATED AT NAIROBI THIS 24TH **DAY OF** July **2025.**

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DANIEL KIPTOO BARGORIA, MBS, OGW

DIRECTOR GENERAL