Energy & Petroleum Regulatory Authority

REPUBLIC OF KENYA

IN THE ENERGY AND PETROLEUM REGULATORY AUTHORITY

DISPUTE NO: EPRA/PEACP/CP/4/52320016/2025

DAVID MWONGERA……………………………………………………………PLAINTIFF

VERSUS

KENYA POWER AND LIGHTING COMPANY, PLC…………………………RESPONDENT

DETERMINATION

A. BACKGROUND

1. The dispute between David Mwongera (Plaintiff) and Kenya Power and Lighting PLC(Respondent) was first reported to the Energy and Petroleum Regulatory Authority, hereinafter referred to as "the Authority" on 1st July,2025, vide a letter dated 1st July 2025.
2. The dispute is on wrongful allegation of meter tampering of Meter Number [redacted] as well as irregular disconnection.

B. PLAINTIFF'S CASE

3. It is the Plaintiff's case that he has been a Client with KPLC, the Respondent, through meter number [redacted] and Account number [redacted] which was connected to his business premises, which is a bakery.
4. The Plaintiff states that the Respondent's employees disconnected his meter on 12th June 2025, on the allegation that there was meter tampering after which the said employees carried off the meter box.
5. The Plaintiff avers that he was not informed of any disputes warranting disconnection and that no opportunity was provided to address any alleged issues.

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6. The Plaintiff further avers that the disconnection disrupted his business which relies on electricity and has therefore suffered a loss, including his employees who have been left without work and given no notice.
7. The Plaintiff states that when KPLC came to disconnect power, they did not give notice as per regulations, neither did they inform the Plaintiff of the same. They did not introduce themselves but went straight to the meter and removed it, claimed it had been tampered with and left with it.
8. It is the Plaintiff's case that on this particular day, he was in Mombasa attending to some personal issues.
9. The Plaintiff further states that nobody was present when the KPLC employees came to assess the meter tampering which is against the regulations that clearly state that the Plaintiff should be present or a representative authorized by him.
10. The Plaintiff claims that less than two months prior to the disconnection, the County Operation Manager and County Business Manager had gone to his premises for an inspection of the premises and no irregularity had been found.
11. The Plaintiff states that the Respondent then went ahead to debit his account without issuing him with a letter explaining to him how they had arrived at the figure of about Kshs. 3,000,000.00.
12. The Plaintiff avers that Cap 314, Section 108, requires that the Respondent provides written notice and a reasonable period for consumers to rectify any issues before disconnection, KPLC's failure to comply constitutes a breach of statutory duty.
13. The Plaintiff states the Consumer's Protection Act 2012, Section 13 guarantees consumers the right to fair and transparent dealing. That the unprocedural disconnection violates this right as no justification or communication was provided.
14. It is the Plaintiff's case that the Energy (Electricity Licensing) Regulations 2020, Regulation 28, mandates fair treatment of consumers, including clear communication regarding service interruptions. The Respondent's actions contravene this regulation.
15. The Plaintiff avers that the Respondent exercised unfair treatment as the disconnection was arbitrary, lacking transparency or justification and in breach of consumer protection laws.

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16. The Plaintiff states in his final prayers that he seeks immediate reconnection of the electricity meter as well as compensation for losses incurred estimated at Kshs. 3,000,000.00.

17. The Plaintiff requests the Authority to investigate the matter and grant the relief he is seeking from the Respondent.

C. RESPONDENT'S CASE

18. It is the Respondent's case that the dispute before the Authority involves a complaint against themselves by the Plaintiff regarding disconnection and billing matters.

19. The Respondent states that The Plaintiff has a past record of denying KPLC officials access to their premises for meter readings, inspections and related activities.

20. The Respondent avers that on 12th June 2025, a KPLC inspection team—accompanied by the bakery Manager and staff—inspected Meter No.[redacted] They found:

    - The meter was supplying power to the bakery.
    - Seals on the meter body were broken.
    - Discrepancies existed between meter and clamp meter readings.
    - The meter showed signs of tampering (glue marks, physical damage, short-circuited terminals).
    - Evidence (photos and videos) of tampering was recorded, and a formal inspection report was issued.

21. The Respondent states that based on the inspection and usage patterns , they estimated energy loss amounting to Kshs. 3, 621, 446/- from 16th August 2023. The account was adjusted accordingly.

22. The Respondent further states that according to a January 2025 investigation they carried out, it was revealed that the bakery was consuming 30.12 kVA against an approved 8 kVA load, contributing to repeated transformer fuse failures. A load upgrade was advised but not actioned by the customer.

23. The Respondent avers that during a follow-up visit on 9th July 2025, they discovered that the bakery had been illegally reconnected without a meter. Staff blocked access, and KPLC personnel were assaulted during an attempted disconnection.

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24. It is the Respondent's case that the matter of assault, obstruction, and theft of the meter was reported to police. Investigations by both KPLC Security and the police are ongoing. KPLC maintains that these findings justify the actions taken and refute the customer's claims, pending resolution upon conclusion of investigations.

25. The Respondent humbly urges the Authority to:

  a) Find and declare that the recalculated bill of Ksh. 3,621,446/- is lawful, reasonable, and justified under Section 159(2) of the Energy Act and the facts presented;
  b) In the alternative, and only if the Authority deems it necessary, to assess and determine a reasonable amount payable by the Complainant, based on verified load and historical consumption;
  c) Dismiss the Complainant's prayer for compensation, which is baseless and unsupported by evidence

D. <u>ISSUES FOR DETERMINATION</u>

26. Based on the fact and evidence shared by the Parties, the Authority finds that the following issues arise for determination;

  a) Whether the Plaintiff tampered with meter number [redacted]
  b) Whether the Respondent illegally disconnected the Plaintiff's power supply in his premises.
  c) Whether the Plaintiff ought to pay the Respondent the disputed electricity bill of Kshs. 3,621, 446.
  d) Whether the Respondent ought to compensate the Plaintiff for the losses incurred due to disconnection of power at his premises.

E. <u>ANALYSIS OF THE DISPUTE</u>

a) Whether the Plaintiff tampered with meter number [redacted]

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27. The Respondent herein claims in its reply to the claim that on the 12th June 2025, its technical team conducted an inspection of the Plaintiff's meter at his premises accompanied by the Plaintiff's Bakery Manager and another staff member.

28. The Respondent further alleges that upon inspection of the meter, they established the following;

    i) The Plaintiff's meter number [redacted] was supplying power to the bakery.

    ii) The meter body seals were broken.

    iii) A comparison of meter phase currents with clamp meter reading revealed the following discrepancies

Phase	**Meter currents**	**Clamp Meter Readings**
R	**42**	**42**
Y	**0**	**64**
B	**0**	**44**

    iv) Yellow and Blue terminal had been short-circuited using copper wires.

    v) Signs of glue applied on the meter sides.

    vi) Physical damage to the Meter motherboard

29. The Respondent states that the above anomalies were communicated to the bakery manager and an Installation Inspection Report- reference number MT.K/LF/2025/24217 was issued dated 12th June, 2025 with a summary of the findings as 'damaged meter' and 'disabled yellow & blue Cts'.

30. The Respondent's technical team took photographic and video evidence in the presence of the bakery manager and staff.

31. On the other hand, the Plaintiff claims that on the 12th June, 2025 individuals claiming to be the Respondent's employees without proper identification documents forcibly enter his premises and cut off electricity supply without cause.

32. The Plaintiff claims that the Respondent's employees have been harassing and intimidating him for an extended period of time for failing to pay a bribe of Kshs. 1,000,000.

33. The Plaintiff denies tampering with meter number [redacted] and claims that the Respondent's employees' intention is to blackmail him.

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34. The Authority has perused the documents shared by the parties and notes that the customer installation is a three-phase, four-wire supply metered on a Hexing HXE330 10(100) A unit.

35. The contemporaneous field readings compare phase currents registered by the meter with clamp-meter measurements of **R phase 42 A/42 A**, **Y phase 0 A/64 A**, and **B phase 0 A/44 A** *(first figure being from the meter and second figure from the clamp)*. This pattern (two phases showing healthy line current on a clamp but zero on the meter) is the textbook signature of a measurement path **deliberately defeated** on those phases, while one phase **(R) still measures normally.**

36. The physical condition of the meter reported at the same visit is consistent with the above readings. The Respondent has documented broken body seals, evidence of glue along the case seams, visible damage to the meter motherboard, and most critically copper conductors inserted to short or bridge the yellow and blue terminals in the terminal block.

37. Bridging across current-sensing elements or shunting conductors so that load current bypasses the meter's current coils will produce near-zero recorded current while real current flows, matching the Y/B phase discrepancies recorded. Such bridging also **causes local heating at the tamper points** due to high current density across small cross-section copper links and high-resistance contacts, which is consistent with the scorching seen on the board photographs the Respondent provided.

38. From a metrology standpoint, the inspection therefore establishes two independent lines of evidence, that are instrumental and pointing to bypass;
    (i) Simultaneous clamp meter/energy meter divergence, limited to specific phases, and
    (ii) Mechanical/electrical alterations at exactly those phases.

39. The evidence set is mutually reinforcing and when taken together, is far more consistent with **deliberate bypass** than with random meter error. The Respondent states in its response that the irregularities found at the Plaintiff's premises were documented through photos/videos in the presence of the bakery manager and staff, and an Inspection Installation Report served. The Respondent further asserts that the

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meter was left in the meter box and that this is verifiable by CCTV available at the premises.

40. It is worth noting that the Plaintiff herein did not share any CCTV footage with the Authority to disprove the Respondent's allegations.

41. Additionally, system-level observations around the same period also indicate stressed operation. On 27th January 2025, the Respondent recorded approximately 30.12 kVA demand against an approved 8 kVA, with repeated distribution-transformer fuse operations. This was illustrated in the Respondent's letter dated 6th February, 2024 addressed to the Plaintiff where the Respondent advised the Plaintiff to apply for additional load to meet the demand on site from 8kVA to 30kVA. Consequently, the Plaintiff's allegation at paragraph 5 (f) of his complaint dated 1st July, 2025 that he was never informed by KPLC to upgrade the load is indeed false. The Plaintiff clearly ignored and did not act on the Respondent's upgrade quotation.

42. It is the Authority's position that overdrawing a supply relative to the agreed capacity, elevates conductor and protective-device thermal duty.

43. Against that technical backdrop, the Plaintiff's bundle includes evidence of continuous bill payments and proof-of-travel artifacts (SGR/M-PESA logs) around the inspection date, offered to imply non-involvement at the time of discovery. While that may bear on personal attribution, it does not, in isolation, rebut the instrumental/physical evidence of bypass nor the possibility that interference pre-dated the 12th June 2025 visit by many months; the rebill start date declared by the Respondent is August 2023.

44. From a technical perspective, what matters is whether the meter was interfered with and, if so, when the interference likely began; travel on the inspection day does not negate a longer-running condition. Safety remains a decisive consideration.

45. In sum, the June 2025 inspection data and the physical condition of the meter are technically consistent with intentional bypass on two phases. The clamp-to-meter divergence isolates the failure mode to measurement paths, while the reported copper bridging and motherboard/terminal damage identify a plausible mechanism for under-registration limited to specific phases. On that technical record, a finding that the meter was interfered with is strongly supported.

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46. Consequently, the Authority finds that the Plaintiff tampered with meter number [redacted].

b) Whether the Respondent illegally disconnected the Plaintiff's power supply in his premises.

47. The Plaintiff avers in his letter dated 17th July, 2025 that the Respondent's action to disconnect power supply at his premises violates Section 108 of the Energy Act, Cap 314 which requires the Respondent to provide written notice and a reasonable notice for consumers to rectify any issues before disconnection.

48. The Plaintiff further claims that the Respondent is in breach of Section 13 of the Consumer Protection Act which guarantees consumers the right to fair and transparent dealings and Regulation 28 of the Energy (Electricity Licensing) Regulations, 2020.

49. The Authority notes that Section 108 of the Energy Act which the Plaintiff relies on, relates to suspension or revocation of a construction permit which is not relevant to this case.

50. The Plaintiff has not substantiated his claim that the Respondent breached his rights as a consumer to fair and transparent dealings. On the contrary, the Respondent has shared several documents to show that they acted transparently and kept the Plaintiff informed of their actions.

51. The Respondent has shared an Installation Inspection Report which was issued in the presence of the Plaintiff's employees, two letters dated 6th February, 2025 and 20th June, 2025 updating the Plaintiff on their findings after inspecting his meter at his premises and a debit notification to him. It is the Authority's position that the aforementioned actions demonstrate transparency on the part of the Respondent.

52. Further, the Respondent issued a safety report for the Plaintiff's meter number 14469667834 via a letter dated 30th July, 2025 informing the Authority that the Plaintiff herein had significantly exceeded the applied maximum demand of 8kVA and advised that the Plaintiff requires an uprating of the cable.

53. The Respondent further argues in the said report that the prolonged overloading will expose the supply line to persistent overheating which will increase the risk of damage, fire or catastrophic failure.

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54. Therefore, on strictly technical grounds, the combination of (i) *Evidence of phase bypass at the meter,* (ii) *A recent history of overloaded operation on the feeder/transformer,* and (iii) *Allegation of meter-less energization* supports a **cautious approach to reconnection** to protect network integrity and public safety.

55. Section 168 (1) (b) of the Energy Act under the head "Unauthorized, fraudulent or improper supply or use of electrical energy" states as follows;

A person who-

"Without lawful right (the proof of which shall be upon him) ***abstracts****, branches off or diverts or causes to be abstracted****, branched off*** *or diverted any electrical energy, or consumes or* ***uses any such electrical energy which has been wrongfully or unlawfully abstracted****, branched off or diverted, knowing it to have been wrongfully or unlawfully abstracted, branched off or diverted" Commits an offence.*

56. Additionally, Section 168 (2) of the Energy Act, Cap 314 provides as follows;

"In any case where the person who commits an offence under subsection (1) is the ***consumer****, the* ***licensee may also discontinue the supply of electrical energy to the premises*** *of such consumer or* ***abstain from resuming such supply****, if already discontinued, for such period as the Authority may direct, notwithstanding any contract which may have been previously entered into".*

57. In light of the finding above by the Authority, that the Plaintiff tampered and bypassed meter number [redacted] and the provision above under Section 168 (2), the Authority finds that the Respondent acted within the law and legally disconnected power supply from the Plaintiff's premises.

c) **Whether the Plaintiff ought to pay the Respondent the disputed electricity bill of Kshs. 3,621, 446.**

58. Following the 12th June 2025 inspection, the Respondent raised a debit on the Plaintiff's account and computed lost energy of **Kshs. 3,621,446** from 16th August 2023 up until the date of inspection. The Respondent frames this as an estimate derived from historical consumption, connected load, and demand patterns, invoking the provisions

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of Section 159 of the Energy Act, Cap 314 that permits recalculation where a meter is defective through interference by the consumer.

59. Technically, back-calculation is a standard method in tampering cases, but its defensibility depends on transparent inputs and assumptions (hours of operation, diversity factors, seasonality, any corroborating sub-meter/plant records) and on a supportable start date for the interference.

60. The Authority notes that the materials supplied by Respondent provide statutory basis and the final figure, but the detailed workbook was not shared. However, the principle of estimation is legally and technically recognized as provided for under Section 159(2) of the Energy Act, Cap 314 which states as follows;

"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"***

61. In light of the above legal provision, the Authority directs the Plaintiff to pay the Respondent the sum of **Kshs. 3,621,446** in accordance with the Respondent's debit notification dated 20th June, 2025.

d) **Whether the Respondent ought to compensate the Plaintiff for the losses incurred due to disconnection of power at his premises.**

62. The Plaintiff claims that he has employed over twenty (20) employees and the illegal closure of the business has rendered them without employment. The Plaintiff further pleads in his letter dated 17th July, 2025 that he has suffered loss estimated at Kshs. 3,000,000.

63. The Plaintiff prays that the Respondent be ordered to compensate him for the loss incurred due to the disconnection.

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64. Following the Authority's finding that the Plaintiff herein tampered with meter number [redacted], his claim for compensation by the Respondent for losses incurred as a result of power disconnection is hereby dismissed.

G. DETERMINATION

65. The Authority has considered the Plaintiff's and the Respondent's case and hereby makes the following determination;

a) That the Plaintiff herein tampered with meter number [redacted].

b) That the Respondent acted within the law and **legally** disconnected power supply from the Plaintiff's premises pursuant to the provisions of Section 168 (2) of the Energy Act, Cap 314.

c) That the Plaintiff is hereby directed to pay the Respondent, the outstanding electricity bill of **Kshs. 3,621,446** in accordance with the Respondent's debit notification dated 20th June, 2025.

d) That the Plaintiff's prayer for compensation by the Respondent for losses incurred as a result of power disconnection is hereby dismissed.

e) That this Determination is final and binding upon both parties.

f) That each party to bear their own costs.

g) That 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, Cap 314, Laws of Kenya.

DATED AT NAIROBI THIS 21ST **DAY OF** AUGUST **2025**

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DANIEL KIPTOO BARGORIA, MBS, OGW

DIRECTOR GENERAL