Energy & Petroleum Regulatory Authority

REPUBLIC OF KENYA

IN THE ENERGY AND PETROLEUM REGULATORY AUTHORITY

DISPUTE NO: EPRA/PEACP/CP/4/64171455/25

VALENTINE GROWERS COMPANY LIMITED.................................... PLAINTIFF

VERSUS

KENYA POWER AND LIGHTING COMPANY PLC..........................RESPONDENT

DETERMINATION

A. BACKGROUND

1. The dispute between Valentine Growers Company Limited (Plaintiff) and Kenya Power and Lighting Company, PLC (Respondent) was first reported to the Energy and Petroleum Regulatory Authority, (hereinafter referred to as "the Authority") vide a letter dated 18th September 2025.
2. The dispute is on alleged irregular back billing amounting to **Kshs. 6,466,456/=** relating to the Plaintiff's Account Number [redacted],meter number [redacted]

B. PLAINTIFF'S CASE

3. The Plaintiff states that the complaint arises from a back billing undertaken by the Respondent, in respect of Account No [redacted] served by Meter number [redacted] at their premises located at Limuru area, Kiambu County, resulting in a bill of **Kshs. 6,466,456/=**
4. The Plaintiff states that for over thirty (30) years, the Respondent has been reading the meter reading and issuing monthly bills, which the Plaintiff has settled promptly,

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without fail and in good faith whilst relying on the Respondent's accuracy in reading the meter.

5. It is the Plaintiff's case that the back-bill issued is as a result of the Respondent meter reading error and not due to tampering, by-lass or any misconduct on its part.
6. The Plaintiff claims that the meter has always been accessible for reading by the Respondent's staff and the gates to the premises are always open with someone present to assist the said staff locate the meter for reading.
7. The Plaintiff disputes the electricity bill by the Respondent, allegedly covering the past eight (8) years on the grounds that the under-billing was occasioned by the Respondent's own erroneous meter reading practices. The Respondent contends that the meter has always recorded five digits instead of six digits of the reading for the entire period of eight (8) years.
8. The Plaintiff avers that under the Energy Act, Cap 314 and pursuant to the Authority's guidelines; the Respondent is obligated to issue accurate and timely bills based on correct meter readings.
9. The Plaintiff states that despite issuing a formal written request for explanation and clarification regarding the back billing through the Respondent's Limuru branch, they have failed to satisfactorily address the Plaintiff's concerns and were non comital about the error being on their part.
10. The Plaintiff submits that while they appreciate the explanation provided, they maintain that Valentine Growers Company Limited cannot be held responsible for errors occasioned solely by the Respondent's personnel.
11. The Plaintiff states in its rejoinder dated 27th October, 2025 states that the Respondent has not provided a detailed computation or reconciliation to substantiate the figure of Kshs. 6, 466, 456 nor the specific tariff rates applied during the period in question.
12. The Plaintiff's prayers are that the Authority do compel the Respondent to withdraw the disputed bill of **Kshs. 6, 466,456/=**

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C. RESPONDENT'S CASE

13. The Respondent filed a response to the Plaintiff's complaint vide a letter dated 22nd October, 2025.

14. The Respondent states that the dispute herein relates to a disputed bill of Kshs. 6,466,456.00/=, which was debited to account number [redacted].

15. The Respondent adds that the said bill arose as a result of a complementary rebilling being subjected to the account and that the rebilling was done so as to debit the account for additional units that had been consumed for a period of eight (8) years, but had not been billed due to a regrettable instance of underbilling caused by under-reading of the relevant meter.

16. The Respondent avers that the under-reading of the meter being referred to was occasioned by an error in reading of the meter by the Respondent's personnel, who for a period of 8 years, recorded five digits instead of six digits.

17. The Respondent submits that as at 11th December 2017, the readings on the meter serving the account were at **4806** and as at 12th August 2025, the actual readings on the meter serving the account were at **300525**.

18. It is the Respondent's case that during the period (11th December, 2017 – 12th August, 2025), the account was only charged <u>25,085</u> units. (29,891- 4806). In contrast, the amount of chargeable units for the entire period accumulated to **<u>295,716</u>** units (300,525- 4806).

19. The Respondent avers that the aforementioned translates to a total of **<u>270,634</u>** uncharged units for the same period.

20. The Respondent further avers that the complementary rebilling was undertaken so as to bill the account for the uncharged units, which translated to a bill of **<u>Kshs. 6,466,456/=.</u>**

21. The Respondent concludes that the bill of **<u>Kshs. 6,466,456/=</u>** is genuine and ought to be paid by the Plaintiff.

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D. DISPUTE RESOLUTION PROCESS

22. The Plaintiff filed a dispute with the Authority alleging back-billing on Account No. 11937893 through Meter No. [redacted] at its premises located along Limuru area, Kiambu County vide a letter dated 18th September 2025.
23. Pursuant to the same, the Authority requested both the Plaintiff and the Respondent to present their submissions within three (3) days, and fourteen (14) days respectively vide a letter dated 24th September 2025.
24. The Authority received submissions from the Plaintiff and the Respondent dated 27th October 2025 and 22nd October 2025 consecutively.
25. The Authority invited the parties for a virtual hearing on 4th November 2025 at 12:00 noon vide an email sent on 31st October, 2025.

E. ISSUES FOR DETERMINATION

26. Based on the fact and evidence shared by the Parties, the Authority finds that the following issues arise for determination;
    a) **Whether the Respondent's electricity bill amounting to Kshs. 6,466,456/= is lawful and justified.**
    b) **What is the amount payable by the Plaintiff in relation to A/C No [redacted]?**

F. ANALYSIS OF THE DISPUTE

a) Whether the Respondent's electricity bill amounting to Kshs. 6,466,456/= is lawful and justified.

27. The Respondent in its response dated 22nd October, 2025 prays that the Plaintiff be ordered to pay the disputed electricity bill of Kshs. 6,466,456/= for reasons that the said bill is based on actual power consumed by the Plaintiff.
28. This dispute arises from the Respondent's complementary re-billing of Kshs. 6,466, 456/= against the Plaintiff's Account No. [redacted] on the thesis that meter readers captured five digits instead of six for many years.

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29. The billing statement provided by the Respondent shows persistently low, under-scaled register movements from at least April 2017, and the Respondent's own letter then anchors the regularization on a photograph taken on the 12th August, 2025 showing a register near **300,525**.

30. On arithmetic, the Respondent's quantities are broadly self-consistent and the historic bills do look implausibly low, for a large commercial consumer, hence the hypothesis of chronic capture error is technically plausible.

31. However, on the documentary evidence filed, the Respondent did not detect or correct the truncation for roughly eight years. This is an extraordinary control lapse for a high-usage account that should have triggered exception reports e.g. abnormally low consumption versus connected load.

32. The entire root cause lies with the utility's processes including field reading, handheld validation and supervision. In such circumstances, sector good practice places a heavy burden on the utility to prove the error with traceable evidence and mitigate customer harm created by its own oversight.

33. In the case of ***EPTA Case No. E012 of 2022-Paul Njuguna Mwangi -vs- Kenya Power & Lighting Company,*** the Honourable Tribunal states as follows at paragraph 116 of its Judgement;

    *"......the responsibility to generate **accurate bills** lies squarely with the 1st Respondent (KPLC)".*

34. The documents filed at the Authority show no evidence that the Respondent offered incentives such as waivers or a structured installment plan, acknowledging that the error was on the utility's side.

35. It is the Authority's position that back-billing a customer for eight (8) years without transparent reconstruction and without any cushioning measures would be unduly **punitive and inconsistent with equitable treatment expected in utility error cases.**

36. Consequently, the Authority finds that the Respondent's electricity bill amounting to Kshs. 6,466,456/= is unlawful and unjustified.

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b) What is the amount payable by the Plaintiff in relation to A/C No 11937893?

37. Regardless of the technical explanation by the Respondent, fairness and burden-of-proof must prevail when the underbilling results from the utility's own error and delayed detection.
38. On balance, while a truncation error may be technically plausible, the evidence points to prolonged negligence on the part of the Respondent. An eight-year failure to detect or correct an obvious reading or data capture defect, followed by an attempt to transfer the entire accumulated burden to the customer without any mitigating measures such as waiver, instalment plan, or interest/penalty relief is unjust and contrary to the principles of fairness and equity.
39. Even though the final photograph reflects the actual register, it merely captures an eight-year accumulation precipitated by the Respondent's own lapse.
40. Article 10 (2) (c) of the Constitution of Kenya, 2010 states that the National **values** and **principles of governance** include;

    c) "Good governance, integrity, transparency and accountability".
41. Consistent with fair administrative practice and the constitutional values of good governance, integrity, transparency and accountability under Article 10 of the Constitution of Kenya, 2010 outlined above, the Authority finds the eight-year back-bill inequitable and unlawful.
42. Section 11 (f) of the Energy Act, Cap 314 empowers the Authority to issue orders in writing, requiring acts or things to be performed or done, prohibiting acts or things from being performed or done, and may prescribe periods or dates upon, within or before which such acts or things shall be performed or done or such conditions shall be fulfilled.
43. In light of the above, and pursuant to the Authority's powers under Section11 (f) of the Energy Act, Cap 314 the Authority directs the Respondent to recover not more than **six (6) months** of under-billed energy from the date of discovery of the anomaly as computed below: -

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Total debt = Kshs. 6,466,456.00

Average monthly = Kshs. (6,466,456.00/(8*12))

= Kshs. 67,358.92

Total Amount to be recovered by the Respondent = 6 X Kshs.67,358.92 = Kshs. 404,153.52

44. Accordingly, the amount payable by the Plaintiff in relation to A/C No [redacted] is **Kshs. 404,153.52.**

G. DETERMINATION

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

    a) That the Respondent's electricity bill amounting to **Kshs. 6,466,456/=** is unlawful and unjustified.

    b) That the Respondent is entitled to recover not more than **six (6) months** of under-billed energy from the date the anomaly was discovered.

    c) That the Plaintiff is directed to pay the Respondent the amount of **Kshs. 404, 153.52** in relation to A/C No. [redacted].

    d) That each party is hereby directed to bear their own costs.

    e) That this determination is final and binding upon the parties.

    f) 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 10TH **DAY OF** NOVEMBER **2025**

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DANIEL KIPTOO BARGORIA, MBS, OGW

DIRECTOR GENERAL