Energy & Petroleum Regulatory Authority

IN THE REPUBLIC OF KENYA

ENERGY AND PETROLEUM REGULATORY AUTHORITY

DISPUTE NO: EPRA/PEACP/CP/4/68033942/26

SAT JOINERS LIMITED……………………………………………….. PLAINTIFF

VERSUS

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

DETERMINATION

A. BACKGROUND

1. The dispute between Sat Joiners Limited(Plaintiff) and Kenya Power and Lighting Company(Respondent) was first reported to the Authority via a letter dated 17th February 2026.
2. The Authority consequently advised the Plaintiff to properly file dispute documents and or submissions and serve the same to the Respondents via a letter dated 26th February 2026.
3. The dispute relates to alleged disputed bills on Account [redacted], Meter no.[redacted].

B. PLAINTIFFS' CASE

4. The Plaintiff stated that he is the registered customer for Account No:[redacted], Meter No.[redacted], he lodged a formal appeal pursuant to the Energy Act,2019 against the Respondent (KPLC) decision dated 13th February 2026.
5. The Plaintiff averred that, on 16th August 2023, he was billed Kshs 89,195 based on a meter reading at 14480, which amount was duly settled.

6. The Plaintiff asserted that, on 30th September 2023, the Respondent issued a further bill of Kshs.439,403 allegedly premised on a meter reading at 15000.The same was immediately disputed, as the actual physical reading at the premises was 14619 and not 15000.The bill was subsequently revised to Kshs.408,476 which remain contested.

7. The Plaintiff indicated that, following a prolonged and unresolved engagements, he lodged a formal complaint on 21st January 2026. In its determination dated 13th February 2026, the Respondent attributed the disputed variance to the previous defective meter.

8. The Plaintiff further stated that, he disputes the finding on both factual and legal grounds that;

   A. **That** the older meter was replaced by the Respondent as part of the general Smart-Meter upgrade programme throughout the country and **NOT** due to any complaint, identified fault or proven/tested defect.

   B. **That** at no time prior to replacement of the previous meter was the client notified of any defect, irregularity, tampering, inaccuracy or under-recording.

   C. **That** no technical report, test results, or verification data were availed to substantiate the alleged defect of the previous meter.

   D. **That** the impugned billing therefore offends the principles of fairness, transparency, and accountability contemplated under the Law.

   E. **That** further, the premises are rental in nature, and retrospective penal billing without proof unjustified burdens the account holder.

The Plaintiff's prayers are that the Authority;

a) Conduct an independent investigation into the disputed billing.

b) Orders the immediate reversal of the erroneous charge of Kshs.439,403 and direct issuance of a corrected bill based strictly on the verified meter readings from 14480 to the current 14619 for units used, using the approved billing rates for the premises.

c) Grants such further relief as is just, including compensation for the inconvenience occasioned.

C. RESPONDENT'S CASE

9. The Respondent stated that they are aware of the matter presented by Sat Joiners Limited(complainant) before the Authority.
10. The Respondent stated that the previous meter serving the premises was recovered and replaced with a smart meter No.[redacted] on 23rd March 2023 as part of their routine countywide retrofit and smart meter upgrade programme.
11. The Respondent further submitted that, following the installation of the Smart Meter, the actual load profile of the premises was accurately captured. The actual billed usage immediately following the Smart Meter installation registered at 3,433kWh,3,565kWh,3,486kWh,2,001kWh and 2,782kWh in consecutive billing cycles.
12. The Respondent avers that the Plaintiff is guilty of material non-disclosure and has actively attempted to mislead the Authority by claiming the premises are utilized strictly for storage purposes.
13. The Respondent further stated that the Plaintiff deliberately omitted the crucial fact that during the disputed period, the premises underwent a drastic change of use from a low-consumption garage to a high-consumption soap manufacturing operation.
14. The Respondent averred that upon uncovering the Plaintiff's true industrial load, the Respondent invoked its statutory mandate under Section 159 of the Energy Act (Cap 314) to recalculate and recover the cost of electrical energy supplied. Consequently 26th September 2023, a lawful billing adjustment of Kshs.423,189.00 was processed.
15. The Respondent also stated that to verify the current Smart Meter's integrity, the Respondents' technical engineers conducted a comprehensive on-site accuracy test. The test results confirmed error margins between 0.545% and 0.986% across all three phases, firmly establishing its operations within the internationally accepted accuracy standards of +/-1%.
16. The Respondent further averred that the contracted account holder remains strictly liable for all electricity consumed on the account, irrespective of any third-party lease arrangements, changes in tenancy or the rental nature of the premises.

17. The Respondent argued that they rely on equity maxim that states, *he that comes to equity must come with clean hands and must also do equity*. The Plaintiff, having actively concealed their high consumption manufacturing operations to evade proper billing, comes to the Authority with unclean hands seeking equitable relief. Consequently, they have not done equity.
18. The Respondent concluded by submitting that the outstanding bill is accurate and lawful, and the Plaint filed before the Authority lacks merit and the same ought to be dismissed.

D. <u>DISPUTE RESOLUTION PROCESS</u>

19. Upon receiving the Plaintiff's Complaint(Sat Joiners Limited) vide a letter dated 17th February 2026, the Authority engaged the parties on filling their respective documents on 26th February 2026.
20. The Authority consequently advised the Plaintiff to properly file dispute documents and or submissions and serve the same to the Respondents via a letter dated 26th February 2026.
21. The Respondent made its written submission on 13rd March 2026.
22. The Authority subsequently invited parties for a virtual hearing on 26th March 2026, vide a letter dated 16th March 2026.
23. During the virtual hearing, the parties were given equal chance to present their cases.
24. It is based on the above therefore, that the Authority render its determination on the matter.

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

25. Based on the facts and evidence shared by the Parties, the Authority finds that the following issues arise for determination;
    a) **Whether the Respondent has proven on a balance of probabilities, that the previous meter was defective.**
    b) **Whether the Respondent lawfully invoked Section 159 of the Energy Act, Cap 314 to undertake retrospective rebilling.**

c) **Whether the Plaintiff ought to pay the disputed electricity bill of Kshs. 408, 476.**

F. ANALYSIS OF THE DISPUTE

a) Whether the Respondent has proven on a balance of probabilities, that the previous meter was defective.

26. The Respondent, in its decision dated 13th February 2026, asserts that prior to March 2023, the Plaintiff's previous electricity account reflected defective readings and consistently under-recorded actual energy consumption.

27. The Plaintiff, however, strongly disputes this claim, maintaining that the meter replacement was part of a comprehensive nationwide smart meter upgrade programme, and not due to any defect, malfunction or inaccurate recording.

28. Sections 107, 108 and 109 of the Evidence Act, Cap 80 clearly places the burden of proof on the party alleging the existence of a fact. The Respondent, having alleged that the previous meter was defective, bore both the legal and evidentiary responsibility to substantiate the claim.

29. The Respondent explicitly relied on Section 159 of the Energy Act, Cap 314 on the basis that the matter involved recovery of a defective meter. However, the evidence submitted before the Authority does not indicate that the old meter was tested or that any defect was technically demonstrated.

30. Instead, the only document produced by the Respondent was an on-site accuracy test report for the current smart meter dated 11th February, 2026, which indicated error margins ranging from 0.545% and 0.986%, thereby falling within the accepted ±1% accuracy standard.

31. This evidence solely establishes that the current smart meter was functioning accurately at the time of testing. It does not however, provide any proof that the previous meter was defective, under-registering or otherwise incapable of accurately recording consumption during historical period dispute.

32. The Authority therefore identifies an internal inconsistency in the Respondent's technical position. The Respondent invoked Section 159 of the Energy Act, Cap 314, as though the matter concerns defective historical metering, when the only test results

presented before the Authority relate to the current smart meter, which was found to be operating within accuracy limits.

33. In the absence of a test report, removal report, defect analysis or laboratory findings concerning the old meter, the claim that the previous meter was defective remains unsubstantiated. The Respondent cannot validly rely on the accuracy of the current smart meter as proof of a defect in the previous meter.

34. Consequently, the Authority finds that the Respondent has failed to prove, on a balance of probabilities that the previous meter was defective.

b) Whether the Respondent lawfully invoked Section 159 of the Energy Act, Cap 314 to undertake retrospective rebilling.

35. The Respondent in its decision dated 13th February 2026, asserts that Section 159 of the Energy Act, Cap 314 governs the correction of billing where a meter has failed to register consumption accurately. It is the Respondent's position that the Section empowers them to recalculate the electrical energy supplied and debit the consumer's account accordingly.

36. During the hearing of this matter on 26th March 2026, the Respondent's representative confirmed that they recalculated the Plaintiff's bill up to a maximum of six (6) months. It is therefore the Authority's view that the Respondent applied the provisions of Section 159(1) of the Energy Act, Cap 314 which states as follows;

"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".

37. Section 159 allows the electricity provider to adjust a consumer's bill if a meter is found defective through no fault of either party, allowing recalculation of charges for up to six (6) months in consultation with the consumer. Where the consumer reported a suspected defect and the provider failed to inspect the meter within 30 days, only 30 days' charges may be recovered, ensuring fair billing and protection against excessive retroactive adjustments.

38. Considering the evidence on record, the key issue is whether the Respondent established a lawful and technically verifiable basis for the retrospective billing applied to Account No. [redacted] following the replacement of the previous meter with Smart Meter No. [redacted] on 23rd March, 2023.

39. The Respondent contends that once the smart meter was installed, the true consumption profile of the premises emerged, showing materially higher usage than previously been billed, thereby justifying the invocation of Section 159 and a billing adjustment of **Kshs. 423,189** on 26th September, 2023.

40. The Respondent further attributes the higher consumption to an alleged change in the use of the premises, from a low-consumption garage to a soap manufacturing operation.

41. The statement of account confirms a sharp and immediate increase in recorded consumption following the smart meter installation. Before 23rd March 2023, the account reflected very low usage, with readings moving from 702 to 714, then 714 to 719, and then 719 to 722, attracting bills of Kshs. 246, Kshs. 99 and Kshs. 66 respectively.

42. After installation of the smart meter, billed readings rose abruptly from 0 to 3,433 on 26th April 2023, then to 6,919 on 30th May 2023, 8,920 on 15th June 2023, 11,702 on 17th July 2023, and 14,480 on 16th August 2023, with correspondingly high monthly bills.

43. This pattern supports the conclusion that, from the date of meter replacement, the premises were drawing substantially more energy than had historically been captured on the account.

44. It is the Authority's position that, a sudden increase in post-replacement consumption, by itself does not establish the precise cause of the earlier low billing. The increase may point to under-registration by the previous meter, but it may also reflect a genuine

increase in load, change in business activity or different usage of the premises alleged by the Respondent.

45. The record before the Authority does not contain the technical evidence necessary to distinguish between these possibilities, nor does it demonstrate the extent to which each factor may have contributed to the historical underbilling.

46. While the Respondent has highlighted the possibility of historical underbilling, the evidence on record fails to provide a definitive technical basis for the calculation of the retrospective charges.

47. The Authority emphasizes that retrospective billing under Section 159 ought to be supported by verifiable technical evidence of meter malfunction and adherence to the statutory consultation requirements with the consumer.

48. The Authority finds that the Respondent did not correctly invoke the provisions of Section 159 of the Energy Act, Cap 314, as there was no evidence before the Authority to show that the previous meter was defective.

c) Whether the Plaintiff ought to pay the disputed electricity bill of Kshs. 408, 476.

49. The Respondent in its decision dated 13th February 2026 states at page 2 that the current outstanding electricity bill owed by the Plaintiff is **Kshs. 408, 476** which in their view is a lawful adjustment.

50. The Plaintiff disputes the said bill of **<u>Kshs. 408, 476</u>** claiming that the actual physical meter reading at the premises was **14619** and not **15000.** The Plaintiff shared with the Authority a photo capturing the current meter reading of his premises at 00014619 (page 23 of his formal appeal letter dated 13th February, 2026). The Authority notes that said current readings were not contested by the Respondent.

51. The Authority further notes that the Respondent did not provide a transparent computation trail for the rebilling. The Respondent merely stated that, upon uncovering the complainant's true industrial load, it processed a billing adjustment of **<u>Kshs. 423,189 on 26th September 2023</u>**.

52. The statement of account dated 28th January 2026, reflects a lump-sum "Bill Adjustments" entry of **<u>Kshs 423,189</u>** on that date, but neither the response nor the

account discloses the billing period covered, the units said to have gone unrecorded, the tariff applied, the basis of derivation, or the methodology used to calculate the adjustment. The rebilling therefore appears on the ledger as a posted figure, but not as a figure explained.

53. This omission by the Respondent is significant because the Authority cannot uphold a substantial retrospective bill merely on the basis that present consumption turned out to be higher than past billed consumption.

54. It is the Authority's position that a lawful rebilling ought to be supported by a transparent and auditable computation. This requires at minimum, clear disclosure of the affected period, the consumption basis adopted, the tariff treatment, and the arithmetic leading to the figure claimed. None of these matters was adequately demonstrated in the Respondent's evidence. Consequently, the Authority is unable to independently verify the correctness of the Kshs. 423,189 adjustment or the resulting outstanding bill.

55. Additionally, the statement of account discloses inconsistencies in the reading history which further weaken the reliability of the disputed bill. The ledger shows a service bill on the 30th September 2023 based on a reading movement from 14,480 to 15,000, followed later by a service bill on 23rd April 2024 taking the reading from 15,100 to 15,619, and then a negative billing entry of Kshs. 45,081 on 24th October, 2024 showing a movement from 15,619 back to 14,619. A backward adjustment of the meter reading by 1,000 units is not a trivial matter. It strongly suggests that an earlier read or billing entry had been overstated or incorrectly captured.

56. That ledger correction materially supports the complainant's challenge to the integrity of the billing sequence. The complainant's appeal was that the Respondent had raised bills on readings that did not reflect the physical state of the meter, and the later negative adjustment in the statement of account tends to corroborate that objection at least in part. Once the reading trail itself becomes uncertain, confidence in the resulting balance is correspondingly diminished, particularly where the Respondent has not produced an independent computation statement reconciling those anomalies.

57. The Respondent's contention that the account holder remains liable irrespective of tenancy or lease arrangements does not cure the aforementioned technical deficiencies. Liability to be billed and proof of the amount lawfully recoverable are distinct issues. Even if the registered customer remained responsible for the account, the Respondent was still required to prove, with technical clarity and billing transparency, how the disputed sum was arrived at and why it should stand. The evidence provided by the Respondent was insufficient to meet that burden.
58. The Authority finds that while the post 23rd March 2023 consumption data demonstrates that the premises were consuming materially more energy than had historically been billed, the Respondent did not provide sufficient technical justification for the retrospective rebilling.
59. The old meter was not shown, on the record, to have been tested or proved defective; the computation criteria for the Kshs. 423,189 adjustments were not disclosed and the account history itself contains reading inconsistencies and a later negative correction which undermine the reliability of the impugned balance.
60. In light of the above, the Authority finds that the Plaintiff is not liable to pay the disputed electricity bill of **Kshs. 408, 476.**

G. FINAL DETERMINATION

61. The Authority has considered the Plaintiff's and the Respondent's case and hereby makes the following determination;
    a) That the Respondent has failed to prove, on a balance of probabilities that the previous meter was defective.
    b) That the Respondent did not correctly invoke the provisions of Section 159 of the Energy Act, Cap 314, as there was no evidence before the Authority to show that the previous meter was defective.
    c) That the Plaintiff is not liable to pay the disputed electricity bill of **Kshs. 408, 476.**
    d) That this determination is final and binding upon both parties.
    e) That each party is hereby directed to bear their own costs.

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 ...April...............2026

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DR. (ENG.) JOSEPH OKETCH, PHD, CE

Ag. DIRECTOR GENERAL