

**THE REPUBLIC OF UGANDA**  
**THE ELECTRICITY ACT, CAP 145**  
**THE ELECTRICITY DISPUTES TRIBUNAL**  
**COMPLAINT NO. EDT 32 OF 2019**

**DR. YASIN ALI =====COMPLAINANT**

**VERSUS**

**UMEME LIMITED ===== RESPONDENT**

**Before:**

- |       |                       |   |               |
|-------|-----------------------|---|---------------|
| (i)   | Mr. Charles O. Owor   | - | Chairman      |
| (ii)  | Mr. Anaclet Turyakira | - | Vice Chairman |
| (iii) | Eng. Paul Mubiru      | - | Member        |

**JUDGEMENT**

**1.0BACKGROUND**

1. Dr. Yasin Ali (**Complainant**) a director of Silverback Engineering Works Limited filed a Complaint against Umeme Limited (**Respondent**) on the 18<sup>th</sup> November 2019 when the latter issued him with a fraud bill of Shs. 10,915,425/= (**Shillings Ten Million Nine Hundred Fifteen Thousand Four Hundred Twenty-Five only**) alleging that Dr. Yasin had tampered with the meter.
2. The Complainant contended that he was a commercial customer of the Respondent under **Account No. 205858876, Meter No. U224560** since June



2018 and was honoring all the bills as and when they fell due. He further contended that on 15<sup>th</sup> July 2019, the Respondent's employees, while on a routine check removed his Meter and took it for testing leaving behind a provisional meter. He further contended that on 23<sup>rd</sup> July 2019, the Respondent issued a Notice with instructions for the Complainant to report to the Respondent's offices at Natete and that the Notice had a Meter testing report indicating that Meter No. U224560 had been tampered with but the Complainant's representatives at the premises did not understand the Meter Testing Report.

3. The Complainant also contended that on 25<sup>th</sup> July 2019, he communicated to the Respondent's Natete District Manager seeking to be present when the Meter testing was being conducted and the Respondent fixed 6<sup>th</sup> August 2019 as the date for carrying out the testing. However, after learning that a test had already been carried out in his absence, the Complainant's representative declined to participate in the testing slated for 6<sup>th</sup> August 2019. The Respondent subsequently informed the Complainant, on 7<sup>th</sup> August 2019, that the Complainant's Account had been debited with Shs. 10,915,428/= in respect of the alleged unbilled energy for the period the Meter was under registering.
4. The Complainant prayed that this Tribunal:
  - a. Declares that he was unlawfully charged for causing energy loss and was not liable to pay the fraud charge of Shs. 10,915,428/=.
  - b. Awards damages.
  - c. Awards interest.
  - d. Awards costs of the Complaint.
5. In its response, the Respondent contended that the bill for the sum of Shs. 10,915,428/= issued to the Complainant was for energy loss relating to consumed but unmetered electricity as a result of meter tampering. The Respondent further contended that during its loss reduction exercise while conducting routine site visits, checks and billing inspections carried out on 15<sup>th</sup> July 2019, its employees discovered that Meter No. U224560 [connected to the



Complainant's premises] had been tampered with and was not registering power consumed. In particular, there was a remote control relay connected in the current path of the meter that prevented the meter from registering energy being consumed, something which had been proved by the meter tests.

6. The Respondent also contended that by the Complainant rejecting the invitation for the second meter test which had been scheduled for 6<sup>th</sup> August 2019, the Complainant was bound by the results of the test report dated 20<sup>th</sup> July, 2019 and therefore the Respondent was entitled to recover the sum of Shs. 10,915,428/= for unregistered energy consumed by the Complainant in the operation of his business.

## 2.0 ISSUES

7. Two Issues were agreed by the Parties, namely;
  - a. Whether the energy recovery bill of **Shs. 10, 915,428/=** was justified?
  - b. What remedies were available to the Parties?
8. The Complainant was represented by Baganda, Ssekatawa & Company Advocates of P. O. Box 22563 while the Respondent was represented by Shonubi, Musoke & Company Advocates of P. O. Box 3213 Kampala.
9. The Complainant presented one Witness, Mr. Abdul Rahman Khalid (**CW1**) while the Respondent presented three Witnesses, namely Mr. Turyagenda Fred (**RW1**), Ms. Peripetua Kyarisima (**RW2**) and Mr. Nuwarinda Gordon (**RW3**).

## 3.0 RESOLUTION OF THE ISSUES

10. In the determination of the two issues, the tribunal carefully studied the evidence brought before this Tribunal and the subsequent submissions made by the two Parties.

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**Issue 1: Whether the energy recovery bill of Shs. 10,915,428/= was justified?**

11. In his Witness Statement, Mr. Abdul Rahman Khalid (**CW1**) stated that the Complainant's factory Silver Engineering Works Limited located at Nalukolongo, in Natete Rubaga Division had been utilizing electricity supplied by the Respondent since June 2018 and that the Complainant held Account No. 205858876 and Meter No. U224560 and that the Complainant was honoring all the electricity bills issued by the Respondent until July 2019. He further stated, in paragraph 5, that on 15<sup>th</sup> July 2019, the Respondent's employees removed Meter No. U224560 from the Complainant's factory and took it for testing leaving behind a provisional meter. The Respondent's employees left behind a document described as **Notice to Consumer** which had the words "Recovered for Testing" and "Meter suspected to have been tampered with", among others. This document was tendered and admitted as Complainant's Exhibit **CEx1** (or **REx2**).

12. Mr. Abdul Rahman Khalid **CW1** also tendered another document also described as **Notice to Consumer** and marked as Complainant's Exhibit **CEx2** (or **REx1**). This document with a date of 23/07/19 had, among others, the following sentence; "According to the test report, the meter was found tempered with. Remote controlled relay was found connected to the current path". On top of this document were the words "Given 24 hours to report to Umeme office Natete". He stated in his Witness Statement that he did not understand the Meter Testing Report exhibited as Complainant's Exhibit **CEx3**.

13. **CW1** further stated that on 25<sup>th</sup> July 2019 he communicated to the Respondent's Natete District Manager seeking for the presence of the Complainant's representative during the testing of the Meter to which the District Manager responded setting the date of 6<sup>th</sup> August 2019 for the Meter Test. He stated that upon consultations and engagements with the Respondent's officers at the Respondent's Natete office, he was informed that the documents which had been given to the Complainant included a Meter Test Report implying that a Meter Test had already been conducted unless the Complainant needed a second Meter Test. He subsequently informed the Respondent's Natete District



Manager that the Complainant's representatives would not attend the Meter Testing scheduled for 6<sup>th</sup> August 2019 *"since the First test which is the critical phase was done without our presence or our representative"*. In the letter, a copy of which was admitted as Complainant's Exhibit **CEx5**, dated 5<sup>th</sup> August 2019 and signed by **CW1**, he also stated that: *"We can't be satisfied with the next tests after the meter was tampered without our representative which is against the regulations of Electricity Regulatory Authority (ERA)"*.

14. In paragraph 11 of his Witness Statement, **CW1** stated that the Respondent communicated to the Complainant, on 7<sup>th</sup> August 2019, saying that based on the Meter Test carried out on 20<sup>th</sup> July 2019 the Respondent had assessed and computed the total unbilled amount for the period the Complainant's Meter was under registering of Shs. 10,915,428/= and debited the Complainant's Account with the said bill as a Fraud Bill. He further stated that his efforts and those of the Complainant's Advocate to convey the Complainant's dissatisfaction with the Fraud Bill to the Respondent did not yield any positive results.
15. A copy of a letter dated 15<sup>th</sup> October 2019 addressed to Baganda, Ssekatawa & Co. Advocates by a one Allan Rwakakooko, a Senior Legal Manager of the Respondent stated in the third paragraph that: ***"Consequently, basing on average consumption of the newly installed meter, a debit of Ug. 10, 915,428/= as the total unbilled amount for a period of 13 Months the meter was under registering was posted on your client's account"***. This letter was admitted as Complainant's Exhibit **CEx8**.
16. During Cross-examination, Mr. Abdul Rahman Khalid (**CW1**) was asked in which capacity he was testifying before the Tribunal to which he confirmed that he was the Operations Manager of the Complainant's company Silverback Engineering Works Limited and he brought his Identity Card at a subsequent session of the Tribunal. He was also asked about the device which the Respondent's employees used to check on the power usage on the different phases whether he sought an explanation from the Respondent's employees on how this device was working to which he replied that he did not ask but just saw figures on the device. He also testified that he did not follow up with the Respondent

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immediately the meter was taken because they had left behind an alternative meter. Regarding Complainant Exhibit **CEx4(ii)**, a copy of the letter by which the Respondent invited the Complainant to attend the Meter Testing slated for 6<sup>th</sup> August 2019, **CW1** confirmed that the Complainant declined to attend the Meter Testing which had been scheduled for 6<sup>th</sup> August 2019.

17. Respondent Witness Turyagenda Fred (**RW1**) stated in his Witness Statement that he was working with the Respondent Company as a Metering Technician for a period of twelve (12) years. He stated that on 15<sup>th</sup> July 2019 while he was conducting routine site visits/checks and billing inspections he observed that the Complainant's meter was not registering all the power consumed by the Complainant, something he discovered using a device called a Clamp Meter which is used to measure the load a customer is drawing from the power supply system. ***"The Clamp Meter readings were high compared to the meter reading which are evident that the Complainant was consuming more energy than the meter was registering"***, he stated in his Evidence in Chief. He further stated that he recovered the Complainant's **Meter No. U224560** and took it for testing at the Respondent's Laboratory, leaving behind **Meter No. U224146** to be used to measure the Complainant's factory consumption during the period in which **Meter No. U224560** was not available.
18. During Cross – examination, he testified that the relevance of the second Notice given to the Complainant and dated 23<sup>rd</sup> July 2019 **REx1** was to tell the customer [Complainant] that the Test Report was out and that the customer should report to the Respondent's office to meet the Manager and discuss about the unbilled energy. He also stated that it was relevant for a customer to be present when tests were being carried out and that the customers are verbally advised at the site when the meter is being carried away. He further testified that he went to the Complainant's site with a one Godfrey Mutagubya, an employee of the Respondent who was his assistant. He testified that he was not the one who carried out the Meter Test but that the Test was carried out at the Respondent's Laboratory.



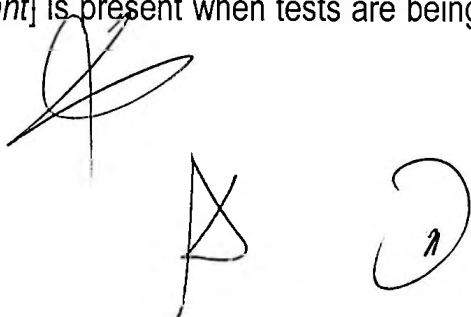
19. In her Witness Statement, Respondent's Witness Ms. Perpetua Kyarisima (**RW2**) stated that she is an Operations Manager and had worked with the Respondent's Company for eight (8) years. She contended that during its loss reduction exercise while conducting routine site visits, checks and billing inspections, the Respondent's employees discovered that the Complainant's Meter had been tampered with and was not registering the power consumed and therefore recovered it for tests. She further contended that pursuant to the Complainant's request, the Respondent invited the Complainant for a Meter test exercise which had been scheduled to take place on 6<sup>th</sup> August 2019, which request was subsequently turned down by the Complainant. She contended that the Complainant's Meter was found to have consumed unregistered energy worth Shs. 10,915,428/= which amount the Respondent was entitled to recover.
20. Ms. Perpetua Kyarisima (**RW2**) identified a document titled **Customer Information** in respect of Account No. 205858576 for customer Dr. Yasin Ali, which document details the way a customer is billed on a monthly basis. This document was admitted as Respondent Exhibit **REx7((i) – (iv))**.
21. During Cross-examination, Ms. Kyarisima (**RW2**) testified that the amount of Shs. 10,915,428/= was not a **fraud bill** but rather a bill for "**unregistered energy**" and that she is the one who determined that amount basing on the readings of the substitute Meter (**No. U224146**) and the Customer Information statement which gave the period during which the Complainant's meter was not registering. When referred to **REx3(i) [Meter Test Report]** and asked what "**Not carried out**" means under the subject "**Consumption Analysis**" Ms. Kyarisima (**RW2**) testified that the analysis of the Meter's previous consumption was not carried out. She also testified that during the engagements with the Complainant's representative, the Complainant had agreed to pay the energy recovery bill starting with Shs. 3.0 million but later declined to pay the same all together.
22. In his Witness Statement, Mr. Nuwarinda Gordon (**RW3**) stated that he was an employee of the Respondent and had worked for three years with the Respondent as a Metering Lab Technician. He contended that on the 20<sup>th</sup> July

2019, they received Meter No. U224560 which had been recovered “as it was suspected to be tampered with” and subjected that Meter to a comprehensive test including, external visual, continuity, functional, accuracy, internal visual and the historical data analysis and software tests. He further stated that the findings indicated failed external visual, functional, accuracy and internal visual tests. The sealing nails were hit from behind as seen from the Meter case back and the Meter pulses were slower than normal hence failing the accuracy test. Internal visual tests revealed that a foreign (auxiliary) circuit board had been connected to the original circuit board. He concluded that the Meter had failed the test and was recommended for scrapping.

23. During Cross-examination. Mr. Nuwarinda (**RW3**) was asked about the difference between a “**faulty Meter**” and a “**tampered Meter**” to which he answered that for the former the fault may occur due to corrosion or water entering the Meter and it is not intentional while for the latter, it is intentional, done to have the Meter register low consumption as opposed to what it would actually register. He also testified that he is the one who compiled the Meter Testing Report **REx3(i – iii)** after carrying out the various tests on the Meter. He also testified that even if the Complainant was available in the Laboratory during the time when the tests were being conducted, the results of the tests would remain the same.

24. In his Submission, the Complainant, among others, brought out the following areas:

- a. Complainant Witness **CW1** did not clearly understand Notice **CEx2** together with its attachments **CEx3 (i-iii)** and wrote requesting to be present for the Meter testing unaware that a Test had already been carried out.
- b. Under **Rule 34 (6), the Electricity (Code of Quality of Service) Regulations, 2020**, it is mandatory for a Distribution License holder [*in this case the Respondent*] to ensure that a customer [*in this case the Complainant*] is present when tests are being carried out by the License

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holder on the customer's meter. The test was however done in the absence of the Complainant.

- c. That Respondent Witness **RW2** and other employees of the Respondent did not accord the Complainant and his lawyers an opportunity to air his views on the 'fraud bill'.
- d. That the Complainant was not satisfied with how the historical data and billing history was used by the Respondent to arrive at the 'un-billed energy'.
- e. That the way **RW2** arrived at the unbilled amount of Shs. 10,915,428/= was questionable.
- f. That the Respondent did not follow the provisions of **Rule 36 (2). The Electricity (Code of Quality of Service) Regulations 2020** and **Rule 12.3.2 The Electricity (Primary Grid Code) Regulations 2003** while computing the unbilled energy amount.

25. The Complainant concluded his submission on the unbilled energy by saying that: (i) since he was not accorded an opportunity to be present when the **first test** on the Meter was carried out; (ii) the parameters used by RW2 to arrive at the unbilled energy amount of Shs.10, 915,428/= were unexplainable and did not tally with the Complainant's historical energy consumption; and (iii) the process and parameters through which it was arrived at violates Article 42 of the Constitution of the Republic of Uganda and all the canon principles of equity and natural justice. The Complainant prayed that the unbilled energy amount should be set aside and struck off its Account.

26. The Complainant also prayed for General damages owing to the "*Respondent's conduct of failure to resolve the said issue early enough greatly affecting the Complainant's business workflows ....*". It also prayed for costs of the Complaint.



**27. In its Submission, the Respondent brought out the following areas:**

- (a) That Respondent Witness Turyagenda Fred (**RW1**) on 15<sup>th</sup> July 2019 in the presence of Complainant Witness Abdul Rahman (**CW1**) carried out tests on the Meter with **CW1** witnessing all the steps and established that the Complainant's Meter was not registering. **RW1** recovered the Meter and took it to the Respondent's Laboratory at Lugogo for testing.
- (b) That Respondent Witness Nuwarinda Gordon (**RW3**) carried out a comprehensive test of the Meter and that the Meter Test Report (**REX1**) indicated that the Meter failed in respect of external visual, functional, accuracy and internal visual tests and was recommended for scrapping.
- (c) That Respondent Witness Ms. Petua Kyarisima (**RW2**) computed the unbilled energy to be Shs. 10,915,428 and was debited on the Complainant's Account as per **REX7(i)**. Furthermore, the energy recovery bill was based on the consumption on the meter [**Meter No. U224146**] installed after the Complainant's Meter was recovered, which showed an average energy consumption of 48 units. As per email **REX8**, the Complainant had agreed to pay the bill, though later it declined to pay.
- (d) That the Respondent after determining that the Meter had been tampered with adhered to the provisions of **Regulation 36 (1) of the Electricity (Code of Service) Regulations, 2020** in adjusting the billing based on the previous readings.
- (e) That the energy recovery bill of Shs. 10,915,428/= was justifiable as evidenced in the replacement meter [**Meter No. U224146**] readings **REX7(ii)** indicated below:
- (i) Shs. 1,081,215/= for September 2019
  - (ii) Shs. 991,600/= for October 2019
  - (iii) Shs. 657,163/= for November 2019

- (iv) Shs. 1,090,730/= for December 2019
- (v) Shs. 928,571/= for January 2020

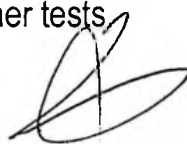
Compared to meter readings **REX7(i)** immediately before recovery of **Meter No. U224560**

- (i) Shs. 182,585/= for November 2018
- (ii) Shs. 202,483/= for January 2019
- (iii) Shs. 247,771/= for February 2019
- (iv) Shs. 254,177/= for March 2019
- (v) Shs. 401,423/= for July 2019

(f) That the Complainant paid all the bills as they fell due even after the amounts went up drastically following installation of the new Meter [**Meter No. U224146**] and therefore due to this customer behavior the Complainant was estopped from turning around and claim that he was unfairly billed after paying the bills as they fell due. The case of **Joel Kateregga Vs Uganda Posts Limited HCCS No. 020 of 2020** was cited. In this case, relying on Section 114 of the Evidence Act Cap 6, it was held that: ***"When one person has, by his or her declaration, act or omission, intentionally caused or permitted another person to believe a thing to be true and to act upon that belief, neither he or she or his or her representative shall be allowed in any suit or proceeding between himself or herself and that person or his or her representative, to deny the truth of that thing"***.

Regarding the testing of **Meter No. U224560** the Respondent submitted as follows:

(g) That the Respondent's employees checked the Complainant's Meter using a Clamp Meter in the presence of Mr. Abdul Rahman (**CW1**), explained the difference in readings between the Complainant's Meter and the Clamp Meter and recovered the Complainant's Meter and took it to the Respondent's Laboratory for further tests.



- (h) That in his testimony **CW1** stated that he did not follow up on the Complainant's Meter because the Respondent had left behind a substitute Meter and only wrote to the Respondent to attend the testing of the Meter in August, but later declined to attend the testing.
- (i) That the Respondent abided with **Rule 34 (6) of the Electricity (Code of Quality of Services) Regulations, 2020** when on 1<sup>st</sup> August 2019 the Respondent invited **CW1** to attend a Meter testing session that had been slated to take place on 6<sup>th</sup> August 2019 as per letter **REX3** but the Complainant declined to attend.
- (j) That the Respondent explained the contents of the Meter Test Report to **CW1** which **CW1** understood but did not agree with.
- (k) That according to **REX3**, whether or not **CW1** attended the Meter Testing session, the results of the Test would be the same.

28. The Respondent prayed that the Tribunal finds the energy recovery bill justified. The Respondent contended that the Complainant was not entitled to damages as he had not suffered any damage or economic loss. Regarding the issue of costs, the Respondent prayed that the Tribunal denies the Complainant costs since the charge of Shs. 10,915,428/= arose from Meter tampering by the Complainant and therefore justified.

29. The Respondent finally prayed that the Complaint be dismissed with costs to the Respondent.

### Evaluation of the Evidence

30. Before we answer the question whether or not the energy recovery bill was justified, we need to answer preliminary questions whether or not **Meter No. U224560** was tampered with and if it was tampered with, who tampered with it. We will start with analyzing Customer Information provided in Respondent

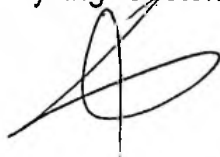


Exhibit REx7 (i) – (iv). Table 1, below is an extract from Exhibit REx7(i) showing the bills for the thirteen (13) months from June 2018 to June 2019.

**Table 1: Complainant's Bills from June 2018 to June 2019 as extracted from REx7(i)**

<b>Date of Billing</b>	<b>Amount in Uganda Shillings</b>
5 June 2018	84,686
4 July 2018	204,969
3 August 2018	192,503
3 September 2018	111,604
3 October 2018	160,279
3 November 2018	182,585
3 December 2018	293,911
3 January 2019	202,483
3 February 2019	247,771
3 March 2019	254,177
2 April 2019	355,935
3 May 2019	<b>837,435</b>
3 June 2019	<b>842,141</b>
<b>Total Billed in 13 Months</b>	<b>3,979,381</b>
<b>Average Monthly Bill</b>	<b>331,615</b>

31. The above Table contains the bills for the thirteen months when Meter No. 224560 was being used to register the energy consumption of the Complainant before it was recovered on 15 July 2019 by the Respondent for testing. Since bills were issued by the Respondent after the consumption of a previous month, the 3 June 2019 bill may be taken to be energy consumption for the month of May 2019. On 3 July 2019 a bill of Shs. 410,000/= was issued by the Respondent. Similarly, on 4 August 2019, the Respondent issued a bill of Shs. 686,450/= which may be taken to be the billing for energy utilized by the Complainant during the month of July 2019. Since **Meter No. U224560** was recovered on 15 July 2019 it can be concluded that the consumption of energy

by the Complainant for the month of July 2019 was registered on a 50:50 basis by **Meter No. U224560** and **Meter No. U224146**.

32. Table 2 below is an extract from Respondent Exhibit REx7(ii) and it shows the billing amounts for thirteen months from September 2019 to September 2020. The bills in this Table were due to energy consumption registered by the replacement **Meter No. U224146**.

**Table 2: Complainant's Bills from September 2019 to September 2020 as extracted from REx7(ii)**

<b>Date of Billing</b>	<b>Amount in Uganda Shillings</b>
4 September 2019	1,081,215
3 October 2019	991,527
3 November 2019	<b>657,163</b>
3 December 2019	1,090,730
3 January 2020	928,571
3 February 2020	<b>806,722</b>
3 March 2020	921,725
7 April 2020	1,087,606
4 May 2020	<b>506,285</b>
3 June 2020	1,605,669
4 July 2020	2,088,348
3 August 2020	1,552,107
3 September 2020	2,315,089
<b>Total Billed in 13 Months</b>	<b>14,740,357</b>
<b>Average Monthly Bill</b>	<b>1,133,874</b>


33. Table 3 below is an extract from Respondent Exhibits REx7(ii) and REx7(iii) showing billing amounts for a period of thirteen months from October 2020 to October 2021. The bills in this Table were due to energy consumption registered by the replacement **Meter No. U224146**.

**Table 3: Complainant's Bills from October 2020 to October 2021 as extracted from REx7(ii) and REx7(iii)**

<b>Date of Billing</b>	<b>Amount in Uganda Shillings</b>
3 October 2020	2,946,590
3 November 2020	2,764,008
3 December 2020	2,142,841
4 January 2021	2,524,856
3 February 2021	2,524,617
2 March 2021	2,743,522
1 April 2021	2,264,816
1 May 2021	828,069
1 June 2021	1,367,221
1 July 2021	1,520,826
2 August 2021	1,421,881
1 September 2021	2,049,932
1 October 2021	1,220,194
<b>Total Billed in 13 Months</b>	<b>26,319,373</b>
<b>Average Monthly Bill</b>	<b>2,024,567</b>

34. A comparison of the three Tables brings out the following areas of observations:

- (i) The average monthly bill in Table 1 when **Meter No. U224560** was being used to measure the Complainant's energy consumption for the period June 2018 to June 2019 was **Shs. 331,615** while the average monthly bill in Table 2 for the period September 2019 to September 2020, when **Meter No. U224146** was being used to register the Complainant's energy consumption was **Shs. 1,133,874**. This means that the average monthly energy consumption registered while using **Meter No. U224146** was almost **three and half times more** than that registered when using **Meter No. U224560** to register the energy consumption.



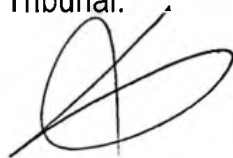


- (ii) In two cases. **Meter No U224560** registered energy consumption of **Shs. 837,435** and **Shs. 842,141** for consumption of the months of April 2019 and May 2019 respectively. Compared to the consumption registered by **Meter No. U224146** of **Shs. 657,163** for the consumption of October 2019, of **Shs. 806,722** for the consumption of January 2020 and of **Shs. 506,285** for the consumption of April 2020, **Meter No. U224560** alleged by the Respondent to be under registering appears to have registered consumption in those two months which is higher in numerical terms than the consumption registered by **Meter No. U224146** for the consumption of the months of October 2019, January 2020 and April 2020.
- (iii) Comparing the contents of Table 2 and Table 3 both of which are records of consumption while using **Meter No. U224146**, it can be seen that the average energy consumption for the period **October 2020 to October 2021** which is **Shs. 2,024,567** and that for the period **September 2019 to September 2020** which is **Shs. 1,133,874** is almost twice as much. The energy consumption of September 2020 billed on 3 October 2020 amounting to Shs. 2, 946, 590 just fell short of the Shs.3.0 million mark. In that regard, we may not simply explain the difference in the amount registered simply by the ability of the Meter to register since the same Meter was being used in both cases as per the records in Table 2 and Table 3. Two plausible explanations for the drastic increase in monthly bills in the October 2020 to October 2021 period are: (a) an increase in production hence a higher consumption of energy; and (b) an increase in the tariff. The Regulator (Electricity Regulatory Authority) normally makes major tariff adjustments starting January of a given calendar year and makes subsequent adjustments on a quarterly basis to take into account inflation and fuel cost adjustments. Therefore, it is highly unlikely to explain the steep increase in bills during the period under review by tariff increases. **This leaves one plausible explanation, the one of increased production of the Complainant's company thus consuming more units of energy.** Unfortunately **Exhibit REx7 (i – iv)** does not show the total number of energy units consumed monthly but simply shows the amount of money due.



- (iv) The remaining ten bills from January 2022 through October 2022 (**REx7 (iii)** and **REx7(iv)**) went down oscillating in the **Shs.1. 5 million range** with the lowest being the **1 March 2022 bill of Shs. 987,804** and only one bill reaching the Shs. 2.0 million mark, for 4 August 2022 at Shs. 2, 382, 440. The implication is that during that period, January 2022 to October 2022, utilization of energy by the Complainant's company reduced comparing to the level of energy utilization during the October 2020 to April 2021 period.
- (v) From the observations made in (i) through (iv) above we cannot conclusively say that **Meter No. U224560** was under registering, owing to the two bills which exceeded three bills registered using the replacement **Meter No. U224146**. Analysis of **Exhibit REx7(i – iv)** has also revealed that the consumption of energy by the Complainant's factory varied within a wide range with the lowest being Shs. 111,604 billed on 3 September 2018 and the highest being Shs. 2,946,590. Although the low consumption during the period when **Meter No. U224560** was in use may be partially attributed to under registering, it can as well be attributed to low utilization of energy by the company. **Exhibit REx7(i – iv), therefore, does not provide concrete evidence of under registering of energy utilization by Meter No. U224560.**

35. Before leaving the area of energy consumption, the Respondent is the owner of **Meter No. U224560, Meter No. U224146 and the Clamp Meter** which was used to cross-check the accuracy of **Meter No. 224560**. The Respondent contended that **Meter No. U224560** was tempered with by the Complainant to under register energy consumption of the Complainant's company. What has not come out in the evidence adduced before the Tribunal is, firstly, whether a Clamp Meter is always accurate and secondly, if it is possible to manipulate a Meter to under register energy consumption or whether it is not possible to manipulate a Meter to over register energy consumption. Those two areas are crucial gaps in the evidence adduced before the Tribunal.



36. Turning to Complainant Exhibit **CEx8**, a letter dated 15<sup>th</sup> October 2019 from a one Allan Rwakakooko, a Senior Legal Manager of the Respondent to Baganda, Ssekatawa & Co. Advocates (Counsel for the Complainant) it is stated in paragraph 3 that:

***“Consequently, basing on average consumption of the newly installed meter a debit of Ug. Shs.10, 915,428/- as the total unbilled amount for a period of 13 months the meter was under registering was posted on your client’s account”***

37. The Complainant in his Complaint stated in the Particulars of the Complaint that:

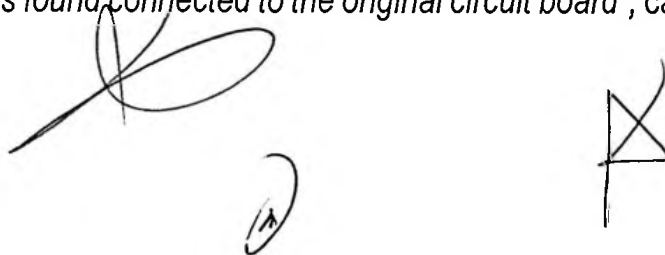
***“The Complainant, Dr. Yasin Ali has been a commercial customer of the Respondent under Account No. 205858876; Meter No. U224560 which falls under the Umeme Natete District Area since June 2018”.***

38. It is not stated when exactly in June 2018 electricity supply was connected to the Complainant’s company. **REx7(i)** shows a 6 June 2018 bill of Shs. 84,686. Since the nature of billing is post consumption as opposed to prepayment, it is unlikely that the 6 June 2018 bill is for energy consumption as this would be for energy consumed in May 2018 yet the meter was installed in June 2018. The 4 July 2018 bill of Shs.204, 646 is therefore the metered bill for June 2018 energy consumption. Since the Respondent’s employees recovered **Meter U224560** from the Complainant’s company on 15<sup>th</sup> July 2019, the implication of thirteen (13) months of the Meter under registering is that from day one, when the Meter was first installed, it under registered energy consumption.

39. **Section 31 (2) of Statutory Instrument 2020 No. 78 Electricity (Code of Quality of Service) Regulations 2020** provides that: *“A holder of a distribution license shall ensure that all meters installed at consumer premises are tested and sealed in accordance with the Uganda National Bureau of Standards Act and the Weight and Measures (Electricity Meters) Rules, 2015”.*



40. Furthermore, **Section 31 (3) of Statutory Instrument 2020 No. 78 Electricity (Code of Quality of Service) Regulations 2020** provides that: *“A holder of a distribution license shall install a reliable meter that is of a standard and type approved by the Authority and certified by the Uganda National Bureau of Standards”*.
41. No evidence was adduced by the Respondent to show that at the time of installing **Meter No. U224560** at the Complainant's premises in June 2018 the meter's tests provided for in the Regulations cited in paragraph 39 above had been performed. Furthermore, no evidence was adduced by the Respondent to prove that the Complainant was made aware of the Meter pre installation tests and that the Complainant acknowledged the status of the **Meter No U224560** before it was installed at the Complainant's premises. **What we see in this matter is that there was no baseline as far as the accuracy or status of Meter No U224560 was at the time of installation.** Consequently, the Tribunal has no basis to determine the status of Meter No. U224560 at the time of installation of the same at the Complainant's premises. The evidence adduced by the Respondent cannot help the Tribunal to determine whether the Meter in question was installed when it was already tampered with or whether it was faulty or whether it was accurate. The status of Meter No. U224560 at the time of installation is unknown.
42. The evidence by Ms. Perpetua Kyarisima **RW2** in paragraph 8 of her Witness Statement where she states that: *“The Respondent carried out a meter test report and the same revealed that the meter had been tampered with and that there was a remote control relay connected in the current path that resulted into the meter under registering the energy being consumed”* as well as the evidence by Mr. Nuwarinda Gordon **RW3** in paragraph 7 of his Witness Statement where he states that: *“I am aware that a Meter Test Report dated 20<sup>th</sup> July 2019 was prepared. The findings in the report indicated failed external visual, functional, accuracy and internal visual tests. The findings revealed that the sealing nails were hit from behind as seen from the meter case back. Meter pulses slower than normal hence failing accuracy test. During internal visual test, a foreign (auxiliary) circuit board was found connected to the original circuit board”*, cannot

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be relied upon by the Tribunal for the singular reason that the tests were performed in the absence of the Complainant's representatives, contrary to the stipulation of Regulations 34(6) of the Electricity (Code of Quality Service) Regulation 2020.

43. **Meter No. U224560** is the property of the Respondent and was installed by the Respondent at the Complainant's premises. Furthermore, **the Clamp Meter and Meter No. U224146** (the replacement Meter) are both properties of the Respondent and the evidence adduced by the Respondent regarding the Clamp Meter test presupposes that a Clamp Meter is always accurate. The tests on **Meter No. U224560** carried out at the Respondent's Laboratory were carried out in the absence of the Complainant's representative and clearly Mr. Abdul Rahman Khalid **CW1** did not understand documents **CEx3 (i) – (iii)** (the Meter Test Report) and that is why he requested to be present at the Respondent's Laboratory during the Meter testing an idea he abandoned when he learnt that indeed a test had been done and for all intent and purposes a second test was not necessary since he had missed to witness the first test which was the key one. The Respondent went ahead to determine the under registered energy bill of Shs.10, 915,428 and slammed it on to the Complainant. This is analogous to a situation where a plaintiff investigates its case, prosecutes the same, constitutes the jury and makes a judgment in its own case.
44. From our analysis given in paragraphs 38 to 42 above, the Respondent has not adduced satisfactory evidence to prove that **Meter No. U224560** was tampered with and if it was, that it is the Complainant which tampered with it.
45. In its submission, the Respondent had contended in paragraphs 4.14, 4.15 and 4.16 that by continuing to pay its bills as they fell due even after the figures drastically went up following installation of the new meter, the Complainant had accepted the energy recovery bill. We disagree. We have already indicated that one of the explanations for the drastic increase in the monthly bill at one time reaching Shs. 2,946,590 as per the 3 October 2020 billing is a possible increase in production by the Complainant hence an increase in energy consumption. In an email message **REx8** originating from Kyalisiima Petua to Allan Rwakakooko

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dated September 18, 2019, it was stated, among others, that: *"The customer had agreed to pay the money in 6 installments with an initial payment of 3m. I think this changed along the way after change of lawyers"*. This email mentions a meeting held between the Complainant's representatives and the Respondent's employees but no evidence of the said meeting was availed. The email is also an internal communication between the Respondent's employees and no documentary evidence is on record to confirm the Complainant's acceptance of the energy recovery bill.

46. On the Tribunal's record we have a copy of a letter dated 6<sup>th</sup> September 2019 addressed to the Managing Director, Umeme Limited authored by Baganda, Ssekatawa & Co. Advocates whose subject is **"Notice of Intention to Sue"** on behalf of the Complainant (CEx7) which is a clear testimony of the Complainant's objection to the energy bill. Indeed, on 18<sup>th</sup> November 2019, the Complainant filed a Complaint in that regard at this Tribunal. The behavior displayed by the Complainant as evidenced in REx7 (i) – (iv) to religiously pay his bills as they fall due is that of a very good customer. This tribunal cannot and will not penalize the Complainant for being a good customer who pays his energy bills in a timely manner.

47. **Consequently, this Tribunal has no choice but to answer Issue 1 in the negative.**

**Issue 2: Whether the Complainant is entitled to the Remedies Sought?**

### General Damages

48. In his Submission, the Complainant had prayed for damages saying that *"the Respondent's failure to resolve the said issue early enough has greatly affected the Complainant's workflows with the tedious litigation that has dragged on now for over 5 years"*. He cited, among others, the case of **Assist (U) Limited vs.**

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**Italian Asphalt and Haulage & Another, HCCS No. 1291 of 1999 at 35** where it was held that: *“the consequences could be loss of profit, inconvenience, mental distress, pain and suffering”*.

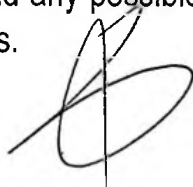
**49.** Examination of Respondent **Exhibit REx7(i) – (iv)** shows that the Respondent continued to supply the Complainant with electricity without any stoppage despite the fact that the Complainant had not honored the disputed energy recovery bill. This Tribunal, therefore, does not find any merit in the Complainant's contention that his workflows were greatly affected. On the other hand, the Tribunal agrees with the Complainant regarding the inconvenience and mental distress arising from the Respondent's institution of the disputed energy recovery bill. **In that regard, General Damages of Shs. 3. 0 million (Shillings Three Million only) is awarded to the Complainant.**

### Costs

**50.** Regarding the issue of costs, the Respondent is to meet the Complainant's costs.

### **4.0 RECOMMENDATION**

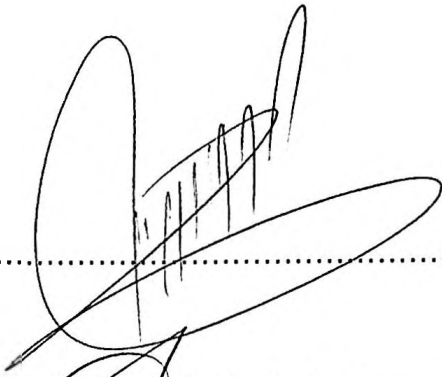
**51.** A meter is a very important equipment in the business of supplying energy to the consumers. It is the recommendation of this Tribunal that the Respondent takes all necessary measures at the time of installation of meters and at the time of conducting tests to avoid any possible disputes or misunderstandings between itself and the consumers.



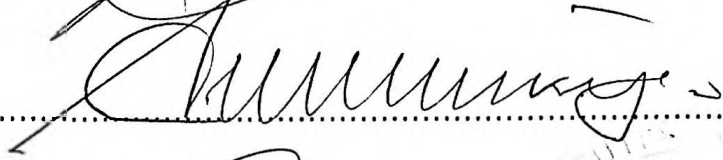
**We so Order**



Charles O. Owor  
Chairman



Anaclet Turyakira  
Vice Chairman



Eng. Paul Mubiru  
Member



This.....*19<sup>th</sup>*..... day of.....*March*.....2024