

STATUTORY INSTRUMENTS

SUPPLEMENT No. 23

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STATUTORY INSTRUMENTS SUPPLEMENT

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STATUTORY INSTRUMENTS

THE ELECTRICITY DISPUTES TRIBUNAL (PROCEDURE) RULES, 2012

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STATUTORY INSTRUMENTS 2012 No. 53.

The Electricity Disputes Tribunal (Procedure) Rules, 2012.

(Under section 111(5) of the Electricity Act Cap. 145)

In exercise of the powers conferred on the Tribunal by section 111(5) of the Electricity Act, Cap. 145, these Rules are made this 15th day of February, 2011.

Part I—Preliminary

1. Title.

These Rules may be cited as the Electricity Disputes Tribunal (Procedure) Rules, 2012.

2. Interpretation.

In these Rules, unless the context otherwise requires—

“Act” means the Electricity Act, Cap. 145;

“Authority” means the Electricity Regulatory Authority established by section 4 of the Act;

“chairperson” means the chairperson of the Electricity Disputes Tribunal;

“complaint or complainant” includes a claim or a claimant;

“court” means the High Court of Uganda;

“currency point” has the value assigned to it in the second schedule to the Act;

“Registrar” means the Registrar of the Tribunal;

“Tribunal” means the Electricity Disputes Tribunal established by section 93 of the Act.

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3. Conduct of business of Tribunal.

1. The business of the Tribunal shall be conducted between the hours of 8:00 a.m. and 5.00 p.m, unless otherwise directed by the chairperson.
2. The sittings of the Tribunal shall—
 - a. be determined by the chairperson; and
 - b. be advertised in a manner directed by the chairperson.
3. In determining Tribunal sitting, the chairperson shall give reasonable notice and opportunity to all parties to appear before the Tribunal with as little inconvenience and expense as possible.
4. Without prejudice to subrule (2), the Tribunal may dispose of any business that has not been advertised in accordance with rule 3 (2) (b) and notified in the prescribed manner.

Part III—Proceedings of Tribunal

4. Jurisdiction of Tribunal.

1. The Tribunal shall have jurisdiction to hear and determine all matters referred to it relating to the electricity sector.
2. For the avoidance of doubt, the jurisdiction of the Tribunal does not include the trial of a criminal offence or the hearing of any dispute that a licensee and any other party may have agreed to settle in accordance with their agreement.

5. Commencement of application.

An application to the Tribunal shall be commenced by filing a complaint in the registry designated by the Registrar.

6. Form of complaint.

1. A complaint to the Tribunal shall be in form 1 set out in Schedule 1.

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2. The complaint shall clearly state the reasons for the application.

3. The complaint shall be filed in quadruplicate.

7. Application fee.

The complainant shall, on the filing of a complaint, pay a non-refundable fee set out in schedule 2.

8. Service on respondent.

The complainant shall, within fifteen days after filing a complaint with the Tribunal, serve a copy of the complaint on the respondent.

9. Proof of service.

1. A person served with documents under these Rules shall acknowledge receipt of the documents by signing a copy of the notice.
2. Where a person served with a document cannot read or write, the person shall acknowledge receipt by affixing a right hand thumb mark on the documents.

10. Submission of respondent's statement of defence.

1. The respondent shall, within twenty one days after service of the complaint, respond to the complaint in writing.
2. Where the respondent is illiterate or suffers a disability that does not allow him or her to write, the Tribunal shall make arrangements to reduce the response in writing.
3. The Tribunal may, upon the complaint of the respondent where reasonable cause is shown, extend the time for filing of the response.

11. Failure of respondent to file response.

Where after the expiration of the twenty one days referred to in rule 10

1. the respondent does not file a response, the Tribunal may, if satisfied that the complaint was duly served upon the respondent, proceed to make a decision in favour of the complainant.

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12. Scheduling conference.

1. The Tribunal shall hold a scheduling conference to sort out the points of agreement, the possibility of mediation, arbitration and any other form of settlement.
2. Where the parties reach an agreement and the Tribunal is satisfied that it is the will and intention of the parties to so agree, the Tribunal shall record a settlement on the terms agreed upon by the parties and proceed to decide the question and make a decision according to the terms of agreement.
3. Where the parties have failed to reach an agreement, the Tribunal shall determine the issues and set the case for hearing.

13. Alternative Dispute Resolution.

1. Where the parties do not reach an agreement, the Tribunal may, if it is of the view that the dispute has a good potential for alternative dispute resolution, order alternative dispute resolution before a member of the bar or bench agreed upon by the parties failing which the Tribunal may appoint an Arbitrator.
2. Alternative dispute resolution shall be completed within twenty days after the date of the order for alternative dispute resolution.
3. A person appointed under subrule (1) may for reasonable cause apply to the Tribunal for extension of time, in which case the Tribunal may extend the period not exceeding fifteen days.

14. Notice of hearing.

1. Where the parties have failed to reach an agreement after the scheduling conference and alternative dispute resolution is not an option, the Tribunal shall fix a hearing date and notify the parties of the date.
2. The Registrar shall give the parties not less than seven days notice of the date fixed for the hearing.
3. The notice shall be in form 2 set out in Schedule 1 to these Rules.

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15. Hearing to be open to the public.

1. The proceedings of the Tribunal shall be open to the public.

2. The Tribunal may, if it thinks fit, order that the public generally or any particular person shall not have access to the proceedings.

16. Hearing to be on day to day basis.

The Tribunal shall, as far as practicable, hear the case on a day to day basis once the proceedings have commenced.

17. Sitting of Tribunal.

1. The Tribunal may, for the purposes of the proceedings, sit on Saturday or any public holiday and any finding or order made shall not be altered or reversed only by reason that the order was passed on a Saturday or a public holiday.
2. Without prejudice to subrule (1), the Tribunal shall not sit on Sunday or a public holiday unless the omission would cause a delay or inconvenience, which would be unreasonable.

18. Procedure at hearing.

1. The evidence of the complainant shall be heard first, followed by that of his or her witnesses if any, unless the Tribunal orders otherwise.
2. At the close of the evidence of the complainant and each of his or her witnesses, the respondent shall be given an opportunity to question the complainant and each of his or her witnesses.
3. At the close of the evidence of the complainant and his or her witnesses, the evidence of the respondent shall be heard and the complainant shall be given an opportunity to question the respondent and each of his or her witnesses.
4. The Tribunal may, at any time during the proceedings, put questions to either party or to any witness and may, in its direction, call any additional evidence it considers necessary.

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19. Non-appearance of complainant.

Where, on the day fixed for the hearing, the respondent appears and the complainant does not appear, the Tribunal shall, if it is satisfied that the hearing notice was duly served, ask the respondent whether he or she admits the claim and if—

- a. the respondent admits the claim or any part of the claim, the Tribunal may make a ruling against him or her for the claim or for the part of the claim he or she admits and dismiss the part not admitted; or
- b. the respondent does not admit the claim, the Tribunal may dismiss the claim.

20. Non appearance of respondent.

Where on the date fixed for the hearing, the complainant appears, but the respondent does not appear, the Tribunal may—

- a. if satisfied that the hearing notice or summons notifying the respondent of the place and time of the hearing was duly served upon him or her, proceed to receive the evidence and submission; and
- b. if satisfied that the complainant has established his or her claim, in whole or in part, make a decision in favour of the complainant accordingly.

21. Non appearance of both parties.

1. Where on the day fixed for the hearing both parties do not appear, the tribunal may dismiss the application.
2. Where an application is dismissed under subrule (1), the Tribunal may reinstate the application if the complainant shows sufficient cause for his or her non-appearance.

22. Setting aside default judgment.

1. A party against whom a decision has been made under rules 11, 19. and 20, may apply to the Tribunal to set aside the decision.

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2. The Tribunal shall not set aside any decision unless it is satisfied that the party has given sufficient cause for his or her non-appearance.

23. Adjournment of proceedings.

The Tribunal may, where sufficient cause is shown, upon the application of any of the parties, adjourn the proceedings from time to time.

24. Language of Tribunal.

1. The language to be used during the proceedings of the Tribunal is English.
2. Translation of the proceedings may be provided by the Tribunal where necessary.

25. Burden and standard of proof.

1. The complainant shall have the burden of proving his or her case.

2. Where any party asserts any fact or claim, he or she shall prove that fact or claim.
3. An issue before the Tribunal shall be proved on the balance of probabilities.

26. Decision of Tribunal.

1. The decision of the Tribunal may be unanimous or determined by the majority verdict.
2. The decision of the Tribunal shall be written by the Chairperson or the Registrar.
3. The decision of the Tribunal shall contain the following—
 - a. the nature of the application;
 - b. the number of the applications;
 - c. the names of the parties;
 - d. a summary of all the relevant evidence produced before the

Tribunal and all witnesses and the reasons for accepting or rejecting the evidence;

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- e. the order or decision and the reasons for the order or decision;
 - f. the relief or remedy to which the parties are entitled; and
 - g. an order as to costs.
4. The decision of the Tribunal shall be read out in open court.
 5. The members of the Tribunal, with the exception of any dissenting member, shall sign the decision prepared.
 6. Where the parties reach an agreement that wholly or partially disposes of the application, the Tribunal shall record the agreement reached as a consent decision and the parties to the agreement or their advocate shall sign the agreement.

27. Immunity of Tribunal.

1. A member of the Tribunal is not liable to be sued in any civil court or Tribunal for any act done or ordered to be done by him or her in the discharge of his or her judicial functions.
2. An officer of the Tribunal or any other person designated to execute any order or warrant of the Tribunal is not liable to be sued in any civil court or Tribunal in respect of any lawful act done in the execution of the warrant.

Part IV—Witnesses

28. Competence of witnesses.

A person is competent to testify, unless the Tribunal considers that the person is prevented from understanding the questions put to him or her or is not capable of giving rational answers to the

questions put to him or her due to his or her tender age, infirmity whether of body or mind or any cause of the same kind.

29. Summoning of witnesses.

1. The Tribunal may summon any person to appear before it as a witness.

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2. The summons shall be in form 3 set out in Schedule 1 to these Rules.
3. Where a witness, without sufficient cause does not appear in obedience to the summons, the Tribunal may, on proof of proper service of summons in reasonable time before the hearing date, issue a warrant to bring him or her before the Tribunal at a time and place specified in the warrant.

30. Penalty for non appearance of witnesses.

A person summoned to attend as a witness who—

- a. fails to attend as required by the summons;
- b. having attended, departs without having obtained the permission of the Tribunal; or
- c. fails to attend after adjournment of the Tribunal after having

been ordered to attend, is liable on conviction to a fine not exceeding ten currency points.

31. Power to summon material witness or re examine person present.

1. The Tribunal may at any stage of the proceedings—
 - a. summon any person as a witness;
 - b. examine any person in attendance though not summoned as

witness;

- c. recall and re-examine any person,

if the Tribunal deems his or her evidence essential.

2. The complainant or respondent or his or her advocate shall have the right to cross examine any person examined under subrule (1) and the Tribunal shall adjourn the hearing for a time it thinks necessary to enable the cross examination to be adequately prepared.

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32. Number of witnesses.

subject to the provisions of any other law in force, no particular number of witnesses shall, in any proceedings, be required to prove a fact before the Tribunal.

33. Immunity of Witnesses.

A witness before the Tribunal shall have the same immunities and privileges as if he or she was a witness before the High Court.

Part V—Review And Appeals

34. Review.

1. The Tribunal may, of its own motion or upon application by an aggrieved party, review its decisions or orders.
2. A person aggrieved by a decision of the Tribunal may, within thirty days from the date of the decision or order, apply to the Tribunal for a review.

35. Appeal.

1. A person aggrieved by a decision of the Tribunal may, within thirty days from the date of the decision or order, appeal to the High Court.
2. The law applicable to reviews and appeals from the High in civil matters shall, with the necessary modifications or other adjustments as the Chief Justice may direct, apply to appeals from the Tribunal to the High Court.

Part VI—Miscellaneous

36. Tribunal register book.

The Tribunal shall have a register book, which shall contain the following—

- a. the serial number of the claim or application;
- b. the date of filing the claim or application;

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- c. the name and address of the complainant, or where there is more than one complainant, the names and addresses of all the complainants;
- d. the name of the respondent, or where there is more than one respondent, the names and addressees of all the respondents;

- e. the nature of the claim;
- f. the date of hearing;
- g. a list of documents produced, including those requested by the

Tribunal;

- h. the decision or order of the Tribunal and the date it was made;
- i. the date on which the remedy was executed;
- (j) the particulars and details of execution of the decision or order;
- (k) the application for a Notice of Appeal to the High Court as the case may be; and
- (l) the final disposition of the application.

37. Production of documents.

1. The Tribunal shall have the power to order any person to produce documents relevant to a matter before it.
2. The order to produce the documents shall be in form 4 set out in Schedule 1 to these Rules.

38. Extension of time.

The Tribunal may, for sufficient reason, extend the time limited by these Rules for the doing of any act authorised under these Rules.

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39. Copies of Tribunal documents.

1. A person affected by an order or decision of the Tribunal who requires a copy of the order or decision shall, on applying for the copy, be availed with it if he or she pays the fee prescribed in schedule 2 to these Rules.
2. The Tribunal may waive the prescribed fee where sufficient reason is given for the waiver.
3. A person, other than a person affected by the decision or order of the Tribunal, may acquire copies of documents of the Tribunal on payment of the fee prescribed in Schedule 2 to these Rules.

40. Tribunal not to be bound by technicalities.

The Tribunal is, in the resolution of complaints and disputes under these Rules, not bound by technicalities or legal rules of procedure and may waive any rules or procedural requirements

41. Application of Civil Procedure Rules.

Where an issue is not provided for under these Rules, the Civil Procedure Rules shall apply with such modifications as the Tribunal shall deem necessary.

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SCHEDULES SCHEDULE 1

Rule 6(1)

FORM 1

THE REPUBLIC OF UGANDA

THE ELECTRICITY ACT,

Cap. 145

THE ELECTRICITY DISPUTES TRIBUNAL (PROCEDURE) RULES, 2012

COMPLAINT No..... OF 20.....

IN THE MATTER OF

..... complainant

and

..... respondent

complainant

(Under Rule 6(1))

PARTICULARS OF COMPLAINANT

Name.....

Postal address

Physical address Plot No.....

Street..... Town/City.....

Telephone No Fax No.....

Email.....

PARTICULARS OF RESPONDENT

Name.....

Postal address.....

Physical address..... Plot No

Street..... Town/City.....

Telephone No..... Fax No.....

Email.....

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PARTICULARS OF COMPLAINT

Office where invoice was issued.....

Type of electricity levy (tick where appropriate)

- a. Commercial levy
- b. Domestic levy
- c. Other (Specify)

Invoice number.....

Date of issue.....

STATEMENT OF FACTS AND REASONS IN SUPPORT OF THE COPMPLAINT

(If space provided is not sufficient, attach as many additional pages as needed for the statement)

ISSUES ON WHICH A DECISION(S) IS/ARE SOUGHT

1.....

2.....

3.....

4.....

5.....

LIST OF BOOKS, DOCUMENTS OR OTHER THINGS TO BE PRODUCED BEFORE THE TRIBUNAL

(Give brief description of each, use additional pages if necessary)

1.

2.....

3.....

4.....

5.....

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LIST OF WITNESSES IF ANY AND THEIR ADDRESSES

1.

2.

3.....

4.....

5.....

DECLARATION

I/We the above mentioned complainant (s), declare that what is stated in this complaint is true to the best of my/our knowledge and belief.

Dated this..... Day of..... 20.....

Signature of complainant

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FORM 2

THE REPUBLIC OF UGANDA

THE ELECTRICITY ACT,

Cap. 145

THE ELECTRICITY DISPUTES TRIBUNAL (PROCEDURE) RULES, 2012

APPLICATION No..... OF 20.....

IN THE MATTER OF

..... COMPLAINANT

AND

..... RESPONDENT

NOTICE TO PARTIES TO APPEAR

(Under Rule 14(3))

To.....

TAKE NOTICE THAT the above application will be heard by the Tribunal on the ay of..... 20 at..... O'clock in the fore/afternoon.

You are hereby required to appear before the Tribunal with your witnesses if any.

If no appearance is made by you or any person authorised by you to act on your behalf, the application may be heard and determined in you absence.

Given under my hand and the Seal of the Tribunal this day of 20.....

Registrar

FORM 3 THE REPUBLIC OF UGANDA THE ELECTRICITY ACT,

Cap. 145

THE ELECTRICITY DISPUTES TRIBUNAL (PROCEDURE) RULES, 2012

COMPLAINT No..... OF 20.....

IN THE MATTER OF

..... complainant

and

..... respondent

Witness Summons

(Under Rule 29(2))

To.....

WHEREAS your attendance as a witness is required on behalf of the

..... during the hearing of the above application, you are

hereby required to appear before the Tribunal on the..... day in

the fore/afternoon and to bring or send the following documents or things to the Tribunal—

1.

2.

3.....

4.....

5.....

Given under my hand and the Seal of the Tribunal this..... day of.....

20.....

Registrar

acknowledgement of service of summons

Name

Address

Date and time

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FORM 4 THE REPUBLIC OF UGANDA THE ELECTRICITY ACT,

Cap. 145

THE ELECTRICITY DISPUTES TRIBUNAL (PROCEDURE) RULES, 2012

COMPLAINT No..... OF 20.....

IN THE MATTER OF

..... COMPLAINANT

AND

..... RESPONDENT

ORDER TO PRODUCE DOCUMENTS

(Under Rule 37(2))

To

TAKE NOTICE that the complainant/respondent requires you to produce for his/her/its inspection the following documents referred to in your complaint/Response/ affidavit dated

..... or which are necessary to meet the

ends of justice in this case (describe the documents required).

List of documents to be produced

1.....

2.

3.....

4.....

Given under my hand and Seal of this Tribunal this..... day of.....

20.

Registrar

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SCHEDULE 2

Rule 7, 39

THE REPUBLIC OF UGANDA

THE ELECTRICITY ACT,

Cap. 145

THE ELECTRICITY DISPUTES TRIBUNAL (PROCEDURE) RULES, 2012

ITEM FEES	AMOUNT, Ug Shs
1. On filing of an application	15,000/=
2. On issue of a notice	2,000/=
3. On filing of a notice	2,000/=
4. On filing an affidavit	2,000/=
5. On filing any other documents	a fee of 1,800/= where the amount does exceed 30,000/= a fee of 800 for every 12,000/= or part of it where the amount exceeds 30,000/=, the fee shall not exceed 60,000/=

- | | |
|--|---------|
| 6. Certificate of a document | 1,500/= |
| 7. On every request for a document from the Tribunal | 2,000/= |
| 8. On every document provided by the Tribunal | 2,000/= |
| 9. On application for execution | 2,000/= |

CHARLES OKOTH OWOR,
Chairperson of the Tribunal.

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Cross References

The Civil Procedure Rules, SI 71-1