

GOVERNMENT NOTICE No. 594 published on 25/8/2023

THE EWURA ACT
(CAP. 414)

RULES

(Made under section 40(1)(j))

THE ENERGY AND WATER UTILITIES REGULATORY AUTHORITY (INTERNAL
REVIEW PROCEDURE) RULES 2023

ARRANGEMENT OF RULES

Rule Title

PART I
PRELIMINARY PROVISIONS

1. Citation.
2. Application.
3. Interpretation.

PART II
PROCEEDINGS OF THE REVIEW PANEL

4. Application for review.
5. Authority to constitute committee.
6. Invitation to make submissions.
7. Extension of time to file an application.
8. Service of documents.
9. Quorum of Committee.
10. Notice of hearing.
11. Hearing of application.

12. Procedure of non-appearance.
13. Interim applications.
14. Withdraw of application.
15. Recommendation by Committee.
16. Venue and dates.
17. Committee may regulate its own proceedings.
18. Decision of the Board.
19. Appeals.

PART III GENERAL PROVISIONS

20. Recruitment of panel members.
21. Obstruction of proceedings.
22. Disclosure of conflict of interests.

SCHEDULE

THE ENERGY AND WATER UTILITIES REGULATORY
AUTHORITY ACT
(CAP. 414)

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RULES
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(Made under section 40(1)(j))

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ENERGY AND WATER UTILITIES REGULATORY AUTHORITY
(INTERNAL REVIEW PROCEDURE) RULES 2023

PART I
PRELIMINARY PROVISIONS

Citation 1. These Rules may be cited as the Energy and Water Utilities Regulatory Authority (Internal Review Procedure) Rules, 2023.

Application 2. These Rules shall apply in respect of the procedure for review of substantive decisions made under delegated powers.

Interpretation 3. In these Rules, unless the context otherwise requires:

Cap. 414 “Act” means the Energy and Water Utilities Regulatory Authority Act;
 “applicant” means a person who applies for a review of a decision under Part II;
 “Authority” means the Energy and Water Utilities Regulatory Authority established under section 4 of the Act; or its acronym “EWURA;
 “Board” means the Board of Directors of the Energy and Water Utilities Regulatory Authority established under section 8(1) of the Act;

- “Committee” means the Internal Review Committee constituted pursuant to Rule 5;
- “Director General” means the Director General of the Energy and Water Utilities Regulatory Authority appointed under section 14(1) of the Act;
- “Panel” means the Review Panel established in accordance with section 26 of the Act;
- “Respondent” means a person against whom an application for review is made under Part II;
- “substantive decision” means decisions made based on merits and principles defining one’s rights as differentiated from procedural decisions which are made on rules and procedures employed to obtain one’s rights; and
- Cap. 285 “Tribunal” means the Fair Competition Tribunal established under the Fair Competition Act.

PART II APPLICATION FOR REVIEW

- Application for review
- 4.-(1) A person aggrieved by any substantive decision made on behalf of the Authority under delegated power may apply to the Authority for review.
- (2) The application under subrule (1) shall be made within fourteen days after receipt of the decision.
- (3) For the purpose of subrule (2) the date of receipt of decision shall be the date when the decision was properly served pursuant to rule 8.
- (4) The application for review shall be in a form prescribed in the Schedule.
- Authority to constitute committee
- 5.-(1) The Board shall, upon receipt of the application under rule 4 and in any event not later than seven days constitute a committee consisting of:
- (a) two members from the Panel, one of whom shall be a lawyer and another one who is qualified in the field subject of the application; and
- (b) one member of the Board who did not participate

in the decision which is the subject of the review.

(2) The Board shall appoint the chairperson of the Committee among members of the Committee appointed under subrule (1).

(3) The Director General shall nominate one person among officials from the Authority with legal background to be the Secretary of the Committee.

Invitation to
make
submissions

6.-(1) The Committee shall cause the application for review to be served to the following persons inviting them to make submissions to the said application.

- (a) the respondent;
- (b) the Minister;
- (c) the relevant sector Minister;
- (d) interested parties, if any;
- (e) the Consumer Consultative Council; and
- (f) any person the Committee considers necessary.

(2) The person served with the invitation to make submissions under subrule (1) shall prepare submissions in support or opposing the application and submit the same to the Committee within twenty-one days from the date of invitation.

(3) The person who has submitted submission under subrule (2) shall have the right of audience before the Committee during hearing.

Extension of
time to file
an
application

7.-(1) The applicant may apply for extensions of time to file the application for review on showing sufficient cause.

(2) The application under subrule (1) shall be made to the Director General who upon receipt of the same shall forward it to the Committee for determination.

(3) The Committee shall, after receipt of the application under subrule (2) deliberate on such application and make recommendations to the Board.

(4) The Committee shall, while deliberating on the application under subrule (3) afford all parties opportunity to make submissions.

Service of documents

8. Service of a document, to any party under these rules shall be by way of:

- (a) personal delivery to the party or his representative who shall acknowledge receipt by signing and return copy of the document to the Authority;
- (b) registered mail with return receipt; or
- (c) publication in two newspapers of general circulation in Tanzania, one in English and another in Kiswahili where the Authority has determined that:
 - (i) there are reasons to believe that the party is keeping out of the way for the purpose of avoiding the service;
 - (ii) the documents cannot for any other reason, be served in an ordinary way; or
 - (iii) there is proof in writing from the local authority that efforts to serve the party were taken and that such efforts have failed due to reasons given under subparagraphs (i) and (ii).

Quorum of the Committee

9. Quorum at any meeting of the Committee shall be at least three members.

Notice of hearing

10. The parties shall be notified in writing the date and venue of hearing and such notice shall be signed by the Chairman or Secretary of the Committee.

Hearing of application

11.-(1) The Committee shall, after the expiration of twenty-one days to which the persons mentioned under Rule 5 are required to submit their submissions, commence hearing of the application.

(2) During hearing the parties may appear in person, advocate or duly appointed representative.

(3) During hearing submissions shall be made either orally or in writing.

Procedure
on non-
appearance

12.-(1) Where the applicant does not appear on a day fixed for hearing without reasonable cause, the Committee may recommend to the Board for dismissal of the application.

(2) Where the applicant appears and the respondent does not appear without reasonable cause, the application may proceed *ex parte*.

(3) A party may, upon showing sufficient cause apply to the Board to set aside the dismissal order under subrule (1) or the *ex parte* order under subrule (2).

Interim
applications

13.-(1) The Committee shall have powers to receive and determine any application made by the parties pending determination of the application including prayers for extension of time.

(2) The Committee shall, while deliberating on the application under subrule (1) afford all parties to make submissions.

Withdrawal
of
application

14.-(1) The applicant may, at any time prior to determination of the application withdraw the application.

(2) Upon receipt of an application for withdrawal, the Committee shall mark the application withdrawn and prepare recommendations to the Board.

Recommend
ations by the
Committee

15.-(1) The Committee shall within three weeks after receipt of the submissions under rule 6, consider the application together with any submissions received, prepare a recommendation and submit to the Board for decision.

(2) The Committee shall, while preparing recommendations under subrule (1), decide whether cost be awarded and the quantum thereof.

(3) Decisions of the Committee shall be by consensus and in the event no consensus is reached by way of majority vote.

Venue and
date

16.-(1) The Committee shall determine the date and venue for the hearing.

(2) The Committee shall, in determining date and venue under subrule (1) take into consideration the convenience of the parties, witnesses and budgetary limitations.

Committee
may
regulate its
own
proceedings

17. Subject to these Rules, the Committee shall have power to regulate its procedure in relation to its meetings and the transaction of its meetings

Decision of
the Board

18. The Board shall, upon receipt of recommendations by the Committee under rule 15 and in event not more than twenty-one days from the date thereof consider such recommendations and it may:

- (a) adopt the recommendations as they are;
- (b) adopt the recommendations with modifications;
- or
- (c) refer back the recommendations to the Committee with instructions for reconsideration.

Appeal

19. Any person aggrieved by the decision of the Board under rule 18 may, within twenty-one days from the date of decision appeal to the Tribunal.

PART III GENERAL PROVISIONS

Appointmen
t of Review
Panel
Members
Cap 414

20.-(1) The Board shall nominate members of the Review Panel from amongst employees of the Authority as follows:

- (a) two persons who have experience in law for at least ten years;
 - (b) two persons who are graduates of a recognized university, having experience in regulatory matters and at least ten years of experience in one or more fields of economics, finance, engineering or management.
- (2) The members of the Panel shall serve for a term

of three years on such terms and conditions as the Board may determine.

Obstruction
of
proceedings

21. Any person who obstructs the proceedings of the Committee commits an offence and shall, on conviction, be liable to a fine not exceeding three million shillings or imprisonment for a term not exceeding three years or to both.

Disclosure
of conflicts
of interest

22. A member of the Committee having a conflict of interest either by himself or his spouse or child, in any matter under discussion by the Committee, shall disclose such interest to the Committee and desist from and deciding such matter.

SCHEDULE

(Made under rule 4(4))

**THE ENERGY AND WATER UTILITIES REGULATORY AUTHORITY
(EWURA)**

APPLICATION FOR REVIEW FORM

(9) Details of the Applicant:

Name: _____

Postal Address: _____

Physical Address: _____

City: _____

Office Telephone: _____

Mobile Telephone: _____

E-mail: _____

(2) Details of the Respondent:

Name: _____

Postal Address: _____

Physical Address _____

City: _____

Office Telephone: _____

Mobile Telephone: _____

E-mail: _____

(3) Details of the decision subject of the application (*attach the decision*)

(4) Grounds for review (a separate sheet may be used):

(5) Reliefs sought

(6) Any other relevant information:

(7) I hereby declare that all the facts and information given in the application are correct to the best of my knowledge.

**Signature of the
Applicant/Principal Officer of the Applicant**

Date _____
Day Month Year

For Authority's Use Only

Date Received: _____ File No: _____

**MAMLAKA YA UDHIBITI WA HUDUMA ZA NISHATI NA MAJI
(EWURA)**

FOMU YA MAOMBI YA MAREJEO

(1) Maelezo ya Mleta maombi:

Jina: _____

Anuani ya posta: _____

Anuani ya Makazi: _____

Mji: _____

Simu: _____

Namba ya Simu ya Mkononi: _____

Anuani ya Barua Pepe: _____

(2) Maelezo ya Mjibu maombi:

Jina: _____

Anuani ya posta: _____

Anuani ya Makazi: _____

Mji: _____

Namba ya Simu ya Ofisi: _____

Namba ya Simu ya Mkononi: _____

Anuani ya Barua Pepe: _____

(3) Maelezo ya uamuzi unaoombewa mapitio (*ambatisha nakala ya uamuzi*):

(4) Sababu za mapitio:

(5) Nafuu Zinazoombwa

(6) Maelezo mengine yeyote muhimu:

(7) Nathibitisha kwamba maelezo yote yaliyotolewa kwenye maombi haya ni kweli tupu kwa ufahamu wangu.

Saini ya Mleta maombi/Ofisa Mkuu wa mleta maombi

Tarehe _____
Siku Mwezi Mwaka

Kwa Matumizi ya Mamlaka tu:

Tarehe Iliyopokelewa: _____ NambaFaili: _____

Dodoma,
....., 2023

JAMES A. MWAINYEKULE
Mkurugenzi Mkuu