

NO. 1 OF 2019

THE ENERGY ACT

SUBSIDIARY LEGISLATION

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**THE ENERGY (RELIABILITY AND QUALITY OF ELECTRICAL
ENERGY SUPPLY AND SERVICE) REGULATIONS**

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THE ENERGY (RELIABILITY AND QUALITY OF ELECTRICAL ENERGY SUPPLY AND SERVICE) REGULATIONS

[Legal Notice 79 of 2021]

1. Citation

These Regulations may be cited as the Energy (Reliability and Quality of Electrical Energy Supply and Service) Regulations.

2. Interpretation

In these Regulations, unless the context otherwise requires —

"customer" has the same meaning assigned to "consumer" under section 2 of the Act;

"disconnection" means discontinuation of electrical energy supply to a customer;

"forced interruption" means an interruption other than planned interruption;

"outage" means an interruption in the supply of electricity or the loss of electrical energy network supply to a customer;

"planned interruption" means a scheduled discontinuation of electric energy supply for the purpose of facilitating the operation and maintenance of the system or some other activity;

"quality of supply" means electric energy supply that meets the Guaranteed Performance Standards including frequency limits, voltage limits, harmonic distortions and voltage flickering;

"quality of service" means the quality of the relationship between a licensee and third party or between two or more licensees including the quality of the provision of a connection, meter reading, billing, payment, handling of consumers' requests and complaints;

"reliability of supply" means the ability of a licensee to maintain electrical energy supply to customers including the duration, frequency and average restoration time of power supply interruptions;

"System Average Interruption Frequency Index" or "SAIFI" means the average number of times that a customer may experience an interruption during the period under review;

"System Average Interruption Duration Index" or "SAIDI" means the average interruption duration for each customer served during the period under review; and

"third party interference" means interference of the electrical installation of the licensee by any other person that is not party to the agreement.

3. Application

These Regulations shall apply to distribution licensees.

4. Purpose of the Regulations

The purpose of these Regulations shall be to—

- (a) provide for the performance standards relating to the supply of electrical energy;
- (b) provide guidelines on the nature, type and format of data, information and statistics to be provided to the Authority by licensees on performance standards relating to electrical energy outages, reliability and quality of electrical energy supply and the quality of service;
- (c) provide for the procedures for monitoring reliability of supply, quality of supply and quality of service on electrical energy supply; and

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- (d) provide for the penalties that may be imposed for failing to meet performance standards.

5. Permitted monthly outage of electrical energy supply

(1) A distribution licensee shall be permitted one outage of electrical energy supply per month which shall not last longer than one hour.

(2) A distribution licensee that fails to comply with the provisions of this regulation shall be liable to the penalty specified in the Schedule.

6. Obligations of a distribution licensee

A distribution licensee shall—

- (a) undertake to distribute electrical energy in a reliable manner which promotes quality; and
- (b) ensure that any interruption in electrical energy supply shall not exceed the frequency or duration of outages specified under regulation 5.

7. Reports

(1) A distribution licensee shall submit to the Authority at least once in each month and at the end of the financial year—

- (a) the reliability and quality of supply indicator report; and
- (b) the quality of service indicator report.

(2) The reports under submitted under paragraph (1) shall specify—

- (a) the number of power supply interruptions and durations;
- (b) SAIDI (System Average Interruption Duration Index) for forced interruptions;
- (c) SAIFI (System Average Interruption Frequency Index) for forced interruptions;
- (d) the penalties incurred by the distribution licensee;
- (e) the number of claims for compensation made against the distribution licensee by its customers;
- (f) the quantity of electrical energy received from generation licensees and transmission licensees;
- (g) energy meter reading data;
- (h) total energy billed to retail supply licensees differentiated by voltage level and tariff per county covered by the licensee;
- (i) number of connections;
- (j) worker safety performance measures; and
- (k) criminal court cases relating to the contravention of the provisions of the Act.

8. Penalties

(1) The Authority may impose the penalties specified in the Schedule on a distribution licensee that contravenes the provisions of regulation 5(1).

(2) Where the Authority determines that a distribution licensee has contravened the provisions of regulation 5(1) the Authority may direct the distribution licensee to take specific actions in order to rectify the contravention.

(3) Where the distribution licensee fails to comply with the directions of the Authority under paragraph (2), the Authority may commence enforcement proceedings which may consist of the—

- (a) penalties specified in the Schedule;
- (b) suspension of the distribution licensee's license; or
- (c) revocation of the distribution licensee's license.

9. Notice before enforcement action

(1) Before commencing enforcement proceedings under regulation 9(3), the Authority shall give a notice in writing of at least thirty days to the distribution licensee requiring the licensee to show cause as to why the licensee should not be penalized.

(2) The notice under paragraph (1) shall specify—

- (a) the default by the distribution licensee and such other details as may be reasonable to allow the licensee to respond effectively; and
- (b) the period within which the distribution licensee shall respond, in writing, to the Authority.

10. Each contravention to be separate and distinct

(1) Each contravention of the provisions of regulation 5(1) by a distribution licensee shall constitute a single, separate and distinct contravention.

(2) Subject to paragraph (1), an incident or interruption of electrical energy supply that causes outages to more than one customer shall be deemed to be a single contravention of regulation 5(1).

11. Authority to determine extent of compliance in consultation with licensee

In any proceedings held for the purposes of determining the penalty to be imposed on a distribution licensee for the contravention of regulation 5(1), the Authority, in consultation with the licensee, shall consider the extent to which licensee may have complied with the provisions of these Regulations.

12. Authority to notify licensee of penalty

(1) Where the Authority determines that a distribution licensee is liable to pay a penalty for contravening the provisions of regulation 5(1), the Authority shall notify the licensee of the penalty in writing and specify the reasons thereof.

(2) A licensee required to pay a penalty imposed under these Regulations shall pay the penalty within financial one hundred and twenty days from the date the Authority notifies the licensee of the penalty.

13. Exemption

(1) A distribution licensee shall not be liable to pay any penalty under these Regulations for a contravention of regulation 5(1) if the contravention was caused by—

- (a) third-party interference of the licensee's electrical energy supply lines;
- (b) inevitable accident;
- (c) *force majeure*;
- (d) electrical fault on the consumer's side beyond the customer metering point; or
- (e) unauthorized access to the licensee's electrical energy supply infrastructure.

(2) For the purposes of this regulation, third-party interference of the licensee's electrical energy supply lines includes—

- (a) substantial loss of generation by a generation licensee that affects major parts of the country;
- (b) faults in electrical energy supply infrastructure that is not owned by the licensee;
- (c) excavation of the licensee's electrical energy supply infrastructure during any public works;
- (d) inability to gain access to the customer's premises;
- (e) vandalism of the electrical energy supply lines of the licensee;
- (f) interference of electrical energy supply lines by vehicles, animals or aircraft;
- (g) falling trees and buildings outside the wayleave trace area; or

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- (h) interference of wayleave trace area.

SCHEDULE

[r. 5(1)]

FINANCIAL PENALTIES

Description of violation		Financial penalty
Violation of Reliability of Supply Performance Standards (<i>Computed on a monthly and annual basis</i>)	Frequency limit exceeded (SAIFI)	Ksh. 20,000/- per year
	Duration limit exceeded (SAIDI)	Ksh. 20,000/- per year

THE ENERGY (PETROLEUM PRICING) (REVOCATION) REGULATIONS

[Legal Notice 191 of 2022]

1. Citation

These Regulations may be cited as the Energy (Petroleum Pricing) (Revocation) Regulations.

2. Revocation

The Energy (Petroleum Pricing) Regulations, L. N. 196 of 2010 are revoked.
