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LEGAL NOTICE NO. 102 OF 2013

Lesotho Electricity and Water Authority (Resolution of Complaints for Water and Sewerage Services) Rules, 2013

Pursuant to Section 35 and 36 of the Lesotho Electricity Authority Act, 2002¹ as amended, I,

PROF. F. L. MOLOI

Chairman of the Board of the Authority make the following Rules:

Citation and commencement

1. These Rules may be cited as the Lesotho Electricity and Water Authority (Resolution of Complaints for Water and Sewerage Services) Rules, 2013, and shall come into operation on the date of publication in the Gazette.

Interpretation

2. In these Rules, unless the context otherwise requires:

“Act” means the Lesotho Electricity Authority Act, 2002 as amended;

“Authority” means the Lesotho Electricity and Water Authority established under section 3 of the Act;

“complaint” means any grievance that a customer may have about services provided by a licensee and around which there could arise a material disagreement on the nature and extent of such grievance between the customer and the licensee;

“customer” means any person supplied or required to be supplied with water and sewerage services at any premises in Lesotho;

“days” means working days;

“pleadings” means parties’ written statements on a complaint; and

“proceeding” means the process of examination and adjudication of a

dispute in terms of section 105 of the Act as amended.

Scope and Application

3. (1) These Rules shall apply to a complaint by the customer against licensee.

(2) Subject to the provision of these Rules, a customer has a right to lodge a complaint with the Authority.

Eligibility of a Complaint

4. The Authority shall consider the complaint eligible under these Rules if -

(1) The subject matter of the complaint is on any of the following: provisions of the Act, quality of service and supply standards, license, Rules, Regulations and any other regulatory instruments.

(2) The complaint has been first raised with the licensee and the licensee must have had an opportunity to resolve the complaint.

(3) The licensee has either not dealt with the complaint within the set timeframe of the licensee code of practise for handling of customer complaints, or the licensee has dealt with the complaint in a dissatisfactory manner in the opinion of the customer.

(4) The same complaint has not been referred to another competent authority.

Information Required

5. The particulars to be submitted by the customer to the Authority in respect of a complaint shall include -

- (a) the name, physical address and telephone number of the customer;
- (b) the name of the licensee against whom the complaint is made;

- (c) nature of the complaint together with copies of any document in support of, or in relation to, the complaint;
- (d) the nature of the dissatisfaction or the alleged harm that the customer has suffered as a result of the action, inaction or omission of the licensee against whom the complaint is made;
- (e) any other information which the customer considers necessary for the referral of the complaint to the Authority; and
- (f) the specific relief sought.

Representations

6. (1) A person may make a complaint or representation, orally or in writing to the Authority and the person shall be responsible for the truth, accuracy and completeness of information furnished.

(2) A person raising a complaint shall affix a signature to a pleading or paper filed with the Authority. When making an oral representation, the signatory or orator shall attest that the contents of all statements, pleadings or papers are not misleading, and are true and accurate to the best of the customer's knowledge.

(3) Where an oral complaint is made or where the customer cannot read or write, the complaint shall be reduced to writing by an officer of the Authority receiving the complaint.

(4) Where the complaint is written down by a person other than the customer, it will be read over and explained to the customer in a language that the customer understands before appending his or her signature or thumb print to the written complaint.

(5) Where information furnished is found to be no longer substantially accurate and sufficiently complete, a person making the representation shall within 5 days or any other period which the Authority may determine, unless good reason permits otherwise, furnish such additional or corrected information to the Authority.

Notification

7. The Authority shall, within 5 days of receipt of a complaint, issue a written notification together with reasons for its decision to the person having lodged the complaint over its decision about the complaint being eligible or not eligible for resolution by the Authority.

Complaint Resolution Procedure

8. (1) Upon receipt of the complaint and after satisfying itself that the customer has an interest in the complaint and that the complaint is not frivolous or vexatious, the Authority shall conduct its investigations on the matter.

(2) Where it appears that the customer afforded the licensee an opportunity to resolve the matter, the Authority shall notify the licensee that a complaint has been referred for the Authority's adjudication and shall copy to the licensee the communication received from the customer in respect of such referral.

(3) The licensee shall be required to respond to the Authority within 5 days -

- (a) stating whether the licensee is in agreement with the allegations made by the customer;
- (b) providing the basis for any disagreement; and
- (c) sending a copy of its response to the customer if so requested by the Authority.

Referrals to Licensee

9. (1) Where it appears to the Authority at anytime during or after its investigations that the complaint has not been considered or has not been considered adequately, it shall refer the complaint back to the licensee for reconsideration.

(2) Once the complaint is referred back to the licensee and it has not been resolved within 10 days, the customer may refer the matter back to the Authority for determination.

- (3) The Authority may request from the licensee -
- (a) any data which the Authority reasonably believes is necessary for it to adjudicate the dispute;
 - (b) a written response to the specific points raised by the customer in its referral; and
 - (c) a submission of its full response to the Authority on the referral within 10 days or any other period which the Authority may determine, from the date of the notification.

Mediation and Determination of the complaint

10. (1) The Authority may -
- (a) instruct a party to tender further particulars or pleadings; and
 - (b) prescribe the procedure for the filing of pleadings and their format.
- (2) (a) The Authority may, after investigating the complaint, conduct an inquiry into the complaint;
- (b) if in the opinion of the Authority, the complaint can be resolved by mediation or hearing, it may invite the licensee and the customer to the mediation meeting;
 - (c) where parties fail to reach an amicable resolution, the matter shall be referred to the Board for final decision;
 - (d) a decision made by the Board shall be final and parties shall be given a written report of the decision, which shall consist of -
 - (i) the substance of the customer's complaint against the licensee;

- (ii) the response of the licensee against which the customer's complaint was filed; and
- (iii) the Authority's determination.

Closure

11. The Authority may, during or after investigation of the complaint -
- (a) consider a matter to be closed where it appears to the Authority that there are clear indications from the licensee's response, or from communication received from the customer that the matter has been resolved and the Authority shall forward to the parties involved a final notification indicating that the matter is resolved and closed together with a statement outlining the basis for such a conclusion; and
 - (b) consider a matter to be closed where it appears to the Authority that the complaint is unjustified or frivolous, and forward to the parties involved a final notification indicating that the matter is closed together with a statement outlining the basis for the Authority's conclusion.

Rights

12. (1) A person participating in the proceedings on customer complaints handling before the Authority may appear in person or be assisted or represented by any other person.

- (2) The findings made after investigations and proceedings shall be subject to the Board for its final determination.

Review

13. The decision of the Board is final but may be taken on judicial review by either party.

DATED: 21ST AUGUST, 2013

**F. L. MOLOI
CHAIRMAN OF THE BOARD
LESOTHO ELECTRICITY AND WATER AUTHORITY**

NOTE

1. Act No. 12 of 2002