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REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY
PAPERS LAID

DATE: 09 OCT 2019

WEDNESDAY

TWELFTH PARLIAMENT - THIRD SESSION 2019

CHAIRPERSON, DE ENERGY

A. SHIBUKU

THE NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON ENERGY

REPORT ON THE PUBLIC PETITION REGARDING DEMOLITION OF HOUSES IN
CHOKAA, MIHANGO AREA EMBAKASI EAST CONSTITUENCY BY THE KENYA
POWER LIMITED

Directorate of Committee Services
Clerk's Chambers
Parliament Buildings
NAIROBI

OCTOBER, 2019

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ABBREVIATIONS /ACRONYMS

D.C.C	-	Deputy County Commissioner
DCI	-	Directorate of Criminal Investigations
KAA	-	Kenya Airports Authority
KPC	-	Kenya Power Company
KPLC	-	Kenya Power and Lighting Company
KURA	-	Kenya Urban Roads Authority
MCA	-	Member(s) of the County Assembly
MSACC	-	Multi-Sectorial Agency Consultative Committee
NBI	-	National Building Inspectorate
NCA	-	National Construction Authority
NDMU	-	National Disaster Management Unit
NEMA	-	National Environmental Management Authority
NYS	-	National Youth Service
WRMA	-	Water Resources Management Authority

CHAIRPERSON'S FOREWORD

The Report of the Committee regarding demolition of houses in Chokaa, Mihango area Embakasi East Constituency by the Kenya Power Limited was tabled before the House pursuant to Standing Order No. 225 (2) (a) by the Hon. Babu Owino, MP, on behalf of the affected residents of Embakasi East Constituency

The Committee was required to respond to the Petitioner by way of a report addressed to the Petitioner/Petitioners and laid on the Table of the National Assembly not more than sixty (60) calendar days from the time of reading the prayer.

In processing the Petition, the Committee invited submissions from various stakeholders to receive their views. The Committee analyzed these submissions and prepared the report.

The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during the consideration of the Petition. Finally, I wish to express my appreciation to the Honorable Members of the Committee and all the stakeholders who made useful contributions towards the preparation and production of this report.

On behalf of the Departmental Committee on Energy and pursuant to provisions of Standing Order 227(2), it is my pleasant privilege and honour to present to this House the report of the Committee on its consideration of the Public Petition regarding demolition of houses in Chokaa, Mihango area Embakasi East Constituency by the Kenya Power Limited.

HON. DAVID GIKARIA, M.P

CHAIRPERSON, DEPARTMENTAL COMMITTEE ON ENERGY

EXECUTIVE SUMMARY

The Petition regarding demolition of houses in Chokaa, Mihango area in Embakasi East Constituency by the Kenya Power Limited was committed to the Energy committee on the 20th June 2019 for consideration and preparation of a report within 60 days. The Committee considered the petition pursuant to the provisions of Standing Order 227.

The Petitioners prayed to the National Assembly through the Departmental Committee on Energy that , it inquiries into the status of ownership of land in Chokaa, Mihango area to establish whether or not the said land falls within power line way leave; inquiries into circumstances under which demolitions were indiscriminately effected, hence affecting residents who had not encroached on Kenya power way leaves; and engages the Cabinet Secretary for energy to provide information regarding the demolitions in Chokaa, Mihango areas and measures the government has instituted to settle the displaced residents, assist them to return to normal lives and compensate innocent residents whose property were destroyed.

In considering the petition, the Committee invited the Petitioners, and received submissions from various state agencies and made a site visit. During the site visit, the Committee held meetings with area leadership including the Deputy County Commissioner (D.C.C), the Area Member of Parliament (MP), the Members of the County Assembly (MCA), senior staff from KPLC, other local leaders and Church leaders.

The Committee observed that the residents have lived in the area over a long period of time and had documents such as share certificates and sale agreements as proof of ownership of the property. Over time the structures were constructed under the watch of the government officials both national and city county government of Nairobi. There were evidences of structural facilities such as water and electricity connections as well as road access. KPLC provided electricity connectivity and received payments for services it rendered. There was massive loss of property and disruption of livelihood of the residents upon demolition of the houses. There was evidence of high voltage power lines in the area and habitation beneath them was dangerous. Some cases are still pending in court.

The Committee recommends that the National Land Commission investigates the claims of ownership to ascertain the ownership of the land within ninety (90) days, KPC shall not make power connections to customers to areas designated as way leaves and any KPC officer contravening the same will be personally liable, The DCI investigates the alleged illegal allocations, irregular approvals of constructions and utility connections in Chokaa, Embakasi East Constituency with a view of seeking redress within ninety (90) days. There should be a humane way to remove persons from encroached areas and the Committee recommends that the affected persons seek redress through the court of law.

1.0 PREFACE

1.1 Establishment and Mandate of the Committee

The Departmental Committee on Energy is one of the fifteen Departmental Committees of the National Assembly established under *Standing Order 216* whose mandates pursuant to the *Standing Order 216 (5)* are as follows:

- (i) To study the programme and policy objectives of Ministries and departments and the effectiveness of their implementation;
- (ii) To study and review all the legislation referred to it;
- (iii) To study, access and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
- (iv) To investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;
- (v) To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order No.204 (Committee on appointments);
- (vi) To examine treaties, agreements and conventions;
- (vii) To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
- (viii) To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and
- (ix) To examine any questions raised by Members on a matter within its mandate

1.2 Oversight

The Second Schedule to the Standing Orders mandates the Committee to consider matters relating to the Fossils fuels exploration, Development, production, maintenance and regulation of energy. In executing its mandate, the Committee oversees the performance of the following State departments:-

- (i) Energy, and
- (ii) Petroleum.

1.3 Committee Membership

The Departmental Committee on Energy comprises the following Members-

Chairperson

The Hon. David Gikaria, M.P.
Nakuru Town East Constituency

Jubilee Party

Vice Chairperson

The Hon. (Dr.) Robert Pukose, M.P.
Endebess Constituency

Jubilee Party

The Hon. Cecily Mbarire, M.P.
Nominated Member

Jubilee Party

The Hon. Joseph Wathigo Manje, M.P.
Kajiado North Constituency

Jubilee Party

The Hon. Oscar Sudi Kipchumba, M.P.
Kapseret Constituency

Jubilee Party

The Hon. Amina Gedow Hassan, M.P.
Mandera Women Representative

Economic Freedom Party

The Hon. Clement Muturi Kigano, M.P.
Kangema Constituency

Jubilee Party

The Hon. Elsie Muhanda, MP
Kakamega Women Representative

Orange Democratic Party

The Hon. Julius Musili Mawathe, MP
Embakasi South Constituency
Wiper Democratic Movement-Kenya

The Hon. Ekomwa Lomenen James, M.P.
Turkana South Constituency

Jubilee Party

The Hon. Lemanken Aramat, M.P.
Narok East Constituency

Jubilee Party

The Hon. (Eng.) Vincent Musyoka, M.P.
Mwala Constituency

Maendeleo Chap Chap Party

The Hon. Osman A. Mohamed, M.P.
Fafi Constituency

Kenya Africa National Union

The Hon. Elisha Odhiambo, MP
Gem Constituency

Orange Democratic Movement

The Hon. Faith Wairimu Gitau, M.P.
Nyandarua Women Representative

Jubilee Party

The Hon. Ken Chonga, MP
Kilifi South Constituency
Orange Democratic Movement

The Hon Nicholas Tindi Mwale, MP
Butere Constituency
Amani National Congress Party(ANC)

The Hon. Walter Owino, MP
Awendo Constituency
Orange Democratic Movement

The Hon. Mohammed Ali Lokiro, MP
Turkana East Constituency
Orange Democratic Movement

1.4 Committee Secretariat

The Committee is resourced with the following technical staff, representing the Office of the Clerk;

Ms. Rose Wanjohi
Clerk Assistant I

Mr Douglas Katho
Clerk Assistant II

Mr Ronald Walala
Legal Counsel I

Mr Abdirahman Gorod
Fiscal Analyst II

Mr David Ngeno
Research Officer II

Ms Deborah Mpusi
Media Relations Officer

1.5 Committal and Consideration of the Petition

1. Pursuant to Standing Order 227 (1), the Petition was referred to the Departmental Committee on Energy for consideration and preparation of a report within 60 days. The Committee considered the petition pursuant to the provisions of Standing Order 227 (1) and (2).
2. The Committee proceeded with the consideration of the Petition by holding meetings to set up terms of reference and scheduling meetings.
3. In considering the Petition, the Committee invited the petitioners, and received submissions from various state agencies and made a site visit.
4. The Committee also visited the site and held meetings with area leadership including the Deputy County Commissioner (D.C.C), the Area Member of Parliament (MP), the Members

of the County Assembly (MCA), senior staff from KPLC, other local leaders and Church leaders. The meetings were aimed at responding to issues raised by the petitioners.

1.6 Acknowledgment

The Committee wishes to sincerely thank the Offices of the Speaker and the Clerk of the National Assembly for the support extended to it in the execution of its mandate. I take this opportunity to thank all the Members of the Committee for their commitment and dedication which enabled us to complete the tasks within the stipulated period

The Committee wishes to record its appreciation for the services rendered by the staff of the National Assembly attached to the Committee. Their efforts made the work of the Committee and the production of this Report possible.

Finally, it is now my pleasant duty, on behalf of the Departmental Committee on Energy, to present this report to the House pursuant to the provisions of Standing Order 227 (2).

SIGNED: DATE.....

THE HON. DAVID GIKARIA M.P.
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON ENERGY

2.0 INTRODUCTION

1. The Constitution of Kenya 2010 under article 37 of provides that every person has the right to present petitions to public authorities while under article 119 (1) it gives provisions that every person has a right to petition Parliament to consider any matter within its authority, including enacting, amending or repealing any legislation and (2) mandates Parliament to make procedure for the exercise of the said right.

2.1 The Petition regarding demolition of houses in Chokaa, Mihango area Embakasi East Constituency by the Kenya Power Limited

2. The Petition regarding demolition of houses in Chokaa, Mihango area in Embakasi East Constituency by the Kenya Power Limited was presented to the House by the Hon. Babu Owino, M.P, on 20th June 2019 pursuant to Standing Order No. 225 (2)(a).

2.1.1 Provisions of Standing Order 227

3. Pursuant to House rules, the petition was committed to the Energy committee on the same date 20th June 2019 for consideration and preparation of a report within 60 days. The Committee considered the petition pursuant to the provisions of Standing Order 227.

2.1.2 Petition Details

4. The Petitioners wished to draw the attention of the House on the following, that: -
 - a) Articles 39 and 40 of the Constitution respectively entitles every citizen the right to residence and protection of property;
 - b) Residents of Chokaa, Mihango area in Embakasi East Constituency have lived in the area for many years;
 - c) In December 2018, Kenya power issued a notice of demolition and shared guidelines clarifying that demolitions would strictly target buildings within 15 meters for 12 kilo vlts power lines and 20 meters for 220 kilovolts power lines;
 - d) in December 2018, His Excellency the President intervened in the matter and ordered suspension of the impending demolitions and no further notice had been issued by Kenya Power;
 - e) In disregard of the President's suspension, Kenya power proceeded to demolish several houses in Chokaa, Mihango area in March 2019 on allegations that they were built on delineated power line way-leaves;
 - f) The demolitions rendered close to 500 families homeless, caused massive loss to property and disrupted learning for many children whose schools were also demolished, thereby curtailing their right to education;
 - g) Further some of the residents had their houses demolished despite earner assurance by Kenya Power that they had not encroached on the wayleaves;
 - h) As a result of demolitions, close to 500 families have been rendered homeless and most residents have lost their business premises, which were their only source of livelihood;
 - i) Efforts to resolve this matter with relevant bodies have been futile; and

- j) Issues in respect of which this petition is made are not pending before any court of law or constitutional or statutory body;

2.1.3 Prayers in the Petition

5. The petitioners pray that the National Assembly, through the Departmental Committee on Energy: -

- i. Inquiries into the status of ownership of land in Chokaa, Mihango area to establish whether or not the said land falls within power line way leave;
- ii. Inquiries into circumstances under which demolitions were indiscriminately effected, hence affecting residents who had not encroached on Kenya power way leaves;
- iii. Engages the Cabinet Secretary for energy to provide information regarding the demolitions in Chokaa, Mihango areas and measures the government has instituted to settle the displaced residents, assist them to return to normal lives and compensate innocent residents whose property were destroyed; and
- iv. Makes any other recommendations that it deems fit in the circumstances of this matter.

3.0 SUBMISSIONS AND EVIDENCE

6. Having been seized of the Petition, the Committee commenced its consideration by inviting the petitioners, the Ministry of energy
7. During the meetings, written and oral evidence was adduced as recorded hereunder: -

3.1 Submission by the Petitioners

8. In their oral and written submissions while appearing before the committee, the petitioners averred that they acquired land and were issued share certificates and have sale agreements. Over time they have built permanent homes and lived within the area for many years and within that period established thriving businesses and schools for their children. The residents had developed the area with amenities such as piped water, electricity connections from KPLC and were in the process of getting a tarmacked road access. The meter connections for electricity billing and payment of tokens had been. They have called this place their home having stayed for 10 years and raised their families.
9. On the dates of 11th March, 12th March and 19th April 2019, the Kenya power and its agent raided their homes and demolished them without any notice. The demolitions in Mihango area were illegal as KPLC did not follow the correct procedure to evict them since no notice had been given and further there was no beaconing of the area in question.
10. The demolitions deprived residents of their property and dignity as envisioned under Article 28 of the constitution and subjected them to ridicule and embarrassment. The dignity and freedom of an individual in a democratic society cannot be ensured if his/her rights to property are deliberately, consciously, and unjustifiably intruded upon or interfered with. A number of residents had to seek medical attention over injuries sustained and psychological disturbance on the said dates.
11. The demolition took place despite a consultative meeting with the area D.C.C and a wayleave officer Mr. Martin who promised the residents that no demolition would be effected without beaconing the area. The residents on several occasions have held consultative meetings at the D.C.C office in Ruai with senior KPLC officers to get the correct measurements required for the way leave. The residents made efforts to get court orders in an attempt to stop the demolitions but KPLC disregarded the orders from the court.
12. The exercise was also in contravention of the President's Big 4 Agenda on affordable housing.

3.2 Submissions by Principal Secretary, Ministry of Energy

13. In the written submission presented before the committee, the Principal Secretary in the Ministry of Energy stated that over time Kenya Power way leaves have been illegally encroached by high number of squatters who have constructed illegal structures under power lines thus compromising company's ability to effectively transmit, distribute, and retail quality and reliable electricity to end-user customers throughout the country;
14. In the event of an electrical accident, the illegal and unsafe structures would not only pose a danger to the squatters, but also deny Kenya power the ability to maintain its power supply lines;

15. When it was noted that the unscrupulous people had invaded or purported to have mandate to allocate land within the way leaves corridors, Kenya power appealed for concerted efforts from government stakeholders including community living or owning land within the vicinity of power line wayleave corridors to assist in deterring or giving information on encroachments to avoid/minimize the company's exposure;
16. The formation of the Multi-Sectorial Agency consultative committee (MSACC) on unsafe structures by His Excellency the President to address such issues following heavy fatalities occasioned by collapsed structures accorded Kenya power a good opportunity to address the way leaves encroachments as previous attempts had been thwarted with violent resistance from the encroachers;
17. Kenya power rode on the opportunity that the mandate of MSACC on unsafe structures offered to address the protracted way leaves challenge. MSACC comprised the NEMA, KURA, WRMA, NCA, NBI, KPLC, Kenya Railways, Nairobi city County Government, National Police, KAA, NYS, NDMU amongst other agencies;
18. The present operation was aimed at clearance of way leaves along Kamburu- Dandora 220kv and 132kv lines. The then East African Power & Lighting Company obtained consent through a way leave agreement on the 17th September 1966 from the then proprietor, Mr. Alexander Bedier. The lines running parallel on this corridor are double circuit. The clearance would go all the way to Dandora sub-station;
19. The areas identified to have been encroached and earmarked for clearance include Kyangombe in Embakasi, Chokaa & Buru Buru farmers land in Njiru, Matopeni & Kayole junction along Kangundo road, Mowlem in Dandora and Muiringo in Kasarani
20. The encroachment was on both peripheries and also in between the power lines. Equally the independent 132 kV Kamburu-Juja line has a corridor spanning 63 metres wide and not 30 meters as is the case for the other 132 kV lines. The same line has also been encroached and requires clearance;
21. On 11th March 2019, the operation commenced at Buru Buru Farmers, Matopeni, Mihango, Kangundo Road, Dandora, Kayole and Mowlem. The operations progressed for three days. i.e. 11th, 12th and 18th March 2019;
22. The operation was preceded by issuance of notices on 10th December 2018 and public baraza/sensitizations on 15th Feb 2019. On 9th-11th April 2019, another operation was conducted in Matopeni and Njiru areas. The operation concentrated on the encroachment along the 212 Metres corridor;
23. So far more than 500 structures have been removed. Some of the structures in between the lines were permanent houses while majority in Njiru area are *Mabati* structures
24. On 7th to 13th May 2019 all the wayleaves trace in Buru Buru Farmers, Matopeni, Mihango, Kangundo Road, Dandora, Kayole and Mowlem were marked as per the beacons on the survey maps for the area. The measurements and markings established that several structures were within the wayleaves trace i.e. The 63Metre and the 212Metre. The sketches are attached for clarity;

25. The Constitution entitles rights of residence and protection of property but the Multi-Sectoral Agency Consultative Committee on Unsafe Structures (MSACC) has the mandate to ensure safety of citizens hence the decision to remove the structures under the powerlines and within the way leaves traces. The occupants of the unsafe structures have encroached over time. The length of time does not protect them from the risks and exposure posed to them by the electrical dangers/accidents.
26. During the sensitization meeting, the residents were informed of the dangers posed to them while settled under the power lines. Equally, the residents were informed that the wayleaves on this particular area were within two corridors which had 5 lines running parallel. The first corridor spans 212m wide with 4 parallel lines while the second corridor spans 63M wide. The dimensions were subsequently clearly marked with beacons.
27. No court order or presidential instruction has so far been received by MSACC or KPLC to stop the removal of the illegal structures along the wayleaves. The operation has so far removed about 500 unsafe structures. No school has so far been affected by the exercise to date.
28. All structures removed were within the wayleaves corridor and no structure has been demolished outside the marked wayleaves corridor.
29. All the people who have settled on the wayleaves trace have no land ownership documents.
30. On the cases filled in court, the Principal Secretary, Energy stated that there were five (5) different cases before court namely;
 - a) *Nairobi ELC No.94 of 2019; Charles Mukoma & 99 others -vs- KPLC*
 - b) *Nairobi CMCC No.2303 of 2019; Laurence Ochieng & others- vs-KPLC*
 - c) *Nairobi ELC No. 171 of 2019; Robert Odera & 576 others- vs-KPLC*
 - d) *Milimani CMCC No. 1657 of 2019; Vincent Arabai Erista & 26 others -Vs- KPLC*
 - e) *Kisumu ELC No. 50 of 2019; Henry Ondieki & others-vs-KPLC*
31. In all the above cases, the complainants claim to be the bona fide owners of the respective plots and have moved to court to stop the demolition exercise.
32. Kenya Power has filled its response in court defending its position that the complainants have encroached on the way leaves trace and constructed illegal structures hence endangering their lives and making it difficult for KPLC to access its lines, thereby compromising on the reliability of electricity to the end –users. The cases are pending hearing

3.3 Fact finding visit and Meeting with the Public by the Committee

33. A fact finding visit to Chokaa, Mihango area in Embakasi East Constituency was under taken on the 17th July 2019. During the visit the Committee was apprised on the following by the residents that they have lived in the area for a long period of time with some over 30 years wondered why it took such a long time for Kenya power to carry out such demolitions without notice. They contended that KPLC Maps differed with theirs.
34. They were not given any warning even during the construction of their houses by the Kenya power. The KPLC and other government officials were around and did not give any warning.
35. They borrowed loans to build the houses and were repaying them now yet they have no houses to live in since they were all brought down.

36. That Kenya power gave them electricity connections and have been paying for the services rendered and wondered why it would supply power to them in its own land.
37. Many people lost their property and source of livelihood as demolitions did not give them any chance to salvage anything and that most people are traumatized to date
38. They wondered why the demolition started in the middle of the power line and felt that this was discriminatory in nature. They felt that the national government should compensate them for the losses they encountered.

4.0 COMMITTEE OBSERVATIONS

The Committee made the following observations from evidence adduced in the submissions, meetings and the field visit, that: -

1. The residents have lived in the area over a long period of time;
2. The residents have documents such as share certificates and sale agreements as proof of ownership of the property;
3. Over time the structures were constructed under the watch of the government officials both national and city county government of Nairobi;
4. There were evidences of structural facilities such as water and electricity connections as well as road access. KPLC provided electricity connectivity and received payments for services it rendered;
5. There was massive loss of property and disruption of livelihood of the residents upon demolition of the houses;
6. There was evidence of high voltage power lines in the area and habitation beneath them was dangerous ;
7. Some cases are still pending in court

5.0 COMMITTEE RECOMMENDATIONS

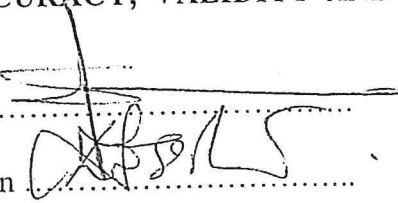
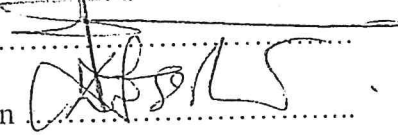


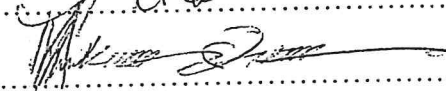
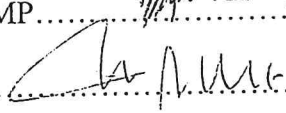
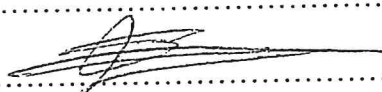
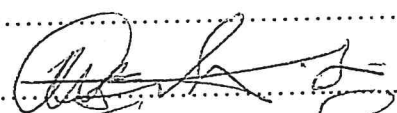
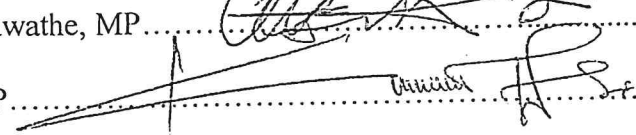

The Committee recommends that: -

1. The National Land Commission investigates the claims of ownership to ascertain the ownership of the land within ninety (90) days;
2. KPC shall not make power connections to customers to areas designated as wayleaves and any KPC officer contravening the same will be held personally liable;
3. The DCI investigates the alleged illegal allocations, irregular approvals of constructions and utility connections in Chokaa, Embakasi East Constituency with a view of seeking redress within ninety (90) days;
4. There should be a humane way to remove persons from encroached areas and the Committee recommends that the affected persons seek redress through the court of law.



ADOPTION LIST

WE, THE MEMBERS OF THE DEPARTMENTAL COMMITTEE ON ENERGY, HAVE PURSUANT TO STANDING ORDER 227, ADOPTED THIS REPORT REGARDING DEMOLITION OF HOUSES IN CHOKAA, MIHANGO AREA IN EMBAKASI EAST CONSTITUENCY BY THE KENYA POWER LIMITED AND AFFIRM OUR APPROVAL AND CONFIRM ITS ACCURACY, VALIDITY AND AUTHENTICITY TODAY^{27/10}..... OCTOBER 2019:

1. The Hon. David Gikaria, MP. Chairperson..... 
2. The Hon. (Dr) Robert Pukose, MP - Vice Chairperson..... 
3. Hon. Cecily Mbarire, MP.....
4. Hon. Ekwoma Lomenen James, MP.....
5. Hon. Joseph Waithigo Manje, MP..... 
6. Hon. Lemanken Aramat, MP.....
7. Hon. Oscar Sudi Kipchumba, M.....
8. Hon. (Eng.) Vincent Musyoka Musau, MP.....
9. Hon. Amina Gedow Hassan, MP..... 
10. Hon. Abdikahim Osman Mohamed, MP..... 
11. Hon. Clement Muturi Kigano, MP..... 
12. Hon. Elisha Odhiambo, MP.....
13. Hon. Elsie Muhanda, MP..... 
14. Hon. Gitau Faith Wairimu, MP.....
15. Hon. Julius Musili Mawathe, MP..... 
16. Hon. Ken Chonga, MP..... 
17. Hon. Mohamed Ali Lokiro, MP.....
18. Hon. Tindi Nicholas Mwale, MP.....
19. Hon. Walter Owino, MP..... 

MINUTES

MINUTES OF THE 138TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY
HELD IN THE BOARD ROOM OF 5TH FLOOR CONTINENTAL ON TUESDAY 2ND JULY,
2019 AT 10.00AM

PRESENT

1. The Hon. (Dr.) Robert Pukose, M.P. - Vice Chairperson
2. The Hon. Joseph Wathigo Manje, M.P.
3. The Hon. Lemanken Aramat, M.P.
4. The Hon. Walter Owino, MP
5. The Hon. Ken Chonga, MP
6. The Hon. Vincent Musyoka Musau, M.P.
7. The Hon. Clement Muturi Kigano, M.P.
8. The Hon. Gitau Faith Wairimu, M.P.
9. The Hon. Mohammed Ali Lokiro, MP
10. The Hon. Julius Musili Mawathe, MP
11. The Hon. Abdikhaim Osman Mohamed, M.P
12. The Hon. Elsie Muhanda, MP
13. The Hon. Elisha Odhiambo, MP

ABSENT WITH APOLOGY

1. The Hon. David Gikaria, M.P. - Chairperson
2. The Hon. Ekomwa Lomenen James, M.P.
3. The Hon. Cecily Mbarire, M.P.
4. The Hon. Amina Gedow Hassan, M.P
5. The Hon. Tindi Nicholas Mwale, MP
6. The Hon. Oscar Sudi, Kipchumba, M.P.

IN ATTENDANCE:

NATIONAL ASSEMBLY

1. Mr. Benjamin Magut - First Clerk Assistant
2. Mr. Douglas Katho - Clerk Assistant III
3. Mr. Gorod Abdirahman - Fiscal Analyst II
4. Ms. Sheila Chebotibin - Serjeant –At-Arms
5. Mr. Rose Ometere - Audio Officer

MIN. NO. NA/ENERGY/2019/208: PRELIMINARIES AND INTRODUCTIONS

The sitting's proceedings commenced with a word of prayer and thereafter the meeting's agenda was adopted by Members present.

MIN. NO. NA/ENERGY/2019/209: MEETING WITH THE MANAGING DIRECTOR,
KENYA PIPELINE COMPANY REGARDING THE
OIL SPILL IN KIBOKO , MAKUENI COUNTY
AND LINE 5 PIPELIENE.

The Committee deferred this agenda item since the witnesses requested for more time to be able to respond exhaustively to the issues being raised by the Committee.

MIN. NO. NA/ENERGY/2019/210: MEETING WITH HON BABU OWINO

REGARDING A PUBLIC PETITION ON
DEMOLITION OF HOUSES IN CHOKAA,
EMBAKASI EAST CONSTITUENCY
CONSIDERATION OF PENDING BUSINESS
BEFORE THE COMMITTEE

The Hon. Babu Owino, MP for Embakasi east Constituency appeared before the Committee with 33 residents of Embakasi East to make formal submissions on the Public Petition regarding demolition of houses in Chokaa area by Kenya Power as follows-

- i. In December, 2018 the Kenya Power issued a notice of demolition and shared guidelines clarifying that demolitions would strictly target buildings within 15 meters for 132kV and 20 Meters for 220KV power lines.
- ii. That HE the president intervened in the matter and ordered suspension of the impending demolitions and no further notice had been issued by Kenya Power.
- iii. In disregard of the presidents suspension, Kenya Power proceeded to demolish several houses in Chokaa, Mihang'o area in March 2019, on allegations that they were built on delineated power line way leaves;
- iv. That these demolitions rendered approximately 500 families homeless, caused massive loss of property and disrupted learning for many children whose schools were also demolished, thereby curtailing their right to education; as also loss of sources of livelihood to residents who operated small businesses in the area.
- v. Further that , some of the residents had their houses demolished despite earlier assurance by Kenya Power that they has not encroached on that way leaves;

The Member of Parliament on behalf of the residents of Chokaa area whose properties were demolished prayed that the Committee inquire into the matters of ownership of the said land with reference to the way leaves; the circumstances of the demolitions and measures that the government will institute to compensate the innocent residents whose property were destroyed and lost their livelihoods.

The Committee resolved to invite the CS for Energy to respond to the Petition on the 11th July, 2019 and thereafter the Committee will visit the affected area on the 12th July, 2019 to ascertain the insides of the Petition.

MIN. NO. NA/ENERGY/2019/211: ADJOURNMENT

There being no Other Business, the Chairperson adjourned the meeting at 10mins past 12Noon.

SIGNED.....
(CHAIRPERSON)

DATE..... 9-10-19

MINUTES OF THE 168TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY HELD IN CONFERENCE ROOM, B2, ENGLISH POINT, MARINA, MOMBASA COUNTY ON FRIDAY 4TH OCTOBER, 2019 AT 10:00AM

PRESENT

1. The Hon. (Dr.) Robert Pukose, M.P. - Vice Chairperson
2. The Hon. Amina Gedow Hassan, M.P
3. The Hon. Lemanken Aramat, M.P.
4. The Hon. Tindi Nicholas Mwale, MP
5. The Hon. Walter Owino, MP
6. The Hon. Joseph Wathigo Manje, M.P.
7. The Hon. Julius Musili Mawathe, MP
8. The Hon. Gitau Faith Wairimu, M.P.
9. The Hon. Elisha Odhiambo, MP

APOLOGIES

1. The Hon. David Gikaria, M.P - Chairperson
2. The Hon. Cecily Mbarire, M.P.
3. The Hon. Abdikhaim Osman Mohamed, M.P
4. The Hon. Clement Muturi Kigano, M.P.
5. The Hon. Ekomwa Lomenen James, M.P.
6. The Hon. Mohammed Ali Lokiro, MP
7. The Hon. Richard Chonga, MP
8. The Hon. Elsie Muhanda, MP
9. The Hon. Oscar Sudi, Kipchumba, M.P.
10. The Hon. Eng. Vincent Musyoka Musau, M.P.

IN ATTENDANCE

COMMITTEE SECRETARIAT

1. Ms. Rose M. Wanjohi - Clerk Assistant I
2. Mr. Ronald Walala - Legal Counsel
3. Mr. Abdirahman Gorod - Fiscal Analyst
4. Mr. David Ngeno - Research Officer
5. Ms. Christine Maeri - Audio Officer
6. Ms. Sheila Chebotibin - Serjeant-At-Arms

AGENDA

1. Prayers
2. Preliminaries/Introductions/Communication from the Chair
3. Confirmation of Minutes
4. Matters Arising
5. Report writing retreat for consideration of draft reports
6. Adjournment/ Date of the next meeting

MIN. NO. NA/ENERGY/2019/ 320: PRELIMINARIES AND ADOPTION OF AGENDA

The Chairperson called the meeting to order at fifteen minutes past ten o'clock and the prayers said. Self- introductions were made by those present

MIN. NO. NA/ENERGY/2019/321: CONFIRMATION OF MINUTES

The Agenda item was deferred

MIN. NO. NA/ENERGY/2019/322: CONSIDERATION AND ADOPTION OF DRAFT REPORT ON THE AFRICA OIL, GAS AND ENERGY CONFERENCE HELD IN FRASER SUITES, PERTH, AUSTRALIA

The Committee heard that the Africa Oil, Gas and Energy Conference was held in Fraser Suites, Perth, Australia, ostensibly to provide a platform for connecting professionals from the Australian oil and gas sector with African local Oil, Gas and Energy experts, government officials, projects and investment opportunities.

The Conference is an annual event held in Perth Australia to assist major Australian oil, gas and energy players to better engage with the new developments in the complex and fast-moving Africa oil, gas and energy industry. It provides a stage where Australian companies whose focus is on oil, gas and energy are apprised on opportunities in Africa at this time of great challenges in the oil, gas and energy industry.

The conference discussed wide ranging benefits including bringing Africa oil, gas and energy focus to Australia. It also explored possibilities of giving small Australian companies engagement opportunities with relevant officials from Africa, networking and exposure to the African market as well as keeping abreast of all the latest developments – geopolitical, industrial and technological updates.

The conference further provided a joint round table discussions that gave a unique interaction with all interested parties who also got the chance of sharing accurate and up to date information on Africa's oil, gas and energy activities and investment perspectives as well as case studies from the African market.

Committee Observations

The Committee observed that:-

1. African Countries have huge potential in oil and gas and have remained critical sources of energy.
2. The use of new technology in the oil and gas industry in Africa was still low.
3. Governments play a critical role in safeguarding the interest of the citizens and those of investors in the oil, gas and energy industry.
4. The extraction of oil and gas impacts positively on the economic and social aspects of the citizens.
5. There is exponential value in the use of drone technology in the monitoring of oil pipelines

Committee Recommendations

The Committee recommends that:-

1. Kenya should take advantage of technology to exploit the existing oil and gas potential to the benefit of her people;

2. There should be proper and clear production sharing agreements (PSC) on exploitation of the oil and gas between Kenyan Government and potential investors so that both interests are safeguarded;
3. Kenyan companies can use drones for surveillance of their lines since they are cheap and quite flexible to suit majority of inspections with minimal costs; and
4. Social and environmental impacts should be mitigated and Corporate social responsibilities be enhanced.

The draft Report on the Africa Oil, Gas and Energy Conference held in Fraser Suites, Perth, Australia from 2nd to 7th September 2019 was unanimously adopted as proposed by Hon. Elisha Odhiambo, MP and seconded by Hon. Walter Owino, MP.

MIN. NO. NA/ENERGY/2019/323: CONSIDERATION AND ADOPTION OF THE
DRAFT REPORT ON THE INTERNATIONAL
ATOMIC ENERGY AGENCY (IAEA) 63RD
GENERAL CONFERENCE IN VIENNA,
AUSTRIA, FROM 16TH TO 20TH SEPTEMBER,
2019.

The Committee heard that 63rd IAEA General Conference 2019 focused largely on the development and utilization of nuclear technology in realizing the United Nations Sustainable Development Goals with particular emphasis on energy and health care. Generally, the conference presented progress in development and utilization of nuclear technology in the higher income economies of the world. Equally revealed were considerable achievements in some middle income economies with glaring gaps in majority of the low and middle income economies.

It is therefore imperative that, efforts need to be made if the 21st century generation of humanity is to experience significant equality that is to be gotten through utilization of nuclear technology. In particular Africa must re-dedicate her efforts if she wishes to join in the League of Nations whose citizens are reaping the benefits of nuclear technology. Suffice to say, Africa possesses unparalleled resources for development of nuclear technology.

During the GC, Kenya renewed her commitment covering the assistance of IAEA in application of nuclear science in various sectors especially on Kenya's nuclear power programme in terms of trainings, fellowships, scientific visits, expert missions and assistance in review of various documents for the nuclear power programme

The IAEA GC paid a specific emphasis on the youth and the young professionals to explore the potential contribution of young generation networks in nuclear majorly in African member states to achieve the socioeconomic development in nuclear achieve science and allied fields, youth engagement opportunities and challenges young people face in embracing the careers and employment in nuclear related field.

Committee Observations

The Committee observed that:

1. Kenya is a leading proponent of green energy with over 70 % of the electricity generated and added to the National grid from hydro, wind and solar.
2. Nuclear energy is a form of green energy and does not use fossil fuels which are contributing to climate change.

3. Nuclear technology is being emphasized to play a significant role in the timely diagnosis and effective treatment of cancer.
4. Kenya needs to increase her human capital for nuclear science and technology to be able to manage the increasing needs and infrastructure that uses nuclear science and technology in Human health, Agriculture, water resource management and industry.

Committee Recommendations

The Committee after deliberations recommends that:-

1. Nuclear energy for electricity generation is a priority in the long-term to be included in the energy mix conscious of the fact that nuclear power is low carbon energy source. It does contribute to the mitigation of the impact of climate change and the achievement of SDGs.
2. The Country assents to the international Treaties and Conventions on nuclear safety and security including expressing political support to the code of conduct for safety and security for radioactive sources.
3. The Country calls for national research proposals in support of at least four multidisciplinary-multi institution projects focusing on cancer control and food security based on Nuclear Technology.
4. The International Atomic Energy Agency (the Agency) to successfully conclude the ongoing collaborative work in equipping Moi Teaching & Referral Hospital (MTRH).
5. In an effort to take care of the access to the cancer treatment services, the Government to embark on establishing more cancer centers.
6. In order to build adequate human resource capacity, the Country collaborates with the Agency, to establish local training programmes and centres for relevant health professionals.

The draft Report on the International Atomic Energy Agency (IAEA) 63rd General Conference in Vienna, Austria: 16th to 20th September, 2019 was unanimously adopted as proposed by Hon. Walter Owino, MP and seconded by Hon. Joseph Manje, MP.

MIN. NO. NA/ENERGY/2019/324: CONSIDERATION OF DRAFT REPORT OF THE PETITION REGARDING DEMOLITION OF HOUSES IN CHOKAA, EMBAKASI EAST BY KENYA POWER LIMITED

The Committee heard the Petition regarding demolition of houses in Chokaa, Mihango area in Embakasi East Constituency by the Kenya Power Limited was committed to the Energy committee on the 20th June 2019 for consideration and preparation of a report within 60 days. The Committee considered the petition pursuant to the provisions of Standing Order 227.

The petitioners prayed through the National Assembly, that it inquiries into the status of ownership of land in Chokaa, Mihango area to establish whether or not the said land falls within power line way leave; inquiries into circumstances under which demolitions were indiscriminately effected, hence affecting residents who had not encroached on Kenya power way leaves; and engages the Cabinet Secretary for energy to provide information regarding the demolitions in Chokaa, Mihango areas and measures the government has instituted to settle the displaced residents, assist them to return to normal lives and compensate innocent residents whose property were destroyed.

In considering the petition, the Committee invited the petitioners, and received submissions from various state agencies and made a site visit. During the site visit, the Committee held meetings with area leadership including the Deputy County Commissioner (D.C.C), the Area Member of

Parliament (MP), the Members of the County Assembly (MCA), senior staff from KPLC, other local leaders and Church leaders.

COMMITTEE OBSERVATIONS

The Committee observations that: -

1. The residents have lived in the area over a long period of time.
2. The residents have documents such as share certificates and sale agreements as proof of ownership of the property.
3. Over time the structures were constructed under the watch of the government officials both national and city county government of Nairobi.
4. There were evidences of structural facilities such as water and electricity connections as well as road access. KPLC provided electricity connectivity and received payments for services it rendered.
5. There was massive loss of property and disruption of livelihood of the residents upon demolition of the houses.
6. There was evidence of high voltage power lines in the area and habitation beneath them was dangerous.
7. Some cases are still pending in court

COMMITTEE RECOMMENDATIONS

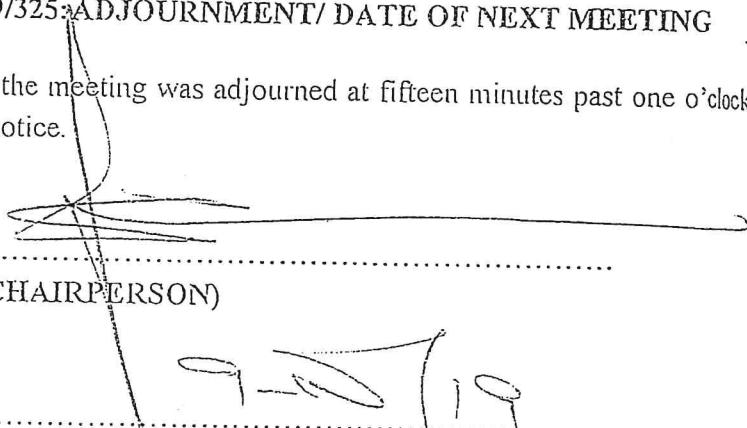
The Committee recommends that: -

1. The National Land Commission investigates the claims of ownership to ascertain the ownership of the land within ninety (90) days;
2. KPC shall not make power connections to customers to areas designated as wayleaves and any KPC officer contravening the same will be personally liable;
3. The DCI investigates the alleged illegal allocations, irregular approvals of constructions and utility connections in Chokaa, Embakasi East Constituency with a view of seeking redress within ninety (90) days; and
4. There should be a humane way to remove persons from encroached areas and the Committee recommends that the affected persons seek redress through the court of law.

The draft Report on the petition regarding demolition of houses in Chokaa, Embakasi East Constituency by the Kenya Power Limited was unanimously adopted as proposed by Hon. Amina Gedow, MP and seconded by Hon. Nicholas Tindi Mwale, MP.

MIN. NO. NA/ENERGY/2019/325: ADJOURNMENT/ DATE OF NEXT MEETING

There being no other business, the meeting was adjourned at fifteen minutes past one o'clock. The next meeting will held on notice.

SIGNED.....

(CHAIRPERSON)

DATE.....

ANNEXURES

RECEIVED

26 JUN 2019

DIRECTOR, COMMITTEE SERVICES
Title:

4/62

Directorate of Legislative & Procedural
Services (NA)
The Table Office

MEMO

TO: DIRECTOR, COMMITTEE SERVICES
FROM: HEAD OF TABLE OFFICE DEPARTMENT
DATE: JUNE 25, 2019
SUBJECT: PUBLIC PETITIONS

The following Petitions were conveyed to the House, today, Tuesday, June 25, 2019: -

1. Public Petition regarding settlement of over 25,000 shareholders of Mutukanio Gwataniro land in Nakuru and Laikipia (*referred to the Departmental Committee on Lands*); and
2. Public Petition regarding demolition of houses in Chokaa, Embakasi East Constituency by the Kenya Power Limited by the Hon. Babu Owino (Embakasi East) (*referred to the Departmental Committee on Energy*).

Enclosed please find the Petitions for your necessary action.

(ii) ENCL 1 & 2
Please note
FA
26/6/19

(i) 1. MAACHIRA
2. MAACHIRA
Please note
FA
26/6/19

RANA K. TIAMPATI
(Encls.)

Copy to: -

1. Clerk of the National Assembly
2. Director of Legislative and Procedural Services
3. Chairperson, Departmental Committee on Lands
4. Chairperson, Departmental Committee on Energy
5. Chairperson, Committee on Implementation



Approved
RWA
SWIA
20/6/19

REPUBLIC OF KENYA
TWELFTH PARLIAMENT (THIRD SESSION)
THE NATIONAL ASSEMBLY

PUBLIC PETITION

(No. 48 of 2019)

**REGARDING DEMOLITION OF HOUSES IN CHOKAA, EMBAKASI EAST
CONSTITUENCY BY THE KENYA POWER LIMITED**

I, the **UNDERSIGNED**, on behalf of the citizens of Chokaa, Mihang'o area in Embakasi East Constituency,

DRAW the attention of the House to the following:

1. **THAT**, Articles 39 and 40 of the Constitution respectively entitles every citizen to the right to residence and protection of property;
2. **THAT**, residents of Chokaa, Mihang'o area in Embakasi East Constituency have lived in the area for many years;
3. **THAT**, in December 2018, Kenya Power issued a notice of demolition and shared guidelines clarifying that demolitions would strictly target buildings within 15 meters for 132 kilovolts power lines and 20 meters for 220 kilovolts power lines;
4. **THAT**, on December 2018, His Excellency the President intervened in the matter and ordered suspension of the impending demolitions and no further Notice has been issued by Kenya Power;
5. **THAT**, in disregard of the President's suspension, Kenya Power proceeded to demolish several houses in Chokaa, Mihang'o area in March 2019, on allegations that they were built on delineated power line way-leaves;
6. **THAT**, the demolitions rendered close to 500 families homeless, caused massive loss of property and disrupted learning for many children whose schools were also demolished, thereby curtailing their right to education;
7. **FURTHER THAT**, some of the residents had their houses demolished despite earlier assurance by Kenya Power that they had not encroached on the way leaves;

PUBLIC PETITION

**REGARDING DEMOLITION OF HOUSES IN CHOKAA, EMBAKASI EAST
CONSTITUENCY BY THE KENYA POWER LIMITED**

8. **THAT,** as a result of the demolitions, close to 500 families have been rendered homeless and most residents have lost their business premises, which were their only source of livelihood;
9. **THAT,** efforts to resolve this matter with the relevant bodies have been futile; and
10. **THAT,** issues in respect of which this Petition is made are not pending before any court of law or constitutional or statutory body;

THEREFORE, your humble Petitioners pray that the National Assembly, through the Departmental Committee on Energy:-

- (i) inquires into the status of ownership of land in Chokaa, Mihang'o area to establish whether or not the said land falls within power line way leave;
- (ii) inquires into the circumstances under which demolitions were indiscriminately effected, hence affecting residents who had not encroached on Kenya power way leaves;
- (iii) engages the Cabinet Secretary for Energy to provide information regarding the demolitions in Chokaa, Mihang'o area and measures the Government has instituted to resettle the displaced residents, assist them to return to normal lives and compensate innocent residents whose property were destroyed; and
- (iv) makes any other recommendations that it deems fit in the circumstances of this matter.

And your **PETITIONERS** will ever pray.

PRESENTED BY:



HON. BABU OWINO, MP
MEMBER FOR EMBAKASI EAST CONSTITUENCY

DATE:.....18/6/2019.....

② Petitions Office
To process
Drop Kit

INTERNAL MEMORANDUM

DDL 80

one process
2
8105

TO: THE SENIOR DEPUTY CLERK, NATIONAL ASSEMBLY

THRO': THE DIRECTOR, LEGAL SERVICES, NA

forwarded. The petition is in order and maybe
tabled for consideration.
Damm. 26/4/19

THRO': PRINCIPAL LEGAL COUNSEL, NA

The petition is by a member who has countersigned the so
and may be forwarded to the Hon. Speaker for table
before the House. Li

FROM: LEGAL COUNSEL II, NA 24/4/2019.

DATE: 24TH APRIL, 2019

RE: PETITION TO NATIONAL ASSEMBLY UNDER ARTICLES 40 AND 28 OF THE
CONSTITUTION, PURSUANT TO PETITIONS TO PARLIAMENTARY
(PROCEDURE) ACT AND STANDING ORDERS 219 AND 223 OF THE NATIONAL
ASSEMBLY ON KENYA POWER AND LIGHTING COMPANY ILLEGAL
DEMOLITION OF HOUSES IN CHOKAA

The above matter and your instruction to the Directorate of Legal Services to peruse and
establish whether the petition by Hon. Babu Owino on behalf of the residents of Chokaa within
Embakasi East Constituency complies with the National Assembly Standing Orders refers.

Handwritten notes and signatures, including "2019-2020" and "2019-2020".

NATIONAL ASSEMBLY
RECEIVED
25 APR 2019
SENIOR DEPUTY CLERK
J. W. N.
P.O. Box 41842-00100, NAIROBI

PETITION TO NATIONAL ASSEMBLY UNDER ARTICLES 40 AND 28 OF THE
CONSTITUTION, PERSUANT TO PARLIAMENTARY (PROCEDURE) ACT AND
STANDING ORDERS 219 AND 223 OF THE NATIONAL ASSEMBLY ON KENYA
POWER AND LIGHTING COMPANY ILLEGAL DEMOLITION OF HOUSES IN CHOKAA

23rd April, 2019

TO: THE CLERK OF THE NATIONAL ASSEMBLY

PARLIAMENT BUILDING,

P.O.BOX 41842-00100

NAIROBI.

We, the undersigned,

CITIZENS of KENYA and RESIDENTS of CHOKAA within EMBAKASI EAST
constituency, living and working for gain in NAIROBI, wish in the interest of the public, lodge
this petition concerning Kenya Power And Lighting Company demolition of the Houses in
Chokaa Mihang'o area.

PETITION TO NATIONAL ASSEMBLY UNDER ARTICLES 40 AND 28 OF THE
CONSTITUTION, PERSUANT TO PARLIAMENTARY (PROCEDURE) ACT AND
STANDING ORDERS 219 AND 223 OF THE NATIONAL ASSEMBLY ON KENYA
POWER AND LIGHTING COMPANY ILLEGAL DEMOLITION OF HOUSES IN CHOKAA

We humbly draw the attention of the House following:

1. THAT, Article 2(1) of the Constitution stipulates that the Constitution is the Supreme law of the Republic and binds all persons and all State Organs at both levels of government.
2. THAT, Article 3(1) of the Constitution stipulates that every person has an obligation to respect, uphold and defend the Constitution.
3. THAT, Article 10(2)b of the Constitution stipulates that the national values and principles of governance include- human dignity, social justice, inclusiveness, quality, human rights, non –discrimination and protection of the marginalized.
4. THAT, Article 19(2) of the Constitution stipulates that the purpose of recognizing and protecting human rights and fundamental freedoms is to preserve the dignity of individuals and communities and to promote social justice and realization of the potential of all human beings.
5. THAT, Article 21(1) of the Constitution stipulates that it is a fundamental duty of the state and every state organ to observe ,respect, promote and fulfil the right and fundamental freedoms in the Bill of Rights
6. THAT, Article 27(1) of the Constitution stipulates that every person is equal before the law and has the right to equal protection and equal benefit of the Law.

PETITION TO NATIONAL ASSEMBLY UNDER ARTICLES 40 AND 28 OF THE
CONSTITUTION, PERSUANT TO PARLIAMENTARY (PROCEDURE) ACT AND
STANDING ORDERS 219 AND 223 OF THE NATIONAL ASSEMBLY ON KENYA
POWER AND LIGHTING COMPANY ILLEGAL DEMOLITION OF HOUSES IN CHOKAA

7. THAT, Article 28 of the Constitution stipulates that every person has inherent dignity and the right to have that dignity respected and protected.
8. THAT, Article 40 of the Constitution stipulates that every person has the right to protection of his property.
9. THAT, KPLC under their employees and agents has failed to execute its duties under the aforementioned constitutional provisions.
10. THAT, KPLC under their employees and agents violated the aforementioned constitutional provisions when they raided and demolished the houses of the petitioners.
11. THAT, the demolition of the houses in Chokaa was illegal and in pretence that the houses were under the power way-leave.
12. THAT, the KPLC did not issue the residents of the area any further notice after the suspension of the notice issued on 10th December 2018 by His Excellency The President.
13. THAT, the illegal demolitions did not follow the required measurements of 15 meters for 132 kilovolts and 20 meters for 220 kilovolts
14. THAT, close to 500 families were left homeless with school going children forced close schools early as their schools were demolished and their homes destroyed in exercise and left in cold.
15. THAT, some residents lost their business premises which were their only source of livelihood.

PETITION TO NATIONAL ASSEMBLY UNDER ARTICLES 40 AND 28 OF THE
CONSTITUTION, PERSUANT TO PARLIAMENTARY (PROCEDURE) ACT AND
STANDING ORDERS 219 AND 223 OF THE NATIONAL ASSEMBLY ON KENYA
POWER AND LIGHTING COMPANY ILLEGAL DEMOLITION OF HOUSES IN CHOKAA

16. THAT, there are reports that 1 resident died by committing suicide due to frustration and embarrassment and others hospitalized due to trauma, shock and stress as they watched in disbelief what they had worked so hard to build brought down in a single day.

17. THAT, It is clear that the exercise treated the residents inhumanely and in total disregard of the provisions of Article 28 of the Constitution by robbing them off their dignity.

18. THAT, the exercise was in contravention of the goals of the National Government in achieving the big four (4) agenda of His Excellency The President.

In respect of the above the petitioner cites the following grounds for the House consideration of the matter:

19. THAT, efforts have been made by petitioners to have the matter addressed by the KPLC including calling the KPLC personnel on the ground to guide the residents on the required measurements and even having several meeting at the D.C.C offices over the same issues and it failed to give satisfactory response.

20. THAT, to the best our knowledge the issues in respect of which this petition is made are not pending before any court of law.

HEREFORE, your humble petitioner(s) Pray that-

21. THAT, the National Assembly deals with the petition immediately in view of the urgency of the matter and seriousness of the issues presented herein;

PETITION TO NATIONAL ASSEMBLY UNDER ARTICLES 40 AND 28 OF THE
CONSTITUTION, PERSUANT TO PARLIAMENTARY (PROCEDURE) ACT AND
STANDING ORDERS 219 AND 223 OF THE NATIONAL ASSEMBLY ON KENYA
POWER AND LIGHTING COMPANY ILLEGAL DEMOLITION OF HOUSES IN CHOKAA

22. THAT, pursuant to National Assembly Standing Order 216, the Departmental Committee on Lands does consider, investigate and inquire into all the matters raised in this Petition;

23. THAT, pursuant to the National Assembly Standing Order 216, the Departmental Committee on Lands investigates into the manner in which KPLC conducted the demolitions of Houses in Chokaa and make any appropriate recommendations to safeguard the rights of Chokaa residents.

24. THAT, pursuant to the National Assembly Standing Order 216, the Departmental Committee on Lands inquire into the status of land in Chokaa Mihang'o area and whether the said land falls within a wayleave area and status of beaconing of the area;

25. THAT, pursuant to the National Assembly Standing Order 216, the Departmental Committee on Lands inquire into the status of land in Chokaa Mihang'o area and whether the said land falls within a way leave area;

26. THAT, pursuant to the National Assembly Standing Order 216, the Departmental Committee on Lands inquire into the possibility of resettlement of the residents affected by demolitions Chokaa Mihang'o area and make any other appropriate recommendations in this regard;

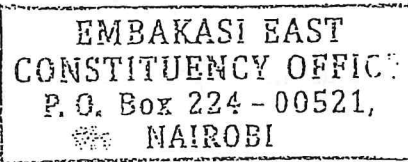
PETITION TO NATIONAL ASSEMBLY UNDER ARTICLES 40 AND 28 OF THE
CONSTITUTION, PERSUANT TO PARLIAMENTARY (PROCEDURE) ACT AND
STANDING ORDERS 219 AND 223 OF THE NATIONAL ASSEMBLY ON KENYA
POWER AND LIGHTING COMPANY ILLEGAL DEMOLITION OF HOUSES IN CHOKAA

Yours sincerely,



HON. BABU OWINO, MP

EMBAKASI EAST CONSTITUENCY



DLS

Please deal
01104119

PETITION TO NATIONAL ASSEMBLY UNDER ARTICLES 40 AND 28 OF THE
CONSTITUTION, PERSUANT TO PARLIAMENTARY (PROCEDURE) ACT AND
STANDING ORDERS 219 AND 223 OF THE NATIONAL ASSEMBLY ON KENYA
POWER AND LIGHTING COMPANY ILLEGAL DEMOLITION OF HOUSES IN CHOKAA

TO: THE CLERK OF THE NATIONAL ASSEMBLY

PARLIAMENT BUILDING,

P.O. BOX 41842-00100

NAIROBI.



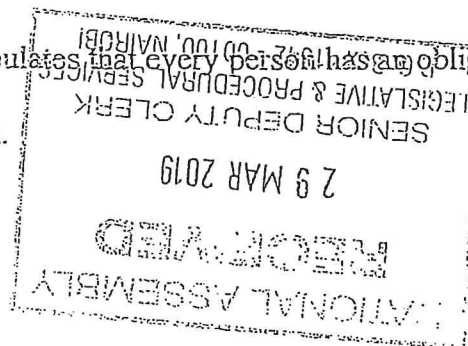
We, the undersigned,

CITIZENS of KENYA and RESIDENTS of CHOKAA within EMBAKASI EAST
constituency, living and working for gain in NAIROBI, wish in the interest of the public, lodge
this petition concerning Kenya Power And Lighting Company demolition of the Houses in
Chokaa Mihang'o area.

We humbly draw the attention of the House following:

1. THAT, Article 2(1) of the Constitution stipulates that the Constitution is the Supreme
law of the Republic and binds all persons and all State Organs at both levels of
government.

2. THAT, Article 3(1) of the Constitution stipulates that every person has an obligation to
respect, uphold and defend the Constitution.



PETITION TO NATIONAL ASSEMBLY UNDER ARTICLES 40 AND 28 OF THE
CONSTITUTION, PERSUANT TO PARLIAMENTARY (PROCEDURE) ACT AND
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POWER AND LIGHTING COMPANY ILLEGAL DEMOLITION OF HOUSES IN CHOKAA

9. THAT, KPLC under their employees and agents has failed to execute its duties under the aforementioned constitutional provisions.
10. THAT, KPLC under their employees and agents violated the aforementioned constitutional provisions when they raided and demolished the houses of the petitioners.
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15. THAT, some residents lost their business premises which were their only source of livelihood.

PETITION TO NATIONAL ASSEMBLY UNDER ARTICLES 40 AND 28 OF THE
CONSTITUTION, PERSUANT TO PARLIAMENTARY (PROCEDURE) ACT AND
STANDING ORDERS 219 AND 223 OF THE NATIONAL ASSEMBLY ON KENYA
POWER AND LIGHTING COMPANY ILLEGAL DEMOLITION OF HOUSES IN CHOKAA

HEREFORE, your humble petitioner(s) Pray that Parliament under the Standing committee of
Land and Natural Resources looks into the matter in view of ensuring the following:

- I. THAT, the National Assembly deals with the petition immediately in view of the
urgency of the matter and seriousness of the issues presented herein.
- II. THAT, Beaconing of the area in question is done by the KPLC.
- III. THAT, Re-settlement of the victims is done by the KPLC to enable them return to their
normal life.
- IV. THAT, compensation of the affected families SHALL be done by the KPLC.
- V. THAT, counseling of the victims SHALL be done under the cost of the KPLC to ensure
that their health is protected.
- VI. THAT, pursuant to Article 3(1) of the constitution , it SHALL uphold and defend the
Constitution.

PETITION TO NATIONAL ASSEMBLY UNDER ARTICLES 40 AND 28 OF THE
 CONSTITUTION, PERSUANT TO PARLIAMENTARY (PROCEDURE) ACT AND
 STANDING ORDERS 219 AND 223 OF THE NATIONAL ASSEMBLY ON KENYA
 POWER AND LIGHTING COMPANY ILLEGAL DEMOLITION OF HOUSES IN CHOKAA

	NAME OF THE PETITIONER(S)	ADDRESS	IDENTIFICATION NO.	SIGNATURE	DATE
35	MICHAEL DUMBA		1360338	<i>[Signature]</i>	26/3/11
36	ineymuna hall umor		23021110		
37	KURIA ISSACK				
38	DAVID MWIRURI		12409583	<i>[Signature]</i>	
39	Kevin Onyango		27055810	<i>[Signature]</i>	26/3/11
40	FATIMA OMAR		25929697	<i>[Signature]</i>	26/3/11
41	MOHAMMED YUSUF		29220651		26/3/11
42	MOHAMMED KATELO		1273733	<i>[Signature]</i>	26/3/11
43	NURIA HASSAN		0197580	<i>[Signature]</i>	26/3/11
44	SABO ELIAS		6400890	S.E	26/3/11
45	PETER MUREITHI		12934833	<i>[Signature]</i>	26/3/11
46	Robert Moyo		23597546	<i>[Signature]</i>	26/3/11
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PETITION TO NATIONAL ASSEMBLY UNDER ARTICLES 40 AND 28 OF THE
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REPUBLIC OF KENYA
MINISTRY OF ENERGY

BRIEF

ON

**CLEARANCE OF ELECTRICITY WAYLEAVES ALONG KANGUNDO ROAD,
DANDORA, KAYOLE, EMBAKASI & MIHANG'O**

Wednesday, 10th July, 2019

CLEARANCE OF ELECTRICITY WAYLEAVES ALONG KANGUNDO ROAD, DANDORA, KAYOLE, EMBAKASI & MIHANG'O

A. Background

1. Over time, our wayleaves have been illegally encroached by a high number of squatters who have constructed illegal structures under our power lines thus compromising our ability to effectively transmit, distribute and retail quality and reliable electricity to end-user customers throughout the Country.
2. In the event of an electrical accident, the illegal and unsafe structures not only pose a danger to the squatters, but also deny us the ability to maintain our power supply lines.
3. It was noted that there are unscrupulous people who invade or purport to have the mandate to allocate land within Wayleaves corridors.
4. In this regard, KPLC appealed for concerted efforts from government stakeholders including communities living or owning land within the vicinity of the power line wayleaves corridors to assist in deterring or giving information on encroachments to avoid/minimize the Company's exposure.

B. Appointment of Multi-Sectoral Agency Consultative Committee

1. Past efforts to conclusively address this long-standing challenges have been hampered by violent resistance.
2. The formation of the Multi-Sectoral Agency Consultative Committee on unsafe structures by His Excellency the President to address such issues following heavy fatalities occasioned by collapsed structures accorded us a good opportunity to address the way leaves encroachments.
3. The operation rides on the opportunity that the mandate of the Multi-Sectoral Agency Consultative Committee on Unsafe Structures (MSACC) offers to address the protracted wayleaves challenge. MSACC is comprised of NEMA, KURA, WRA, NCA, NBI, KPLC, Kenya Railways, Nairobi City County Government, National Police Service, KAA, NYS, NDMU amongst other agencies.

4. KPLC has been working with MSACC, in the removal of illegal structures on our wayleaves trace.
5. This present operation is aimed at clearance of wayleaves along Kamburu – Dandora 220kV and 132kV lines. East African Power & Lighting Company obtained consent through a wayleave agreement on the 17th September, 1966 from the then proprietor, Mr. Alexander Bedier. The 4 lines running parallel on this corridor are double circuit.
6. The operation aims to clear the way leave corridor all the way to Dandora sub-station.

C. Identified Areas.

1. The following areas were identified as having been encroached and were earmarked for clearing. They include; Kyangombe in Embakasi, Chokaa & Buru buru farmers land in Njiru, Matopeni & Kayole junction along Kang'undo road, Mowlem in Dandora and Muiringo in Kasarani. In the case of Chokaa & Buru buru farmers land in Njiru and Mowlem in Dandora, four transmission lines (3 from The Seven forks Hydro generation stations and 1 from Olkaria) share the same corridor spanning approximately 212 metres in width as the lines approach Juja and Dandora Transmission sub-stations.
2. The said corridor has been encroached on both peripheries and also in between the power lines. Equally the independent 132 kV Kamburu-Juja line has a corridor spanning 63 metres wide and not 30 meters as is the case for the other 132 kV lines. The same line has also been encroached and requires clearance.

D. Current Status of Demolition Exercise.

1. On 11th March 2019, the operation commenced at Buruburu Farmers, Matopeni, Mihango, Kangundo Road, Dandora, Kayole and Molem. The operations progressed for three days. i.e 11th, 12th and 18th March 2019. The operation was preceded by issuance of notices on 10th December 2018 and public baraza/sensitizations on 15th Feb 2019.
2. On 9th – 11th April 2019, another operation was conducted in Matopeni and Njiru areas. The operation concentrated on the encroachment along the 212M corridor.

3. So far more than 500 structures have been removed. Some of the structures in between the lines were permanent houses while majority in Njiru area are Mabati structures.
4. On 7th – 13th May 2019 all the wayleaves trace in Buruburu Farmers, Matopeni, Mihango, Kangundo Road, Dandora, Kayole and Molem were marked as per the beacons on the survey maps for the area. The measurements and markings established that several structures were within the wayleaves trace i.e. the 63M and the 212M. The sketches are attached for clarity.

E. Petition issues

MP for the area, Hon. Babu Owino has filed a petition on the basis that the demolitions were conducted outside the wayleaves traces. The responses to the issues raised are as follows:

1. The constitution entitles rights of residence and protection of property but the Multi-Sectoral Agency Consultative Committee on Unsafe Structures (MSACC) has the mandate to ensure safety of citizens hence the decision to remove the structures under the powerlines and within the wayleaves traces.
2. The occupants of the unsafe structures have encroached over time. The length of time does not protect them from the risks and exposure posed to them by the electrical dangers/accidents.
3. During the sensitization meeting, the residents were informed of the dangers posed to them while settled under the power lines. Equally, the residents were informed that the wayleaves on this particular area were within two corridors which had 5 lines running parallel. The first corridor spans 212m wide with 4 parallel lines while the second corridor spans 63M wide. The dimensions were subsequently clearly marked with beacons.
4. No court order or presidential instruction has so far been received by MSACC or KPLC to stop the removal of the illegal structures along the wayleaves.
5. The operation has so far removed about 500 unsafe structures. No school has so far been affected by the exercise to date.
6. All structures removed were within the wayleaves corridor and no structure has been demolished outside the marked wayleaves corridor.
7. All the people who have settled on the wayleaves trace have no land ownership documents.

F. Court Cases

1. Presently, there are Five (5) different cases filed in court as follows;
 - a) *Nairobi ELC No. 94 of 2019; Charles Mukoma & 99 others –vs- KPLC*
 - b) *Nairobi CMCC No. 2303 of 2019; Laurence Ochieng & 4 others _vs- KPLC*
 - c) *Nairobi ELC No. 171 of 2019; Robert Odera & 576 others –vs- KPLC*
 - d) *Milimani CMCC No. 1657 of 2019; Vincent Arabai Erista & 26 others –vs- KPLC*
 - e) *Kisumu ELC No. 50 of 2019; Henry Ondieki & 4 others –vs- KPLC*
2. In all the above cases, the complainants claim to be the bona fide owners of the respective plots and have moved to court to stop the demolition exercise.
3. KPLC has filed its response in court defending its position that the complainants have encroached on the way leaves trace and constructed illegal structures hence endangering their lives and making it difficult for KPLC to access its lines thereby compromising on the reliability of electricity to the end consumer.
4. The cases are pending hearing.



DR. ENG. JOSEPH K. NJOROGE, CBS
PRINCIPAL SECRETARY



**TWELFTH PARLIAMENT
THE NATIONAL ASSEMBLY - (THIRD SESSION)**

COMMUNICATION FROM THE CHAIR

(No. 73 of 2019)

**ON THE FATE OF THE VARIOUS BUSINESSES BEFORE THE HOUSE AND
COMMITTEES; AND ACTIVITIES OF COMMITTEES DURING THE UPCOMING
RECESS**

Honourable Members, as you are aware, at the rise of the sitting today, the House is scheduled to proceed on a long recess as per the Calendar of the House in what marks the conclusion of the Third Session of the National Assembly in the Twelfth Parliament. I sincerely wish to commend the House for the diligence and commitment to the business of the House in plenary throughout the Session. During the Session, a lot of key business was transacted and numerous decisions made. This information will be made available in the annual report of business of the Assembly which is under preparation.

Honourable Members, as the Session winds up and the House proceeds on recess, I wish to remind Members of the fate of the various businesses that were before the House and the Committees. Firstly, you are aware that Standing Order 141(2), provides that a Bill that has been published, read a First Time or in respect of which the Second Reading has not been concluded at the end of a Session in which it was published shall not lapse. However, a Bill not concluded at the end of two consecutive Sessions shall lapse at the end of the second Session. Secondly, with regard to Petitions, as you are also aware, Article 37 of the Constitution provides that every person has **"the right, peaceably and unarmed, to assemble, to demonstrate, to picket, and to present petitions to public authorities"**. Additionally, Article 119 provides that **"every person has a right to petition Parliament to consider any matter within its authority, including enacting, amending or repealing any legislation"**.

The Standing Order 227(2) reads, and I quote: **"Whenever a Petition is committed to a Departmental Committee, the Committee shall, in not more than sixty calendar days from the time of reading the prayer, respond to the petitioner by way of a report addressed to the petitioner or petitioners and laid on the Table of the House and no debate on or in relation to the report shall be allowed, but the Speaker may, in exceptional circumstances, allow comments or observations in relation to the Petitions for not more than twenty Minutes"**.

Honourable Members, for good reasons, the National Assembly through the Standing Orders imposes a **sixty-day limit** within which a Petition shall be

responded to by way of a report tendered to the petitioner or petitioners and a copy laid on the Table of the House. The letter and spirit of this Standing Order is not to encumber petitioners who painstakingly take their time and resources to approach their Parliament for recourse. I am aware that, a total of seventy (70) petitions were received with twenty three (23) already concluded, forty six (46) are pending before the various Committees, while one (1) lapsed. Many other requests are currently being processed.

Honourable Members, conscious that the National Assembly should not be seen to punish the Petitioners by requiring them to file their Petitions afresh upon resumption of business in the Fourth Session as they have no control of our Parliamentary calendar, **I direct that consideration of all pending petitions will resume at the stage at which they are as at today so that the sixty-day rule, which rule is meant merely for our internal order, only begins to apply again upon resumption of business next Session.**

Lastly, on Motions, Questions and Statements, at the risk of appearing to state the obvious, these are traditionally sessional and will therefore lapse at the end of the current Session.

Finally, you will recall that on Tuesday, 3rd December, 2019, the Chairperson of the Departmental Committee on Agriculture and Livestock, the Hon. Adan Haji Ali sought my leave to have the period for the inquiry into the matter of "*Challenges affecting dairy farmers and decline of prices of milk and milk products in the Country*" extended. The matter arose out of a request for a Statement by the Majority Party Deputy Whip, the Hon. Cecily Mbarire. I have considered the request and I hereby grant leave. In this regard, the period of sixty (60) days will start running from 3rd February, 2020.

Honourable Members, having said that, and as is the tradition of Parliament, Committees have until 13th December 2019 to sum up their business after which Committee activities will stand suspended until the first week of February 2020. Therefore, no Committee Sittings shall be convened until **Monday, 3rd February, 2020**, unless special consideration is granted by my office upon written request. This is to allow you to spend valuable time with your families during the holiday season and also attend to your constituents. In addition, this will avail the officers and staff of Parliament an opportunity to take their annual leave and also begin preparations for the next Session.

Lastly, Honourable Members, it is my wish that, when the House finally rises today, all of you will have a happy, safe and restful festive season, and a prosperous New Year.

I thank you!


THE HON. JUSTIN B.N. MUTURI, EGH, MP
SPEAKER OF THE NATIONAL ASSEMBLY

Thursday, December 05, 2019

MANAGING DIRECTOR & CHIEF EXECUTIVE'S OFFICE

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STIMA PLAZA
KOLOBOT ROAD
PARKLANDS, NAIROBI
KENYA

KP1/3C/2/15/510/TK/EP&RA/jtn

28th May 2019

Dr. (Eng). Joseph Njoroge, CBS
The Principal Secretary,
Ministry of Energy
P.O. Box 30582 - 00100,
Nyayo House.
NAIROBI.

Dear *PS,*

PAYMENT BY GOVERNMENT OF KENYA (GOK) TO LAKE TURKANA WIND POWER LIMITED (LTWP) ON ACCOUNT OF GOK TI DELAY DEEMED GENERATED ENERGY (DGE) – UPDATE ON FUNDS RECEIVED BY KPLC FROM GOK AND PAID TO LTWP

Your letter Ref: ME/CONF/1/3/12(189) dated 2nd May 2019 refers.

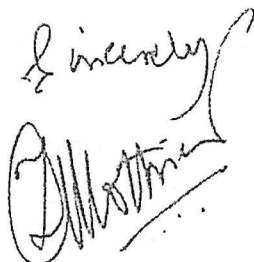
Detailed hereunder is the information requested to enable the National Treasury ascertain the exchange loss:

- i) The total Deemed Generated Energy (DGE) obligation to the Government is Euro **85,684,035** (Excl. VAT) which includes the 46 million Euros for the initial DGE TI Delay period and the Proforma invoices amount for the months of June, July, August and September 2018. The September 2018 Proforma Invoice amount of Euro 9,057,049 (Excl. VAT) is based on TI Operation date of 24th September 2018. The payable amount of 3,544,080.97 (Excl. VAT) has however been computed based on the TI Operation date of 10th September 2018 as guided by MOE letter Ref: ME/CONF/2/1/1 dated 27th February 2019 (copy attached). Please refer to table 1 below for details.
- ii) The actual payment made to date in respect of GOK TI Delay DGEs is Euro **75,705,563** (Excl. VAT) equivalent to Kshs. 9,114,780,000 based on the exchange rates for the dates of payments as detailed in Table 1 below.
- iii) The applicable exchange rates on the dates of payments have also been captured in Table 1 below and the corresponding Central Bank actual prevailing exchange rates have been attached for your reference as requested.

Table 1: Details of the amounts paid to LTWP by KPLC on behalf of GOK

DGE Period	LTWP DGE Proforma Invoice No.	LTWP DGE Proforma Invoice Amount (Euro)	Amount Payable By GOK on DGE VAT Excl. (Euro)	Amount Received from GOK (Kshs)	Amount used by KPLC to Purchase Euros (Kshs.)	Applicable Commercial Exchange Rate used	Amount of Euros Purchased by KPLC and paid to LTWP in respect to Proforma Invoice (Euro)	Actual Date of Payment	CBK Exchange Rate on the Date of Payment	Balance retained by KPLC (Kshs)	Amount Owed to LTWP on Proforma Invoice (Euro)
Initial DGE TI Delay Period	10009	46,000,000	46,000,000	5,658,690,000	609,900,000	121.98	5,000,000	28-Sep-17	121.35		
					608,850,000	121.77	5,000,000	06-Oct-17	121.14		
					1,241,600,000	124.16	10,000,000	22-Sep-17	123.26		
					603,650,000	120.73	5,000,000	10-Oct-17	121.27		
					619,300,000	123.86	5,000,000	26-Sep-17	122.39		
					733,680,000	122.28	6,000,000	13-Oct-17	122.48		
					609,950,000	121.99	5,000,000	28-Sep-17	121.35		
					607,850,000	121.57	5,000,000	05-Oct-17	121.67		
Initial Sub-Total	46,000,000	46,000,000	5,658,690,000	5,634,780,000		46,000,000			23,910,000	0.00	
Jun-18	100010	11,784,768	11,784,768	1,160,000,000	587,850,000	117.57	5,000,000	25-Jul-18	117.68		
					572,150,000	117.59	4,865,635	25-Jul-18	117.68		
Jun-18 Sub-Total	11,784,768	11,784,768	1,160,000,000	1,160,000,000			9,865,635			0.00	1,919,133
Jul-18	100011	12,177,593	12,177,593	1,422,972,444	834,172,444	117.75	7,084,267	14-Sep-18	118.45		
					588,800,000	117.73	5,001,274	14-Sep-18	118.45		
Jul-18 Sub-Total	12,177,593	12,177,593	1,422,972,444	1,422,972,444			12,085,541			0.00	92,052
Aug-18	100012	12,177,593	12,177,593	897,027,556	897,027,556	115.68	7,754,387	14-Nov-18	115.79		4,423,206
Aug-18 Sub-Total	12,177,593	12,177,593	897,027,556	897,027,556			7,754,387			0.00	4,423,206
1st to 9th Sep 2018	100013	9,057,049	3,544,081	0.00	0.00		0.00			0.00	3,544,081
GRAND TOTAL		91,197,003	85,684,035	9,138,690,000	9,114,780,000		75,705,563			23,910,000	9,978,472

Yours



ENG. JARED OTHIENO
Ag. MANAGING DIRECTOR & CEO

Cc: Hon. Charles Keter, EGH
Cabinet Secretary
Ministry of Energy
NAIROBI.