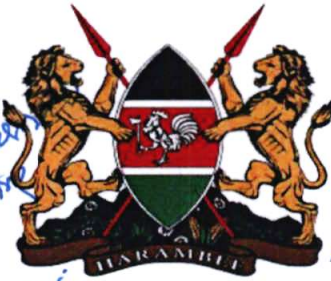


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REPUBLIC OF KENYA

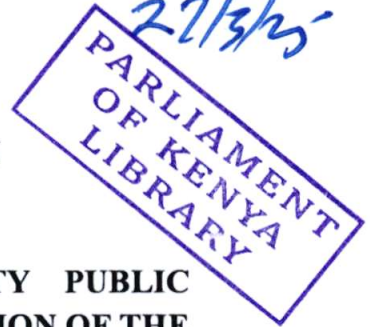


Clerk
Forwarded and recommended
for approval for tabling
27/03/2025

THE SENATE

THIRTEENTH PARLIAMENT - FOURTH SESSION

Hon. Speaker
⑤ You may approve
for tabling. HA
27/3/25



REPORT OF THE SELECT COMMITTEE ON COUNTY PUBLIC INVESTMENTS AND SPECIAL FUNDS ON THE CONSIDERATION OF THE REPORTS OF THE AUDITOR-GENERAL ON THE FOLLOWING COUNTY WATER SERVICE PROVIDERS FOR THE FINANCIAL YEAR 2023/2024 (1st JULY, 2023 TO 30th JUNE, 2024):

NO.	WATER COMPANY	COUNTY
1	BUSIA WATER AND SEWERAGE SERVICES COMPANY LIMITED	BUSIA
2	ELDORET WATER AND SANITATION COMPANY LIMITED	UASIN GISHU
3	GATANGA WATER AND SANITATION COMPANY LIMITED	MURANG'A
4	GUSHI WATER AND SANITATION COMPANY LIMITED	KISII
5	KAKAMEGA WATER AND SANITATION COMPANY LIMITED	KAKAMEGA
6	KAPSABET NANDI WATER AND SANITATION COMPANY LIMITED	NANDI
7	KIBWEZI-MAKINDU WATER AND SANITATION COMPANY	MAKUENI
8	KWALE WATER AND SEWERAGE COMPANY LIMITED	KWALE
9	LAMU WATER AND SEWERAGE COMPANY LIMITED	LAMU
10	MALINDI WATER AND SEWERAGE COMPANY LIMITED	KILIFI
11	MBOONI WATER AND SANITATION COMPANY LIMITED	MAKUENI
12	MURANG'A SOUTH WATER AND SANITATION COMPANY LIMITED	MURANG'A
13	MURANG'A WATER AND SANITATION COMPANY LIMITED	MURANG'A

PAPERS LAID	
DATE	27/03/2025
TABLED BY	Chairperson
COMMITTEE	CPIC
CLERK AT THE TABLE	William

14	TANA WATER AND SANITATION COMPANY LIMITED	TANA RIVER
15	TAVEVO WATER AND SEWERAGE COMPANY LIMITED	TAITA TAVETA
16	WOTE WATER AND SEWERAGE COMPANY LIMITED	MAKUENI

VOLUME I

Clerk's Chambers
The Senate
P.O. Box 41842-00100
Nairobi

March, 2025

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ACRONYMS/ABBREVIATIONS

CBK	- Central Bank of Kenya
COB	- Controller of Budget
COG	- Council of Governors
DPP	- Director of Public Prosecution
EACC	- Ethics and Anti-Corruption Commission
GAAP	- Generally Accepted Accounting Principles
IFMIS	- Integrated Financial Management Information System
KRA	- Kenya Revenue Authority
IGRTC	- Intergovernmental Relation Technical Committee
NHIF	- National Health Insurance Fund
NRW	- Non-Revenue Water
NSSF	- National Social Security Fund
OAG	- Office of the Auditor-General
PAA	- Public Audit Act
PFM	- Public Finance Management
PSASB	- Public Sector Accounting Standards Board
RWWDA	- Regional Water Works Development Agency
SO	- Standing Orders
TNT	- The National Treasury
WASREB	- Water Services Regulatory Board
WRA	- Water Resources Authority
WSP	- Water Service Provider

DEFINITION OF TERMS

1. **Unqualified opinion:** This refers to a clean opinion which is the most desirable in which the auditor states that the financial condition, position, and operations of an organization are fairly presented in the financial statements in accordance with Generally Accepted Accounting Principles (GAAP).
2. **Qualified opinion:** This is an opinion expressed by the auditor if the financial statements appear to contain a small deviation from Generally Accepted Accounting Principles (GAAP) but are otherwise fairly presented. It is also rendered if the management of the organization limits the scope of audit procedures.
3. **Adverse opinion:** This refers to an opinion issued when there are material exceptions to Generally Accepted Accounting Principles (GAAP) that affect the financial statements as a whole and the auditor indicates that the financial statements are not presented fairly.
4. **Disclaimer:** This is an opinion given by the auditor when there is a significant limitation in the access to audit information and documentation and inadequate cooperation by the organizational management in the audit process.
5. **Non-Revenue Water:** Non-Revenue Water refers to the difference between the amount of water put into the distribution system and the amount of water billed/unbilled as authorized consumption. It is usually attributed to by physical losses such as leakages, bursts, and overflows through the existing old and dilapidated water supply network, and commercial losses due to metering anomalies and illegal connections.
6. **Going Concern:** This is an accounting principle used for a company that is financially stable enough to meet its obligations and continue its business for the foreseeable future.
7. **Accountability** – This refers to the assurance that an individual or a group will be held responsible for their actions or inactions.

PREFACE

Hon. Speaker,

Parliamentary Committees are a creation of the Constitution through Article 124(1) of the Constitution which empowers each House of Parliament to establish Committees and make Standing Orders (SO) for the orderly conduct of its proceedings, including the proceedings of its Committees. The Select Committee on County Public Investments and Special Funds is established pursuant to Standing Order No. 194 of the Senate Standing Orders and is mandated to—

- a) Pursuant to Article 96(3) of the Constitution, to exercise oversight over national revenue allocated to the county governments; and
- b) examine the reports and accounts of county public investments; and
- c) examine the reports, if any, of the Auditor-General on the county public investments; and
- d) To exercise oversight over county public investments.

COMMITTEE MEMBERSHIP

Hon. Speaker,

The membership of the Committee comprises of the following Senators-

- | | |
|--|---------------------------|
| 1. Sen. Godfrey Atieno Osotsi, CBS, MP | - Chairperson |
| 2. Sen. Eddy Gicheru Oketch, MP | - Vice-Chairperson |
| 3. Sen. William Kipkemoi Kisang, MP | |
| 4. Sen. Agnes Kavindu Muthama, MP | |
| 5. Sen. Peris Pesi Tobiko, CBS, MP | |
| 6. Sen. Beth Kalunda Syengo, MP | |
| 7. Sen. Hamida Kibwana Ali, MP | |
| 8. Sen. George Mungai Mbugua, MP | |
| 9. Sen. Raphael Chimera Mwinzangu, MP | |

COMMITTEE SECRETARIAT

- | | |
|----------------------------|---|
| 1. Mr. Njenga Njuguna, OGW | -Director Governance and Accountability Committees |
| 2. Ms. Emmy Chepkwony | -Deputy Director Governance and Accountability Committees |
| 3. Mr. Yussuf Shimoy | - Clerk Assistant I |
| 4. Mr. Erick Njogu | - Clerk Assistant III |
| 5. Mr. Khatib Omar | - Clerk Assistant III |
| 6. Mr. Godfrey Nyaga | - Clerk Assistant III |
| 7. CPA Kennedy Owuoth | - Fiscal Analyst |
| 8. Mr. Jeremy Chabari | - Legal counsel |
| 9. Ms. Raisa Mwithi | - Research Officer III |
| 10. Mr. Martin Mulandi | - Research Officer III |
| 11. Mr. Peter Katana | - Research Officer III |
| 12. Mr. Josphat Ng'eno | - Media Relations officer. |
| 13. Mr. Victor Kimani | - Audio officer |
| 14. Mr. Fredrick Okola | - Serjeant-at-arms |

ESTABLISHMENT OF THE COMMITTEE

Hon. Speaker,

The Committee was first constituted on 19th October, 2022 pursuant to Standing Order No. 194 of the Senate Standing Orders. The County Public Investments and Special Funds Committee (CPISFC) was split from the broad County Public Accounts and Investments Committee (CPAIC) in the 12th Parliament for the purpose of clearing audit backlog and to consider many audit thematic areas which had not been subjected to Parliamentary scrutiny since the inception of devolution in the year 2013.

Hon. Speaker,

The County Public Investments and Special Funds Committee is one of the financial audit committees through which the Senate under the provisions of Article 96(3) of the Constitution conducts ex-post scrutiny on Public Investments and Special Funds in Counties.

EXECUTIVE SUMMARY

In the execution of its mandate, the Committee relied on the reports of the Auditor-General on audited Accounts of the water companies for the Financial Year 2023/2024 (1st July, 2023 to 30th June, 2024) as the primary documents for the investigations. The Committee invited the Governors as the Chief Executive Officers of their respective County Governments pursuant to Article 179(4) as witnesses to respond to the audit queries raised in the reports under consideration.

The Committee received both written and oral evidences from the Governors in response to the various audit queries raised by the Auditor-General in the reports under consideration on various dates. The Committee considered and concluded its inquiry onto the reports of the Auditor-General on the Financial Operations of the water companies for the Financial Year 2023/2024.

This report documents the observations and recommendations of the Committee on each audit query as raised by the Auditor-General.

THE PREFACE DETAILS the place of Committees in the Constitution, Committee establishment and mandate, Committee membership and formation, the niche of the Committee in the Senate, the executive summary, key observations and recommendations and acknowledgement.

CHAPTER ONE is a record of the audit queries raised in the report of the Auditor-General for Busia Water and Sewerage Services Company Limited for the Financial Year 2023/24 and observations and recommendations of the Committee on each audit query.

CHAPTER TWO is a record of the audit queries raised in the report of the Auditor-General for Eldoret Water and Sanitation Company Limited for the Financial Year 2023/24 and observations and recommendations of the Committee on each audit query.

CHAPTER THREE is a record of the audit queries raised in the report of the Auditor-General for Gatanga Water and Sanitation Company Limited for the Financial Year 2023/24 and observations and recommendations of the Committee on each audit query.

CHAPTER FOUR is a record of the audit queries raised in the report of the Auditor-General for Gusii Water and Sanitation Company Limited for the Financial Year 2023/24 and observations and recommendations of the Committee on each audit query.

CHAPTER FIVE is a record of the audit queries raised in the report of the Auditor-General for Kakamega Water and Sanitation Company Limited for the Financial Year 2023/24 and observations and recommendations of the Committee on each audit query.

CHAPTER SIX is a record of the audit queries raised in the report of the Auditor-General for Kapsabet Nandi Water and Sanitation Company Limited for the Financial Year 2023/24 and observations and recommendations of the Committee on each audit query.

CHAPTER SEVEN is a record of the audit queries raised in the report of the Auditor-General for Kibwezi- Makindu Water and Sanitation Company Limited for the Financial Year 2023/24 and observations and recommendations of the Committee on each audit query.

CHAPTER EIGHT is a record of the audit queries raised in the report of the Auditor-General for Kwale Water and Sewerage Company Limited for the Financial Year 2023/24 and observations and recommendations of the Committee on each audit query.

CHAPTER NINE is a record of the audit queries raised in the report of the Auditor-General for Lamu Water and Sewerage Company Limited for the Financial Year 2023/24 and observations and recommendations of the Committee on each audit query.

CHAPTER TEN is a record of the audit queries raised in the report of the Auditor-General for Malindi Water and Sewerage Company Limited for the Financial Year 2023/24 and observations and recommendations of the Committee on each audit query.

CHAPTER ELEVEN is a record of the audit queries raised in the report of the Auditor-General for Mbooni Water and Sanitation Company Limited for the Financial Year 2023/24 and observations and recommendations of the Committee on each audit query.

CHAPTER TWELVE is a record of the audit queries raised in the report of the Auditor-General for Murang'a South Water and Sanitation Company Limited for the Financial Year 2023/24 and observations and recommendations of the Committee on each audit query.

CHAPTER THIRTEEN is a record of the audit queries raised in the report of the Auditor-General for Murang'a Water and Sanitation Company Limited for the Financial Year 2023/24 and observations and recommendations of the Committee on each audit query.

CHAPTER FOURTEEN is a record of the audit queries raised in the report of the Auditor-General for Tana Water and Sanitation Company Limited for the Financial Year 2023/24 and observations and recommendations of the Committee on each audit query.

CHAPTER FIFTEEN is a record of the audit queries raised in the report of the Auditor-General for Tavevo Water and Sewerage Company Limited for the Financial Year 2023/24 and observations and recommendations of the Committee on each audit query.

CHAPTER SIXTEEN is a record of the audit queries raised in the report of the Auditor-General for Wote Water and Sewerage Company Limited for the Financial Year 2023/24 and observations and recommendations of the Committee on each audit query.

KEY GENERAL OBSERVATIONS ON FIDUCIARY RISKS

The General Observations entail cross-cutting audit issues arising from the audited financial statements of Water Service Providers for the year ended 30 June, 2024.

Review of the audited financial statements revealed a number of cross-cutting issues which require urgent attention as they have significant implications on sustainability of water and sanitation services by the Water Companies, hence cases of over reliance on the support of the County Governments. They include:

1. High Rate of Non-Revenue Water

The Committee noted that most water companies had registered high non-revenue water above the sector benchmark of 25% as per WASREB guidelines. The Committee observed that the main causes of the non-revenue water was due to illegal connections, leakages from dilapidated water infrastructure that had not replaced due to low funding and faulty water meters.

Further, the committee noted that some water companies did not maintain records of the volume of water produced as there were no master meter installed in the intake points. Consequently, it was not possible to establish the acceptance non-revenue water levels despite the financial statements reflecting operating revenues from sale of water. For example, during the year under review, **Cherang'any Marakwet Water and Sanitation Company Limited**, neither installed master meter nor provided meters to the clients. Table 1.0 below gives an overview of revenue loss as a result of the high rates of water not accounted for.

Table 1.0: Revenue loss

S.No	Financial Statement	Water Produced M ³	Water Billed M ³	Non -Revenue Water M ³	Loss of Sales (Kshs.)
1	Olkejiado Water and Sewerage Limited	401,645	213,422	188,223	37,644,600
2	Kwale Water and Sewerage Company Limited	4,099,482	2,104,536	1,949,651	183,310,054
3	Nairobi City Water and Sewerage Services Company Limited	185,822,138	90,372,783	95,449,355	8,570,397,585
4	Mombasa Water and Sanitation Company Limited	12,234,118	5,283,901	6,950,217	1,042,532,550

S.N o	Financial Statement	Water Produced M ³	Water Billed M ³	Non -Revenue Water M ³	Loss of Sales (Kshs.)
5	Migori county Water and Sanitation Company Limited	773,882	339,507	389,382	23,308,407
6	Wote Water and Sewerage Company Limited	341,631	228,878.6	112,752.40	13,532,293
7	Homabay County Water and Sanitation Company Limited	999,530	570,904	428,626	14,632,270
8	Kericho Water and Sanitation Company Ltd	14,799,035	2,029,009	2,770,026	199,441,872
9	SIBO Water and Sanitation Company Limited	2,509,311	1,138,969	1,370,342	102,775,650
10	Narok Water and Sewerage Services Company Limited	1,217,351	817,020	400,331	53,304,074
11	Lodwar Water and Sanitation Company Limited	2,502,000	1,105,359	1,396,641	89,538,654
12	Bomet Water and Sanitation Company Limited	1,936,052	887,546	1,048,506	68,152,890
13	Amatsi Water Services Company Limited	1,977,435	1,332,958.7	644,476.3	35,963,085
14	Samburu Water and Sanitation Company Limited	420,485	209,299	211,186	22,709,732
15	Kitui Water and Sanitation Company Limited	2,650,931	1,419,782	1,231,149	110,124,083
	TOTAL				10,567,799,631

2. Compliance to Reporting Standards and Accuracy of the Financial Statements

The Committee observed that during the year under review, the Auditor General raised several queries on the accuracy of the financial statements presented for audit. The

Committee noted that the inaccuracies arose as a result of inadequate capacity of the preparers of financial statement whereby there were noted variances between reported amounts and balances in notes.

The Committee observed that Accountants experienced challenges in adapting to the International Public Sector Accounting Standards (IPSAS) reporting framework in preparation of financial statements. Additionally, the Committee observed that the Public Sector Accounting Standards Board (PSASB) reviews the IPSAS periodically, hence the need take into account emerging issues and conform to best accounting practices. The Committee found that some Water companies experienced challenges in the application of these standards while preparing financial statements as evidenced by the audit queries.

Failure to prepare accurate financial statements is a breach of Regulation 22(1) of the Public Finance Management (County Governments) Regulations, 2015 which states that Accounting Officers shall, in accordance with Article 226(2) of the Constitution and Section 149(1) of the Act, be accountable to the County Assembly for measures taken to prepare the financial reports that reflect a true and fair financial position of the entity. Further, failure by the Companies to address the noted variances casts doubt on the accuracy and authenticity of the reported balances and expenditure. It is also an indication of weak internal controls and governance in the affected entities.

3. Ethnic Inclusivity

The Committee observed that many water companies were non-compliant with section 7 (1) and (2) of the National Cohesion and Integration Act, Cap.7N which provides, *“all public offices shall seek to represent the diversity of the people of Kenya in employment of staff and that no public institution shall have more than one third of its establishment from the same ethnic community”* and Section 65(1) (e) of County Government Act, Cap.265 which provides, *“The need to ensure that at least 30% of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the County”*.

Further, the committee noted that a number of water entities did not adhere to the law on ethnic inclusivity. Further review of the audit reports revealed that twenty (20) Water Companies had more than one third of the total employees from the dominant ethnic community.

Specifically, the committee noted that during the year under review, Naromoru Water and Sanitation Company Limited and Matungulu Kangundo Water and Sewerage Company Limited had all employees (100%) from one dormant community. This is contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which requires that no public establishment shall have more than one third of its staff from the same ethnic community. This is detailed in table 2.0 below.

Table 2.0: Non-Adherence to National Cohesion Requirement on Ethnicity

S/No	Financial Statement	Total Staff	Dominant Community	Percentage
1	Naromoru Water and Sanitation Company Limited	22	22	100%
2	Gatamathi Water and Sanitation Company Limited	61	58	97%
3	Gatundu Water and Sanitation Company Limited	145	143	99%
4	Nyeri Water and Sanitation Company Limited	243	238	97%
5	Othaya Mukurweini Water Services Company Limited	124	115	93%
6	Yatta Water Services Company Limited	28	26	93%
7	Nyanas Water and Sanitation Company Limited	26	20	77%
8	Nairobi City Water and Sanitation Company Limited	2,930	1,404	48%
9	Kwale Water and Sewerage Company Limited	140	115	82%
10	Kiambu Water and Sewerage Company Limited	78	60	76.9%
11	Wote Water and Sewerage Company Limited	37	36	97%
12	Meru County Rural Water and Sanitation Services Company Limited	81	68	84%
13	Rukanga Water and Sanitation Company Limited	16	14	88%
14	Murang'a South Water and Sanitation Limited	174	166	95%
15	Kapsabet Nandi Water and Sanitation Company Limited	28	25	89%
16	Matungulu Kangundo Water and Sewerage Company Limited	14	14	100%
17	Kikuyu Water Company Limited	97	83	85%
18	Kisumu Water and Sanitation Company Limited	298	252	85%
19	Kilifi Mariakani Water and Sewerage Company Limited	265	239	90%

20	Homa Bay County Water and Sanitation Company Limited	102	97	95%
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4. Material uncertainty related to going concern

Review and examination of the financial statements indicated that some water companies registered negative working capital which adversely affected their financial performance and was mainly attributed to a number of factors such as; inability to realize full revenue potential due to high rate of water loss through non- revenue water, low metering ratio which means that significant volume of water is consumed but not metered, use of outdated pricing regime resulting to inability of the companies to fully recover their operation and maintenance costs and high cost of operations and maintenance that fail to match revenue generated.

The committee noted that during the year under review, examination of audited reports revealed that Tavevo Water and Sewerage Company Limited (Taita Taveta County), and Nairobi City Water and Sewerage Company limited recorded the highest losses of **Kshs. 166,557,613 and Kshs.118,067,920** respectively, with Nairobi City Water and Sewerage Company limited recording the highest negative working capital of **Kshs.1,661,389,647** as shown in table 3.0 below.

Table 3.0: Negative Working Capital

S/ N O	Financial Statement	Deficit (Kshs)	Current Assets (Kshs)	Current Liabilities (Kshs)	Negative Working Capital (Kshs)
1	Olkejiado Water and Sewerage Ltd	21,734,787	76,800,958	124,251,411	-47,450,453
2	Kwale Water and Sewerage Co. Ltd	-12,877,718	384,306,862	622,449,838	-238,142,976
3	Nairobi City Water and Sewerage Services Co. Ltd	-118,067,920	4,354,828,003	6,016,217,650	-1,661,389,647
4	Mombasa Water and Sanitation Co. Ltd	-18,355,388	535,510,355	2,513,692,755	-1,978,182,400
5	Migori county Water and Sanitation Co. Ltd	-4,452,421	64,236,839	91,540,224	-27,303,385
6	Wote Water and Sewarage Co. Ltd	-7,475,843	18,741,057	31,663,440	-12,922,383
7	Nakuru Water and Sanitation Services Co. Ltd	-54,382,923	1,348,204,398	1,573,174,597	-224970199
8	Kericho Water and Sanitation Co. Ltd	-	274,420,415	310,446,857	-36,026,442
9	Oloolaiser Water Co. Ltd	-57,698,538	123,601,616	387,542,297	-263,940,681

S/ N O	Financial Statement	Deficit (Kshs)	Current Assets (Kshs)	Current Liabilities (Kshs)	Negative Working Capital (Kshs)
10	Tavevo Water and Sewerage Co. Ltd	-166,557,613	653,458,192	985,039,193	-331,581,001
11	Busia Water and Sewerage Services Co. Ltd	-13,485,278	154,881,280	175,674,282	-20,793,002
12	SIBO Water and Sewerage Co. Ltd	-27,371,045	138,191,128	163,284,899	-25,093,771
13	Lodwar Water and Sanitation Co. Ltd	-19,313,626	50,028,626	109,365,539	-59,336,913
14	Bomet Water and Sanitation Co. Ltd	-49,322,112	240,181,112	267,292,525	-27,111,413
15	Samburu Water and Sanitation Co. Ltd	-	28,797,078	31,342,889	-2,545,811
	TOTAL	-571,095,212	8,446,187,919	13,402,978,396	-4,956,790,467

5. Non-Compliance with the Law on Fiscal Responsibility – Excess Wage Bill

During the examination of audited financial statements for the water companies, the committee noted that a number of water companies recorded excessive wage bill above the allowable 35%, contrary to Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which requires the County Government expenditure on wages and benefits to Public Officers to be limited to 35% of the total revenue.

The committee noted that, twelve (12) water companies recorded excessive wage bill totalling to **Kshs. 3,591,827,997** above the allowable 35%.

For instance, Mbooni water and Sanitation Company limited recorded the highest percentage of staff cost of **Kshs.3,249,328** which represents approximately **77%** of the total revenue of **Kshs.4,222,240**, contrary to Regulation 25 (1) (b) of the Public Finance Management (County Governments) Regulations, 2015. The details are illustrated in table 4.0 below.

Table 4.0: Excessive Wage Bill

S/N o	Financial Statement	Personnel Cost (Kshs.)	Excess Percentage	Excess Staff Costs (Kshs.)
1	Nairobi Water and Sewerage Company Limited	7,100,920,698	30%	3,268,667,230
2	Homa Bay County Water and Sanitation Company Ltd	36,862,433	19%	12,970,115

S/N o	Financial Statement	Personnel Cost (Kshs.)	Excess Percentage	Excess Staff Costs (Kshs.)
3	Gatanga water and Sanitation Company Ltd	39,408,743	29%	17,857,086
4	Kakamega County Water and Sanitation Company Ltd	180,074,012	14%	51,449,718
5	Isiolo Water and Sewerage Company Limited	56,704,043	16%	17,789,504
6	Kyeni Water and Sewerage Company	10,571,935	33%	5,130,498
7	Gusii Water and Sanitation Company Limited	108,454,746	7%	18,075,791
8	Gatamathi Water and Sanitation Company Limited	36,260,277	27%	20,621,800
9	Eldoret Water and Sanitation Company Ltd	459,376,627	11%	109,850,932
10	Mbooni Water and Sanitation Company Ltd	3,249,328	42%	1,772,360
11	Samburu Water and Sanitation Company Limited	32,919,582	19%	11,582,815
12	Nyahururu Water and Sanitation Company Limited	145,246,749	22%	56,060,148
	TOTAL	8,025,393,681		3,591,827,997

6. Unaccounted/Unauthorized use of Customer Deposits

During the examination of audited reports for the water entities, the committee observed that fifteen (15) water Companies irregularly spent customer deposits money to fund operational expenses without the approval of Board of Directors. The total unauthorized customer deposits amounted to Kshs.245,251,890

It is important to note that failure to obtain approval of the Board of Directors leads to irregular use of such deposits and hinders the ability of the water companies to make refunds to customers as and when required.

The unauthorized spending and unaccounted customer deposits in the Financial Year 2023/24 is illustrated with examples in table 5.0 below.

Table 5.0: Unauthorized Use of Customer Deposits

S/No	Water Company	Unauthorized Amount (Kshs.)
1	Naivasha Water and Sanitation Company Limited	10,943,659
2	Yatta Water Services Company Limited	4,266,588
3	Oloolaiser Water and Sewerage Company Limited	19,624,450
4	Nyandarua Water and Sanitation Company Limited	4,882,627
5	Nithi Water and Sanitation Company Limited	19,255,780
6	Ngandori Water and Sanitation Company Limited	1,631,050
7	Mavoko Water and Sewerage Company Limited	36,019,750
8	Malindi Water and Sewerage Company	78,314,151
9	Gusii Water and Sanitation Company Limited	16,654,705
10	SIBO Water and Sanitation Company Limited	7,507,000
11	Busia Water and Sewerage Services Company Limited	10,171,521
12	Narok Water and Sewerage Services Company Limited	11,712,272
13	Bomet Water and Sanitation Company Limited	2,692,989
14	Amatsi Water Services Company Limited	710,000
15	Kitui Water and Sanitation Company Limited	20,865,348
TOTAL		245,251,890

7. Long Outstanding Trade Receivables

Examination of Audit reports for the financial year 2023/24 by the Committee revealed that a number of water companies had huge amounts of receivable balances emanating from individuals, private and public institutions. The Committee noted that the trade receivable balances could not be supported by a detailed debtors aging analysis which would have guided on the most appropriate ways of collecting debts.

The significant balance of outstanding debtors is an indication of Management's inability to manage the debt portfolio which may result in bad debts and inability to deliver services. Further, failure to collect amounts receivable contravenes Regulation 46 (1) of the Public Finance Management (County Governments) Regulations, 2015. The Regulation states *that an Accounting Officer shall inform his or her responsible County Executive Committee Member immediately of any circumstances that are likely to affect materially the budgetary results either through revenue and expenditure or other receipts and payments of the county government entity.*

8. Unresolved prior audit queries which recurred in the subsequent audit cycles

The audit revealed numerous instances where prior year audit observations had not been resolved contrary to Section 149(2) (1) of Public Finance Management Act, 2012 which

require Accounting Officers designated for county government entities to try to resolve any issues resulting from an audit that remain outstanding. There were also instances where no supporting evidence was provided to support how issues were resolved. In addition, Section 53(1) of the Public Audit Act, 2015 requires an Accounting Officer of a state organ or public entity to within three months after Parliament has considered and made recommendations on the audit report –

- i. take the relevant steps to implement the recommendations of Parliament on the report of the Auditor-General; or
- ii. give explanations in writing to Parliament on why the report has not been acted upon.

9. Long Outstanding Trade and other payables

The committee observed that Water Companies owed suppliers and other service providers pending bills in the form of long outstanding regulatory fees, un-remitted statutory deductions such as NSSF, NHIF, PAYE and other amounts due to suppliers of goods and services.

Further, the committee noted that huge amounts are owed to the water works development authorities. The significant balances owed to supplies of goods and services poses risk of incurring nugatory expenditure through interest and penalties that could arise from litigation by the creditors for failure to settle amounts owed within the contractual timelines. The Management of the Company did not provide detailed settlement plans to be followed to settle the outstanding debts.

10. Non-remittance of statutory deductions

The Committee observed that various water companies had continuously failed to remit statutory deductions to various institutions such as Kenya Revenue Authority, National Health Insurance Fund, National Social Security Fund, and pension schemes which is a violation of the law especially the Retirement Benefits Act, Cap.197, the Pensions Act, Cap.189 and the Income Tax Act, Cap.470 which led to continued accrual of interest and penalties.

11. Budgetary Control and Performance

The Committee observed that a number of water companies had weaknesses in executing their budgets and did not adhere to the approved budget ceilings set for programs. Water Companies either over-utilized or under-utilized the appropriated funds. In some instances, funds were re-allocated to items that were not budgeted for and without prior approval by the Board of Directors. In addition, water companies experienced high revenue shortfalls and unrealistic budgets.

12. Non-transfer of assets and liabilities

The Committee observed that most water companies had not fully transferred all assets and liabilities from the defunct councils and Regional Water Works Development Agencies as is required by the Water Act, Cap.372. In this regard, such water companies did not reflect their correct financial position within their books of account.

13. Unclear ownership of assets

The Committee observed that most of the water companies had disputes with regard to the ownership of the assets.

14. Lack of an updated fixed asset register

The Committee observed that water companies had not updated their asset registers exposing assets of the water company to risk of loss, waste and misuse. The Committee further noted that the National Treasury issued a circular no. 5/2020 of 25th February 2020 on the preparation of asset registers for entities in County Governments.

15. Late submission of documents and inaccuracies in Financial Statements

The Committee observed that most Water Service Providers submitted documents requested during the audit period late, and their financial statements contained numerous inaccuracies and errors. The late submissions could indicate document falsification, while the inaccuracies suggest incompetence, potentially geared towards fraudulent activities.

GENERAL RECOMMENDATIONS

The Committee recommends that—

1. The Board and the accounting officers of the water companies to put in place comprehensive measures to mitigate Non-Revenue Water (physical and commercial losses) including the application of Geographical Information System (GIS) for receiving real-time data in the detection of bursts and leakages, installation of smart meters for accurate billing, replacement of the dilapidated infrastructure and development of institutional anti-corruption policies and enforcement measures to prevent illegal connections among other measures. In addition, the management should disclose the proportions of both the physical and commercial losses in percentage in their reporting.
2. The Board and the accounting officer to ensure proper record keeping and provide all the supporting documents to the Auditor-General in accordance with section 9(1)(e) of the Public Audit Act during the time of audit and adhere to the Accountants Act, failure to which the committee shall invoke section 62 of the Public Audit Act.
3. The Board of Directors in consultation with the Public Sector Accounting Standards Board conducts continuous capacity building on financial reporting standards for finance officers in the water companies and the management, to improve the quality of reporting and enhance compliance. The board to ensure that the accountants have requisite competency and experience in financial management as is required by the Accountants Act. In addition, the accounting officer to ensure compliance with the financial reporting template of the National Treasury. This will strengthen maintenance of books of accounts, preparation of financial statements, and timely submission of the statements and documents to the Auditor-General by the Water Companies.
4. The Board and County Government to make deliberate efforts to progressively comply with section 7 (1) and (2) of the National Cohesion and Integration Act and Section 65(1) (e) of the County Governments Act on diversity, realization of the one third rule on recruitment in public institutions and ethnic inclusivity. In addition, the Board and the County Governments to establish a diversity policy with the aim of complying with the law. This will be reviewed in the subsequent audit period.
5. The Board, Accounting Officers and the County Governments to put in place strategic and innovative measures for recovery and to boost the financial health of the water companies for self-sustainability. Additionally, they should review and regularize their existing assets indicating the service provider agreements before transition from the defunct councils and have updated assets registers that reflect the current financial position, determine and ascertain their commercial viability as required by the Public Sector Accounting Standards Board (PSASB). The Board should indicate if the financial support is a conditional grant or donation in their

books of account and it should not be a direct transfer from the County Executive. Further, the County Governors through the County Executive Committee member for water should monitor the financial operations of the water companies pursuant to section 184 of the Public Finance Management Act.

6. The Board and the Accounting Officers ensure that the Company complies with Regulation 25(1) of the Public Finance Management (County Governments) Regulations, 2015, which restricts the wage bill to thirty-five percent (35%) of total revenue. Additionally, the Officer should maintain a lean staff complement to uphold fiscal discipline.
7. The Boards and Accounting Officers ensure that the water companies undertake debtor circularization to confirm the authenticity of the receivables, develop a debt management policy, and write off long-outstanding receivables in compliance with section 150 of the Public Finance Management Act, Cap.412A and Regulation 130(2)(d) of the Public Finance Management (County Governments) Regulations, 2015.
8. The Accounting Officers of the water companies should resolve any issues resulting from an audit that remains outstanding as required by section 149(2)(1) of the Public Finance Management Act, Cap. 412A.
9. The Accounting Officers ensure that the water companies engage with their respective creditors to verify and validate the outstanding payables and establish structured payment plans for settling the same.
10. The County Governments, the Board and the accounting officers shall ensure timely remittance of statutory deductions to the relevant institutions to avoid the accrual of interest and penalties that will further increase the companies' liabilities. The accounting officer should comply with the provisions of the Income Tax Act, the Retirement Benefits Act, the Pensions Act. The Board should provide a plan and commitment for the repayment of the outstanding statutory deductions, failure to which the committee will recommend appropriate enforcement measures to be taken.
11. The Board and accounting officers should prepare realistic budgets and revenue projections to prevent issues of revenue shortfalls which have negative implications on the companies' service delivery. In the process of preparing the budget, the board should consider the previous budgetary allocation and if the current budget is to increase, it should be reasonable. In addition, the board should seek the necessary approval by forwarding the budget estimates to the County Executive Committee member for water, who shall then forward it to the County Treasury as required by the law. Further, the water companies should automate their billing systems.
12. The Council of Governors should engage the Ministry of Water, Sanitation and Irrigation, the Water Services Regulatory Board (WASREB), the Regional Water Works Development Agencies and the Inter-Governmental Relations Technical

Committee to settle the matter on the transfer of the assets and liabilities as required by the Water Act.

13. The Governors should engage the Inter-Governmental Relations Technical Committee (IGRTC) and the relevant Regional Water Works Development Agencies to fast-track on the transfer of the assets and liabilities so that they reflect a true position of the companies in their books of account.
14. The Board of Directors and the managing director should ensure the water companies have updated fixed asset registers pursuant to section 136 (1) of the Public Finance Management (County Government) Regulations, 2015 and in the format prescribed by the National Treasury and submit the same to the Auditor-General within 60 days from the adoption of this report.

COMMITTEE RESOLUTIONS

1. The Committee recommends that the Senate resolves that the County Public Investments and Special Funds Committee follows up on the status of implementation of resolutions of the Senate on the recommendations contained in the reports.
2. The Committee considered the reports of the Auditor-General for water service providers of the county governments tabulated *in annex 2* and observed that the reports of the county entities had—
 - a) queries with high fiduciary risks; and
 - b) negative implications on the sustainability of the affected county entities.
3. The Committee recommends that—
 - a) the Senate adopts the Auditor-General's reports on the water service providers of the county governments tabulated in *annex 2*; and
 - b) within ninety (90) days of the adoption of this report, the Accounting Officers of the water service providers of the said County Governments take necessary actions to address the audit queries and file a report to the Senate on the same.
4. Therefore, the Committee recommends to the Senate to resolve that the Committee—
 - a) undertakes inquiries into the issues raised by the Auditor-General to ensure that all the issues raised are adequately addressed;
 - b) conducts visits and inspect all projects highlighted by the Auditor-General in her reports to confirm the status and verify any information that may ensue to address the issues raised in the report; and
 - c) follows up on the issues raised by the Auditor-General to ensure that all officers who may have taken part in the misappropriation of funds or any other breach of law are properly investigated and, where found culpable, prosecuted in a court of law.

ACKNOWLEDGEMENTS

Hon. Speaker,

The Committee wishes to acknowledge the support it received from the Office of the Speaker and the Clerk of the Senate in the execution of its mandate. I also take this opportunity to thank the Members of the Committee for their due diligence and commitment in the consideration of the audit reports. The Committee further wishes to express its appreciation to the able secretariat for their support and services in facilitating the Members and the Committee in its operations.

Hon. Speaker,

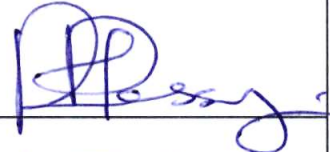
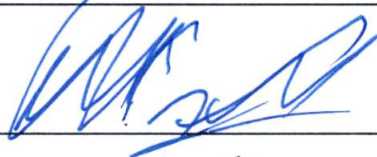
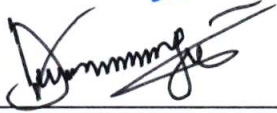
On behalf of the County Public Investments and Special Funds Committee, it is my pleasant duty and privilege to table this report on the floor of the Senate and commend it to the House for debate and adoption pursuant to the provision of Standing Order No. 223 (6) of the Senate Standing Orders.


SIGNED:
DATE: 27th March 2025
HON. SEN. GODFREY ATIENO OSOTSI, CBS, MP
CHAIRPERSON

**ADOPTION OF THE REPORT OF THE SENATE SELECT COMMITTEE ON
COUNTY PUBLIC INVESTMENTS AND SPECIAL FUNDS ON THE
CONSIDERATION OF THE AUDIT REPORTS OF ELEVEN COUNTY WATER
SERVICE PROVIDERS FOR THE FINANCIAL YEAR 2023/2024**

NO.	WATER COMPANY	COUNTY
1	BUSIA WATER AND SEWERAGE SERVICES COMPANY LIMITED	BUSIA
2	ELDORET WATER AND SANITATION COMPANY LIMITED	UASIN GISHU
3	GATANGA WATER AND SANITATION COMPANY LIMITED	MURANG'A
4	GUSII WATER AND SANITATION COMPANY LIMITED	KISII
5	KAKAMEGA WATER AND SANITATION COMPANY LIMITED	KAKAMEGA
6	KAPSABET NANDI WATER AND SANITATION COMPANY LIMITED	NANDI
7	KIBWEZI-MAKINDU WATER AND SANITATION COMPANY	MAKUENI
8	KWALE WATER AND SEWERAGE COMPANY LIMITED	KWALE
9	LAMU WATER AND SEWERAGE COMPANY LIMITED	LAMU
10	MALINDI WATER AND SEWERAGE COMPANY LIMITED	KILIFI
11	MBOONI WATER AND SANITATION COMPANY LIMITED	MAKUENI
12	MURANG'A SOUTH WATER AND SANITATION COMPANY LIMITED	MURANG'A
13	MURANG'A WATER AND SANITATION COMPANY LIMITED	MURANG'A
14	TANA WATER AND SANITATION COMPANY LIMITED	TANA RIVER
15	TAVEVO WATER AND SEWERAGE COMPANY LIMITED	TAITA TAVETA
16	WOTE WATER AND SEWERAGE COMPANY LIMITED	MAKUENI

We, the undersigned Members of the Select Committee on County Public Investments and Special Funds, do hereby append our signatures to adopt this report.

No.	Name	Signature
1.	Sen. Godfrey Atieno Osotsi, MP (<i>Chairperson</i>)	
2.	Sen. Eddy Gicheru Oketch, MP (<i>Vice-Chairperson</i>)	
3.	Sen. William Kipkemoi Kisang, MP	
4.	Sen. Peris Pesi Tobiko, CBS, MP	
5.	Sen. Agnes Kavindu Muthama, MP	
6.	Sen. Beth Kalunda Syengo, MP	
7.	Sen. Hamida Kibwana Ali, MP	
8.	Sen. George Mungai Mbugua, MP	
9.	Sen. Raphael Chimera Mwinzangu, MP	

CHAPTER ONE

REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR BUSIA WATER AND SEWERAGE SERVICES COMPANY LIMITED FOR THE FINANCIAL YEAR 2023/2024

The Governor of Busia County, Hon. Dr. Paul Otuoma, EGH, appeared before the Committee on Monday, 24th March, 2025 to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for the Busia Water and Sewerage Services Company Limited for the Financial Year 2023/2024. The Governor was accompanied by the following officers—

1. Topistor N. Wanyama – CECM-Finance
2. Eng. Andrew Meso – CECM-Water
3. CPA Maximilla Ayieko – Director Internal Audit

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered a **Qualified Opinion** on the financial statements of the Busia Water and Sewerage Services Company Limited for the financial year on the following basis—

1. Long Outstanding Trade Receivables

The statement of financial position reflects trade and other receivables balance of Kshs.150,768,307 as disclosed under Note 17 to the financial statements. However, review of records provided revealed that 89% of the receivables or Kshs. 135,397,395 had remained outstanding for over 120 days. Further, the Management had not exhausted the debt recovery procedures as outlined in Paragraph 7.1 of the Busia Water and Sewerage Services Company Limited Debt Management Policy.

In the circumstances, the accuracy, completeness and recoverability of the trade and receivables balance of Kshs. 150,768,307 could not be confirmed.

Management Response

The management agrees with the audit observation and has taken the necessary steps to address the identified issues. Below is a summary of the actions taken:

1. Demand Notices: The management has issued both 1st and 2nd demand notices to customers as part of our ongoing efforts to recover outstanding debts.
2. Disconnection Notices: In accordance with our debt management policy, demand letters and notices of disconnection have been issued to the relevant customers to encourage prompt settlement of outstanding balances.

3. Enhanced Revenue Collection: The management has enhanced revenue collection by forming in-house teams, led by scheme officers, to oversee and improve the revenue collection process.
4. Through the company's Debt Management Policy, the company has successfully managed to recover part of the outstanding arrears of Kshs 11,319,260.

Currently the management has initiated the process of legal redress by publishing the list of defaulters and eventually taking them to court.

Committee Observations

The Committee observed that 89% of the company's receivables or Kshs. 135,397,395 remained outstanding for over 120 days.

Committee Recommendations

The Committee recommends that—

- i. the water company undertakes debtor's circularization to confirm the authenticity of the receivables and provide a status update on the same to the Senate within sixty (60) days of the adoption of this report;
- ii. the Accounting Officer should, within 60 days of the adoption of this report, submit a debtors' schedule to the Auditor-General for verification;
- iii. the Accounting Officer should within 60 days of the adoption of this report, submit an approved copy of the Debt Management Policy to the Auditor-General for verification. The Auditor-General to verify the policy and submit a status update on the same in the subsequent audit cycle;
- iv. the Accounting Officer should, within 60 days of the adoption of this report, put in place recovery measures for the outstanding amount with clear timelines. The Auditor-General should review the implementation of the measures put in place provide a status update on the matter in the subsequent audit cycle; and
- v. The Accounting Officer to undertake a detailed analysis of its long outstanding trade receivables and with the Board's approval, write off the irrecoverable debts in line with the Section 130 (2) (d) of the Public Finance Management (County Governments) Regulations, 2015.

2. Unsupported Trade and Other Payable

The statement of financial position reflects trade and other payable balance of Kshs. 175,674,282 as disclosed in Note 25 to the financial statements. Included in the balance is Kshs. 157,416,129 which have remained long outstanding for over ninety-one (91) days. Further, the Management did not provide payment vouchers and invoices to support the authenticity of the trade and other payable total balance for the year under

review. In addition, there was no credit management policy put in place by the Management to disclose the strategies towards payments to the creditors. Further, included in the balance are creditors from joint Kakamega Busia Company amounting to Kshs.23,059,812 as disclosed in Note 25. However, there were no transfer agreements showing that the stated liability had been transferred to Busia Water and Sewerage Services Company Limited from Kakamega County.

In the circumstances, the accuracy and completeness of the trade and other payable balances of Kshs. 175,674,282 could not be confirmed.

Management Response

The management hereby avails the payment vouchers and invoices to support the figure of trade and other payable reflected in the Financial Statements for verification.

Measures to ensure reduction of long outstanding debt of Kshs. 157,416,129 has been instituted as follows;

- i. Infrastructure Development and Rehabilitation to increase revenue, by expanding the number of connections and reduce electricity cost.
- ii. Solarization and line reticulation projects in collaboration with the Department of Water and the Western Kenya Water Project (WKWP). Key projects include:
 - Hybridization of Mundika.
 - Electromechanical works.
 - Rehabilitation of Kolanya-Changara-Chemasir, and Nabisiongo-Ebwicha-Luriba Community Water Projects.
- iii. The relocation of the rising main pipeline at the weighbridge which has been completed.
- iv. The rehabilitation of one of the leaking storage tanks has been supported by the County Government.
- v. The company has entered into payment plans with some creditors to manage outstanding payable.

The company currently have a draft credit policy awaiting validation by the Board. Creditors of Kshs 23,059,812 were inherited from the defunct Kakamega Busia Water Company.

Committee Observations

The Committee observed that—

- i. The company's financial statements included payables amounting to Kshs. 157,416,129 which remained outstanding for over 91 days;

- ii. whereas the payment vouchers and invoices to support the payables balance of Kshs. 175,674,282 and the transfer agreement were provided and verified by the Auditor-General, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act; and
- iii. the company had a draft credit management policy which was yet to be approved by the Board.

Committee Recommendations

The Committee recommends that—

- i. within 60 days of the adoption of this report, the Governor of Busia County should engage the company's creditors to agree on a repayment plan for the payables balance amounting to Kshs. 157,416,129 and file a report on the same with the Auditor-General for verification. The Auditor-General to provide a status update on the matter in the subsequent audit cycle;
- ii. the Board of the water company to fast-track the approval and implementation of the credit management policy and provide a status update of the same to the Senate within sixty (60) days of the adoption of this report; and
- iii. the County Executive Committee Member in charge of water should continuously monitor the financial performance of the water company in line with section 184 of the Public Finance Management Act, 2012 and report on the same to the County Executive Committee, making recommendations on how the water company can improve its performance.

3. Unsupported Customer Deposits

The statement of financial position reflects trade and other payable balance of Kshs. 175,674,282 which includes customer deposits balance of Kshs. 10,897,773 as disclosed in Note 25 to the financial statements. However, no documents were provided to support the balance. Further, the Company operates two customer deposit bank accounts which had a total balance of Kshs.726,252 as at 30 June, 2024 hence a deficit of Kshs. 10,171,521 for customers' deposits. Management did not provide any evidence of approval for spending on customers' deposits.

In the circumstances, the accuracy, completeness and ability to refund customers' deposits when required could not be confirmed.

Management Response

The management wishes to clarify that out of Kshs. 10,897,773 customer deposits, Kshs 4,979,485 was for customers handed over by Kakamega Busia Water Company without making cash transfer. Kshs 2,000,000 was transferred with the approval of the Board to Nambale-Mjini-Mayenje Water Project Buwassco Cooperative account held at Busia Branch to enable Water Sector Trust Fund disburse its contribution of Kshs. 15,658,013.70 for implementation of the project and Kshs 313,579.57 to facilitate payment of duties and other taxes for the vehicle donated to the company by USAID. Ksh2,878,456.43 was spent on payment of salaries and purchase of water treatment chemicals. The balance of Kshs. 726,252 was in the bank account as at June 30th 2024.

The management commits to be refunding Kshs 150,000 every month.

Committee Observations

The Committee observed that the company borrowed a total of Kshs. 10,171,521 from the Customer Deposits account which was yet to be refunded.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should, within 60 days of the adoption of this report, submit to the Committee and the Auditor-General a repayment plan with clear timelines for the repayment of the customer deposits;
- ii. the Board of Directors should put in place a Customer Deposits Management Policy to guide how the water company can access, utilize and refund the money within specified timelines. Further, the Accounting Officer should ensure that there is full disclosure to the water company's customers on the utilization of the deposits;
- iii. the Accounting Officer should ensure that all customer deposits are deposited in a fixed/call account whose access to the management is limited and where the accrued interests can be used to offset the bank charges. Management to submit evidence of the same to the Auditor-General within 60 days of the adoption of this report for verification; and
- iv. the Accounting Officer ensures that the company strictly adheres to the provisions of section 142 of the Public Finance Management Act, Cap.412A on borrowing by County Government entities, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.

4. Non-Disclosure of Non-Revenue Water

The statement of profit or loss and other comprehensive income reflects gross revenue of Kshs. 48,530,740 which includes water sales of Kshs. 20,599,129 as disclosed in

Note 6 to the financial statements. The Company produced undisclosed cubic meters of water which was collected and billed to customers. Therefore, it was not possible to confirm the volume and value and hence the percentage of non-revenue water. Further, the Company's production tanks at various schemes did not have monitoring meters as they were reported as broken. This exposes the Company to unaccountable losses of water through unmetered tanks and possible illegal connections denying the Company the much-needed revenue to cater for its operations.

In the circumstances, the accuracy and completeness of the revenue amounting to Kshs. 20,599,129 could not be confirmed.

Management Response

The management hereby avails production records for the period under-review which were successfully verified during the Water Resource Information System (WARIS) exercise to confirm the water sales of Kshs.20,599,129. Currently the management has started installing bulk production meters and has since installed at Malakisi scheme serving Amagoro and Malaba and is in the process of installing a bulk production meter at Mundika Treatment works.

Committee Observations

The Committee observed that—

- i. the management failed to disclose in the company's financial statements the volume of water produced by the company thus making it impossible to confirm the volume, value and the percentage of non-revenue water; and
- ii. the production records later availed to the Auditor-General revealed that the company's Non-Revenue water was at 44.25% which was 19.25% above the sector benchmark of 25% as set out in WASREB guidelines.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer ensures that the water company makes disclosures in the financial statements on the matter of non-revenue water;
- ii. the Accounting Officer should put in place comprehensive measures to mitigate on the Non-Revenue Water, that is, both physical and commercial losses. The measures to include replacement of old age dilapidated infrastructure, installation of smart meters for accurate billing and the application of Geographical Information System (GIS) to receive real-time data for the detection of bursts and leakages among other measures. The Auditor-General to review the implementation of the measures put in place to mitigate the Non-Revenue Water and provide a status update on the matter in the subsequent audit cycle;

- iii. **given the impact of Non-Revenue Water on the water company's cashflows, the Accounting Officer should ensure that a provision for Non-Revenue Water is included in the financial statements. Further, explanatory notes should be provided to detail the contributions of both commercial and physical loss factors to the overall Non-Revenue Water; and**
- iv. **the County Government to collaborate with the Ethics and Anti-Corruption Commission to ensure pre-emptive measures are put in place to reduce cases of theft and illegal connections.**

5. Unsupported Share Capital

The statement of financial position reflects ordinary share capital balance of Kshs. 100,000 as disclosed in Note 19 to the financial statements. However, share certificates were not provided to support the balance.

In the circumstances, the accuracy and completeness of the ordinary share capital balance of Kshs. 100,000 could not be confirmed.

Management Response

The management would like to clarify that the shareholders indicated in the CR12 were purely appointed to constitute the Committee that spearheaded formation of the company. The management is having engagement with the team through the CECM for Water, Irrigation, Environment, and Natural Resources & Climate Change as agreed on 24th March, 2023 with the individual shareholders to transfer the shares back to the County Government.

Committee Observations

The Committee observed that—

- i. the management failed to provide share certificates to support the ordinary share capital balance of Kshs. 100,000 for audit review; and
- ii. the ownership of the water company was yet to be transferred to the County Government.

Committee Recommendations

The Committee recommends that—

- i. **the Governor takes administrative action against the CECM responsible for matters water, the Board and the Managing Director for having failed to secure the ownership of the water company and provide evidence of action taken to the Senate within thirty (30) days of the adoption of this report; and**

- ii. the Governor of Busia takes immediate action to ensure that the ownership of the water company is transferred to the County Government of Busia and provide a status update on the same to the Senate within thirty (30) days of the adoption of this report.

Emphasis of Matter

Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final budget and actual on comparable basis of Kshs. 258,558,268 and Kshs. 58,014,331 respectively resulting in an under-realization of Kshs. 200,543,937 or 78% of the budget. However, the Company spent Kshs. 71,850,874 against actual revenue of Kshs. 58,014,331 resulting in an over-expenditure of Kshs. 13,836,543 or 24% of the actual receipts. It was not clear how the Management financed the over-expenditure.

The under-realization affected the planned activities and may have impacted negatively on service delivery to the public

Management Response

The management wishes to agree with the audit observation. The company projected to receive Kshs. 64,896,000 from company own source. However, only Kshs. 48,530,740 was realized. Kshs. 193,662,268 was projected to come from grants and only Kshs. 9,483,591 was realized. The underfunding affected the planned activities negatively.

Currently the management is aggressively working with various development partners through strategic partnership development to mobilize and raise funds to support the operations of the company. The management commits itself to developing budget projections based on historical data and current viable events which are feasible and attainable. In addition, there is intention to resize the budgets to Company's own source revenue.

The management commits to be more aggressive in revenue collection strategies so as to increase own source revenue which will enable us meet our obligations.

Committee Observations

The Committee observed that—

- i. the water company had a revenue shortfall of Kshs. 200,543,937 or 78% of its budget during the financial year under review; and
- ii. the water company had an over-expenditure of Kshs. 13,836,543 or 24% of the budget during the financial year under review.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should comply with regulation 42(1)(b) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply; and**
- ii. the Board of Directors should institute proper and realistic budget planning as well as measures to enhance its own generated revenue, such as review of tariffs, connection of more customers and automation to address revenue leakages. The Auditor-General to confirm the effectiveness of the mitigating measures put in the water company and report in the subsequent audit cycle.**

Other Matters

Unresolved Prior Year Matters

In the audit of the previous year, several issues were raised under the Report on the Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, in the Progress on Follow-up of Auditor's Recommendations section of the financial statements, Management has indicated that some issues have been resolved while others have not been resolved. No explanation was provided for the failure to resolve all the issues.

Management Response

The management has provided a follow up on prior year audit matters.

Committee Observations

The Committee observed that the water company had unresolved prior year matters demonstrating the management's lack of action to implement corrective measures.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should resolve any issues resulting from an audit that remains outstanding as required by section 149(2)(l) of the Public Finance Management Act, Cap. 412A, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences may apply; and**

- ii. **the Auditor-General provides a status update on the progress made on the matter in the subsequent audit cycle upon review of the progress report.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Pursuant to Article 229 (6) of the Constitution, based on the audit procedures performed by the Auditor General, the following matters formed the basis for conclusion that public resources were not applied lawfully and in an effective way –

1. Lack of Water License

During the year under review, the Company did not have a water license issued by the Water Services Regulatory Board (WASREB) for purposes of carrying out water business. This was contrary to the provisions of Section 85(1) of the Water Act, 2016 which stipulates that a person shall not provide water services except under a license issued by the Board.

In the circumstances, Management was in breach of the law.

Management Response

The management is in agreement with the audit observation. The company applied for a license from WASREB and paid the requisite fee of Kshs.75,000. However, the license had not yet been received at the time of audit. The management is making follow up on the same to ensure the license is issued.

Committee Observations

The Committee observed that the company operated without a valid water license issued by the Water Services Regulatory Board (WASREB) during the financial year under review. The water company applied for a license from WASREB, however, the license was yet to be issued as at the time of audit.

Committee Recommendations

The Committee recommends that—

- i. **the Board and Managing Director of the water company ensure strict compliance with the provisions of section 85(1) of the Water Act, Cap.372 on application of license, failure to which the provisions of section 147 of the Water Act on penalties for offences shall apply; and**
- ii. **the Accounting Officer to engage WASREB to follow up on the issuance of the water license and provide a status update on the same to the Senate within 60 days from the adoption of this report.**

2. Irregular Payment of Legal Fees to Private Legal Firms

The statement of profit or loss and other comprehensive income reflect general and operational expenses of Kshs. 7,739,657 which includes payments of Kshs.580,647 made to three (3) private advocates and legal firms for the provision of legal services during the year. However, no evidence of approval from the Office of the Attorney was provided for audit review as required by law. This was contrary to the Attorney General's Circular ref: AG/CONF/6/E/247NOL II which states that legal fee payable to any private advocate or law firm under such an arrangement must be approved and authorized by the Attorney General. It further states that any procurement of legal services secured without the authority of the Attorney General constitutes a breach of law and may condemn the concerned officer to a liability of surcharge as provided by the article 226(5) of the Constitution of Kenya.

In the circumstances, Management was in breach of the law.

Management response

The management acknowledges the audit observation regarding the payment of Kshs. 580,647. for legal services during the year. Moving forward, the company will seek approval from the Office of the Attorney General and utilize the services of the County Attorney on legal matters to ensure compliance with relevant guidelines.

Committee Observations

The Committee observed that the water company made payments amounting to Kshs.580,647 to three (3) private advocates and legal firms for the provision of legal services during the financial year under review without the approval of the Attorney General contrary to the Attorney General's Circular ref: AG/CONF/6/E/247NOL II.

Committee Recommendations

The Committee recommends that the Governor of Busia County, through the County Executive Committee Member (CECM) – Finance, ensures that the payments amounting to Kshs.580,647 are recovered from the Accounting Officer and provides evidence of action taken within sixty (60) days of the adoption of this report. Failure to take action, the Governor and the CECM-Finance shall be held liable for the same.

3. Irregular Procurement of Debt Collection Services

During the year under review, the Company engaged the services of a local firm for debt collection services. No documentations were provided to confirm how the firm was identified. This was contrary to Section 149 (1) (a) and (b) of the Public Finance Management Act, 2012, which provides that an Accounting Officer is accountable to the County Assembly for ensuring that the resources of the entity for which the officer

is designated are used in a way that is lawful and authorized, and effective, efficient, economical and transparent. in the circumstances, Management was in breach of law.

Management response

The management wishes to clarify that the debt collector was engaged on a casual basis for a period of three-month on pilot exercise. However, upon assessing the outcome and noting no significant impact on collections, there was no need of further engagement.

Committee Observations

The Committee observed that the management failed to provide for audit review, documentation showing how the debt collection agency was identified and the termination of the debt collection services.

Committee Recommendations

The Committee recommends that the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Pursuant to section 7(1) of the Public Audit Act, based on procedures performed by the Auditor General, the following matter formed the basis for conclusion that internal controls, risk management and overall governance were not effective –

1. Incomplete Asset Management Register

During audit review, Management did not maintain an updated asset register. The register provided for audit lacked critical information including the date the asset was purchased, its location, historical costs, additions during the year and disposals during the year.

In the circumstances, the effectiveness of the asset management controls could not be confirmed.

Management Response

The management maintains a fixed asset register; however, it is not fully updated as the inherited assets have not yet been formally handed over. Currently, the management is in the process of engaging a government valuer to initiate the valuation process.

Committee Observations

The Committee observed that the water company failed to provide an updated fixed assets register for audit verification.

Committee Recommendations

The Committee recommends that the Accounting Officer ensures that the water company maintains an up-to-date asset register in the format prescribed by the Public Sector Accounting Standards Board in accordance with section 104(1)(h) of the Public Finance Management Act, Cap.412A, failure to which penalties under section 199 of the Public Finance Management Act shall apply.

2. Lack of Critical Management Personnel

Review of records provided for audit revealed that the Company had not recruited fifteen (15) critical personnel in key management positions including Commercial and Finance Manager, Internal Auditor, Company Secretary, Asset Planning and Development Manager, Non-Revenue Water Manager, Quality Assurance Officer, Commercial Officer, Finance Officer, Internal Audit Assistant, Mechanical Officer, Electrical Officer, Waste Water Officer, Billing Clerk, Accounts Clerk and Office Assistant.

In the circumstances, the effectiveness of internal controls, risk management and governance could not be confirmed.

Management Response

The management agrees with the Audit observation. The critical positions could not be filled substantively due to financial constraints. However, the Commercial and Finance Manager was recruited but later resigned after a short tenure.

The management has renewed the contract of Electro mechanical Officer whose contract had come to an end. The Company is considering recruiting the critical positions once its financial position stabilizes. Currently, the company has requested secondment of critical staff from the department of Water.

Committee Observations

The Committee observed that the water company had not recruited fifteen (15) critical management personnel citing financial constraints.

Committee Recommendations

The Committee recommends that—

- i. **The Governor, through the Board, ensures that the water company has an approved staff establishment by June 30, 2025 and avail budget allocations for the progressive recruitment of critical staff; and**
- ii. **the Governor to ensure that the water company puts in place a recruitment plan with clear timelines indicating how the water company shall recruit the critical staff and provide a copy of the same to the Senate within thirty (30) days of the adoption of this report.**

3. Failure to Establish Committee of Audit and Risk Management

During the year under review, the Company did not establish Committee of Audit and Risk Management. This was contrary to Regulation 167(1) of the Public Finance Management (County Governments) Regulations, 2015, which requires each County Government entity to establish an Audit Committee.

In the circumstances, effectiveness of internal controls, risk management and governance could not be confirmed.

Management Response

The management is in agreement with the observation of the auditor. Currently the company lacks internal audit committee as a result lack of an internal auditor. The company is in the process of engaging the services of the County government internal auditors on quarterly basis.

Committee Observations

The Committee observed that the water company operated without an audit and risk management committee in place during the financial year under review.

Committee Recommendations

The Committee recommends that the County Executive Committee Member (CECM) - Finance ensures that the water company puts in place all internal control systems such as the Internal Audit Committee as provided under section 155 (5) of the Public Finance Management Act, 2012, and a Risk Management Policy as provided under section 158 (1) of Public Finance Management (County Governments) Regulations, 2015 among others to guide the internal operations of the water company. Further, the managements to submit evidence of the same to the Auditor General for verification.

4. Lack of a Risk Management Policy

During the year under review, the Company did not have a risk management policy in place. This was contrary to regulation 158 of the Public Finance Management (County Government) Regulation, 2015 that provided that the County Government entity shall

develop risk management strategies, which include fraud prevention mechanism; and a system of risk management and internal control that builds robust business operations.

In the circumstances, the internal controls and risk management of the hospital may not be effective.

Management response

The management agrees with the observation of the Auditor. The management wishes to state that a draft risk management policy has been developed awaiting approval by the Board.

Committee Observations

The Committee observed that the water company operated without a risk management policy in place during the financial year under review.

Committee Recommendations

The Committee recommends that the County Executive Committee Member (CECM) - Finance ensures that the water company puts in place all internal control systems such a Risk Management Policy as provided under section 158 (1) of Public Finance Management (County Governments) Regulations, 2015 among others to guide the internal operations of the water company. Further, the managements to submit evidence of the same to the Auditor General for verification.

5. Lack of Information Communication Technology (ICT) Policy

Review of the Information Technology (IT) internal controls revealed that the Company did not have an approved ICT policy, IT security policy, policy on physical access to IT environment and IT continuity and disaster recovery plan to guide ICT operations. Further, the Company did not have an approved IT Strategic Committee and Steering Committee, which are important in performing the oversight function and formulation of policies to ensure that IT department functions properly to assist in achievement of organizational objectives in an economic, efficient and effective way.

Management Response

The management agrees with the observation of the Auditor. The management wish to state that a draft ICT policy has been developed awaiting for approval by the Board.

Committee Observations

The Committee observed that the water company operated without an ICT policy in place during the financial year under review.

Committee Recommendations

The Committee recommends that the County Executive Committee Member (CECM) - Finance ensures that the water company puts in place all internal control systems such as the Internal Audit Committee as provided under section 155 (5) of the Public Finance Management Act, 2012, and a Risk Management Policy as provided under section 158 (1) of Public Finance Management (County Governments) Regulations, 2015 among others to guide the internal operations of the water company. Further, the managements to submit evidence of the same to the Auditor General for verification.

6. Failure to implement Audit Recommendations of oversight Bodies

During the year under review, Management did not provide reports on Implementation of the recommendations by the County Assembly's Public Accounts and Investments Committee recommendations, and follow-up on the reports of the Auditor-General.

In the circumstances, Management's determination in improving the governance and management of the company could not be confirmed

Management Response

The management has provided the current status for the implementation of the oversight bodies observations and recommendation.

Committee Observations

The Committee observed that the management failed to provide evidence of the implementation of the recommendations by the County Assembly's Public Accounts and Investments Committee.

Committee Recommendations

The Committee recommends that the Accounting Officer ensures strict compliance with the provisions of section 53 of the Public Audit Act, Cap.412B on implementation of reports by an Accounting Officer, failure to which the provisions of section 63 of the Public Audit Act on penalties for offences shall apply.

CHAPTER TWO

REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR ELDORET WATER AND SANITATION COMPANY LIMITED FOR THE FINANCIAL YEAR 2023/2024

The Governor of Uasin Gishu County, Hon. Jonathan Bii Chelilim, EGH, appeared before the Committee on Tuesday, 25th March, 2025 to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for Eldoret Water and Sanitation Company Limited (ELDOWAS) for the Financial Year 2023/2024. The Governor was accompanied by the following officers—

1. Micah Rogony – CECM-Finance
2. Lawrence Melly Tanui – Managing Director ELDOWAS
3. Joseph Maiyo – GTMS ELDOWAS
4. David Singoei – ELDOWAS Chairman

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered a **Qualified Opinion** on the financial statements of the Eldoret Water and Sanitation Company Limited for the financial year on the following basis—

1. Unsupported Water Sales

The statement of profit or loss and other comprehensive income for the year and as disclosed in note 6(a) to the financial statements reflects operating revenue of Kshs.843,162,788 which includes water sale amount of Kshs.583,412,953. However, Management did not provide sales ledgers, schedules and analysis to confirm water sale balance of Kshs.583,412,953.

In the circumstances, the accuracy of the water sales balance of Kshs.583,412,953 could not be confirmed.

Management response

The sales ledgers schedules and analysis were provided at the time of audit via a link <https://we.tl/t-03n6ueYpqe> because of its voluminous nature. Additional support documents on sales ledgers, schedules and analysis are also available on this link https://wetransfer.com/downloads/dc5db990e83601723cec38584d17431420250315122016/2590b0177451eb731738dd1adb9ad76320250315122133/a69bda?t_exp=1742300416&t_Isid=5b486d5f-7c75-476an93069359938761f&tnetwork=email&t_rid=YXV0aDB8VHJhbnNmZX/8cW8NGVONmYwN2FrDTg=&t_s=download_link&t_ts=1742041293

The sales analysis has been provided below:

- a) Water Sales Kshs. 542,103,003
- b) Meter Rent Kshs. 41,309,950
- Total Kshs. 583,412,953

Committee Observations

The Committee observed that—

- i. whereas the sales ledgers and schedules were provided and verified by the Auditor-General, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act; and
- ii. the management failed to provide a schedule with detailed customer billing for audit review.

Committee Recommendations

The Committee recommends that the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle.

2. Property, Plant and Equipment

2.1 Valuation of Assets

As previously reported, the statement of financial position reflects property, plant and equipment balance of Kshs.3,086,543,832 and as disclosed in Note 19 to the financial statements. However, an updated valuation report for the assets was not provided for audit review and therefore the values of the assets may not be accurate. Further, review of assets registers and other documents provided for audit revealed that assets with acquisition costs of Kshs.263,590,292 had been fully depreciated but continued to be in use without any book values.

Management Response

The management of ELDOWAS is cognizant of the fact that revaluation of company's assets is necessary. The revaluation exercise is scheduled to take place in the financial year 2025/2026.

The assets (PPE) were recognized using the cost model, with assets being carried at historical cost less accumulated depreciation (IAS 16). Depreciation methodology follows established accounting standards, and it is based on the useful lives and estimated residual values determined at the time of acquisition of the asset.

While recognizing the merits of revaluation under certain circumstances, the assets (PPE) have consistently been recorded using the cost model.

Committee Observations

The Committee observed that the water company committed to budget for valuation of its assets in the financial year 2025/2026.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer ensures that the valuation of all assets of the water company is fast-tracked and submit the valuation report to the Auditor- General for verification during the subsequent audit cycle;**
- ii. the Accounting Officer ensures that the water company maintains an up-to-date asset register in accordance with section 149(2)(o) of the Public Finance Management Act Cap 412A and in the format prescribed by the Public Sector Accounting Standards Board (PSASB), failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply; and**
- iii. The Accounting Officer should prepare an update asset register within 60 days of the adoption of this report and submit to the Auditor-General for verification.**

2.2 Motor Vehicles

Similarly, as previously reported, the statement of financial position reflects property, plant and equipment balance of Kshs.3,086,543,832 and as disclosed in Note 19 to the financial statements. However, this includes an amount of Kshs.23,110,750 in respect to motor vehicles and motor cycles of which a review of letters from Lake Victoria North Water Services Board revealed that the board transferred ownership of two vehicles to the Company. However, the log books are still in the name of a contractor. No explanation has been provided as to why the ownership documents have not been transferred to the Company.

In the circumstances, the accuracy and completeness of the property, plant and equipment balance of Kshs.3,086,543,832 could not be confirmed.

Management Response

The agency (LVNWWDA) financed various projects for the company and handed over the contract works including motor vehicles upon completion of the projects. However, ownership of the two motor vehicles remains with the agency until clearance of the

liability advanced to the company by the agency as stipulated in section 69(2) of the Water Act.

Committee Observations

The Committee observed that the log books of two motor-vehicles were yet to be transferred from Lake Victoria North Water Services Board to the company.

Committee Recommendations

The Committee recommends that within sixty (60) days of the adoption of this report, the Governor engages the Lake Victoria North Water Works Development Agency to ensure that the transfer of the logbooks is fast tracked.

3. Trade and Other Receivables

3.1 Long Outstanding Trade Receivables

The statement of financial position and as disclosed in Note 24 to the financial statements reflects a balance of Kshs.509,248,381 in respect of trade and other receivables. However, the Management did not provide for audit review an updated debtor's ledger showing balances brought forward, amount accrued for the current period, payments received and the ages of the running balance as at the end of the financial year. Further, there was no evidence provided of the recovery efforts and measures including legal action taken by Management to reduce the debts. In addition, an ageing analysis was not provided to confirm how long the debts have remained outstanding. Further an approved debt management policy was not provided to ascertain the terms under which debts are granted.

In the circumstances, the, validity, accuracy and recoverability of completeness and authenticity of trade and other receivables balance of Kshs.509,248,381 could not be confirmed.

Management Response

1) The updated debtor's ledger is as shown below:

Details	Amount
Opening Receivables Balance 1 st July 2023	528,199,121
Add: Billing 2023/24	825,048,682
Less Receipts	(841,632,270)
Closing Trade Receivables Balance 20 th June 2024	511,615,533
Provision of doubtful debts	(60,000,000)

Other debts outstanding at 30 th June 2024	57,632,848
Closing receivables	509,248,381

- 2) The company has initiated several recovery measures to ensure the long outstanding debts are paid. Debtors have been reducing over period as shown in the table below;

YEAR	2021-2022	2022-2023	2023-2024
AMOUNT (Kshs.)	597,404,809	528,199,121	511,615,533

- 3) Key among the strategies put in place are;

- Various debt collection methodologies including auctioneers, legal (advocates), enhance debt collection.
- Debt collectors were engaged to follow on debts in terminated and inactive accounts that are more than one-year-old key among them are the government related debts some of which have been outstanding for long.
- An alternative dispute resolution mechanism through the Attorney General's office in Eldoret has been instituted to ensure that disputed debts with government related institutions are agreed upon and payment plans/commitments drawn.
- Clients with debts are forced to clear their outstanding debts in other plots before being allowed to apply new water connections in other plots.
- There is an ongoing recommendation to write off long outstanding and irrecoverable debts through the CEC Finance and treasury (County government of Uasin Gishu)

Out of the above efforts the company was able to make the following progress among others

SAMPLE OF COLLECTIONS DONE BY DEBT COLLECTORS				
	Contract/Institution	Debt owed/Allocated (Kshs)	Amount Collection	Status
1	KenRift Ltd	314,351.00	139,971.25	Still engaging customers for more payments
2	Okenyo Omwansa & Co. Advocates	899,537.25	604,033.00	Contract expired
3	Metropol	599,724.70	239,400.00	Contract expired
4	Hill School	11,562,429.95	1,333,334.00	AG's office arbitrated. Hill school paying

				Kshs. 666,667 p a on top of current billing
5	ASK Eldoret	19,250,687.40	Nil	Court ruling done in favour of EDOWAS. Awaiting pending bills verification for payment by Ministry of Labour under special programs
6	County Government of Uasin Gishu Depts	63,000,000.00	18,000,000.00	Paying current bills. We have agreed with the county to budget the amounts to knock off with trade payable (cleansing charges) owed to the county.

4) The management provided the Committee with the ageing analysis for outstanding trade receivables.

5) The Commercial policy which shows the debt management policy of the company.

Committee Observations

The Committee observed that—

- i. the management failed to provide an updated debtor's ledger, an ageing analysis and an approved debt management policy for audit verification;
- ii. the company had a trade and other receivables balance of Kshs.509,248,381 and the company was considering writing off of some of the debts;
- iii. the water company did not have a debt management policy in place during the financial year under review; and
- iv. The water company has not demonstrated efforts to recover the outstanding debts during the period under review.

Committee Recommendations

The Committee recommends that—

- i. the water company undertakes debtor's circularization to confirm the authenticity of the receivables and provide a status update on the same to the Senate within sixty (60) days of the adoption of this report;
- ii. the Accounting Officer should, within 60 days of the adoption of this report, submit a debtors' schedule to the Auditor-General for verification;
- iii. the Accounting Officer should within 60 days of the adoption of this report, submit an approved copy of the Debt Management Policy to the Auditor

- general for verification. The Auditor-General to verify the policy and submit a status update on the same in the subsequent audit cycle;
- iv. the Accounting Officer should, within 60 days of the adoption of this report, put in place recovery measures for the outstanding amount with clear timelines. The Auditor-General should review the implementation of the measures put in place provide a status update on the matter in the subsequent audit cycle; and
 - v. The Accounting Officer to undertake a detailed analysis of its long outstanding trade receivables and with the Board's approval, write off the irrecoverable debts in line with the Section 130 (2) (d) of the Public Finance Management (County Governments) Regulations, 2015 and the Auditor-General to provide a status update on the same during the subsequent audit cycle.

3.2 Doubtful Recovery of Value Added Tax (VAT) Refunds

As previous previously, the statement of financial position reflects trade and other receivables balance of Kshs.509,248,381 which includes VAT refunds balance of Kshs.48,584,233, as disclosed in Note 24 to the financial statements. Examination of documents provided for audit revealed that applications for VAT refunds totaling Kshs.48,584,233 were made between April, 2011 and June, 2018 to Kenya revenue Authority. However, as at the time of audit in December, 2024, no refund had been received by the Company in respect of these applications. Further, no evidence was provided to show any further attempt by Management to recover these refunds from Kenya Revenue Authority.

In the circumstances, the, validity, accuracy and recoverability of trade and other receivables Kshs.48,584,233 could not be confirmed.

Management Response

In 2018, Tax laws were amended that changed natural water from being zero rated commodity to tax-exempt which made the supply of water not to be claimable as input tax. The table below shows the movement;

Description	Amount
Opening Balance July 2018	93,338,335
Amount Received	33,404,921
Amount Disallowed	11,349,181
Closing Balance June 2024	48,584,233

The company has been proactively monitoring and addressing the issue with KRA, indicate that claims are currently under process at the KRA MST department after reconciling the company ledgers.

Committee Observations

The Committee observed that the company's trade and other receivables included Kshs. 48,584,233 which was outstanding VAT refunds from the Kenya Revenue Authority (KRA) dating back to 2011.

Committee Recommendations

The Committee recommends that the Governor of Uasin Gishu engages the Kenya Revenue Authority (KRA) to recover the outstanding receivables amounting to Kshs. 48,584,233 and provide a status update on the same to the Senate within sixty (60) days of the adoption of this report.

4 Long Outstanding Trade Creditors and Other Payables

The statement of financial position and as disclosed in Note 35 to the financial statements reflects a balance of Kshs.328,180,238 in respect of trade and other payables which included Kshs.111,773,218 owed to suppliers and other service providers out of which Kshs.80,599,844 were long outstanding regulatory fees and to the suppliers of goods and services. The significant balances owed to supplies of goods and services poses risk of incurring nugatory expenditure through interest and penalties that could arise from litigation by the creditors for failure to settle amounts owed within the contractual timelines.

In the circumstances, the accuracy, completeness and authenticity of the trade and other payables balance of Kshs.328,180,238 could not be confirmed.

Management Response

The main reason for delayed creditors totaling Kshs.111,773,218.33 was cashflow challenges experienced by the company in the year under review. A substantial amount of the unpaid bills included obligations to WASREB Kshs. 15,982,660 on regulatory levies and WRA Kshs. 12,000,000 levies which are being disputed in court. The company's credit policy is 60 days and an amount of Kshs. 74,935,022 falls within the 2-month credit period and the balance of Kshs. 36,838,196.77 fell outside the credit period. The company has managed to pay most of the creditors and the remaining balance as at 28th February, 2025 is Kshs.12,300,805/= after implementing the new Tariff.

Committee Observations

The Committee observed that the company's trade and other payables included Kshs. 111,773,218 owed to suppliers and Kshs. 80,599,844 in long-outstanding regulatory fees.

Committee Recommendations

The Committee recommends that within sixty (60) days of the adoption of this report, the Accounting Officer engages the relevant entities to formulate a repayment plan for the payables amounting to Kshs. 111,773,218 and Kshs. 80,599,844 and file a report on the same with the Auditor-General for verification. The Auditor-General to provide a status update on the matter in the subsequent audit cycle.

5. Unsupported Share Capital

The statement of financial position and note 26 to the financial statements reflects a balance of Kshs.100,000 in respect of ordinary share capital of the Company. However, share certificates, CR12, Articles and Memorandum of Association were not provided for audit review to support the balance. Further, the annual statutory returns to the Registrar of Companies were not provided for audit verification to confirm the directorship of the Company.

In the circumstances, the accuracy of the ordinary share capital balance of Kshs.100,000 could not be confirmed.

Management Response

Filing of company return is a continuous process. There was a replacement of the company's directors in December 2023. Therefore, the process of registering the company's new shareholding structure is underway. There management provided the last CR12, the articles of association and the memorandum of association.

Committee Observations

The Committee observed that—

- i. whereas the Articles and Memorandum of Association was provided and verified by the Auditor-General, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act; and
- ii. the management failed to provide share certificates, CR12 and annual statutory returns for audit review.

Committee Recommendations

The Committee recommends that the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle.

6. Unresolved Prior Year Audit Matters

In the audit report of the previous year, several paragraphs were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, no report nor recommendations from the Management of the Eldoret Water and Sanitation Company Limited and oversight bodies was submitted for audit verification. The issues remain unresolved contrary to Section 68(2)(1) of the Public Finance Management Act, 2012 which require accounting officers designated for National Government entities to try to resolve any issues resulting from an audit that remain outstanding.

Management Response

The company has continuously worked to address and improve on previous-year issues, as disclosed in the financial statement. The progress reports on the Auditor General's findings for the company covered in the year ended June 30, 2023 are being addressed by the Board of Directors Audit committee.

Committee Observations

The Committee observed that the water company had unresolved prior year matters demonstrating the management's lack of action to implement corrective measures.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should resolve any issues resulting from an audit that remains outstanding as required by section 149(2)(l) of the Public Finance Management Act, Cap. 412A, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences may apply; and**
- ii. the Auditor-General provides a status update on the progress made on the matter in the subsequent audit cycle upon review of the progress report.**

7. Non-Revenue Water

The statement of profit or loss and other comprehensive income reflects operating revenue totaling Kshs.843,162,788 which includes water sales amount of Kshs.583,412,953, as disclosed in Note 6(a) to the financial statements. Analysis of the Company's water production and billing records revealed total water production of 15,360,549m³ but billed only 8,975,584m³, therefore, leaving a total of 6,384,965m³ unaccounted for, or 42% of the total production, translating to a loss in revenue of Kshs.415,022,720. This is contrary to WASREB guidelines which sets the acceptable level of non-revenue water at 25%.

In the circumstances, Management was in breach of the law.

Management Response

The total water production is 15,360,549 m³ but billed 9,844,085 m³ resulting to NRW of 37% and has been declining as shown in the table below

Year	2021/2022	2022/2023	2023/2024
NRW%			37%

The company has formulated NRW strategies which are currently under implementation to reduce the water losses which include;

- a) Creation of District metered area (DMA's) and sub-DMA's
 - b) The company has bought more than 10,000 water meters in the financial year 2022-2023 to replace defective and aged meters. This will enable the company to get accurate meter readings which would eventually lead to the reduction of NRW values. So far 7,100 water meters have been replaced as at 30th June 2024
 - c) Pressure monitoring and control is also being carried out along the Chebara offtakes this being a high-pressure zone area. A team has been put in place to check the pressures and regulate them so that the NRW values in those areas are reduced
 - d) The company has also invested in leak detection equipment.
- ✓ The Company has engaged the water sector trust fund (WSTF) to fund the reconstruction of the old water pipes. Most of the pipelines in Eldowas service areas were laid in 1960's and are worn out accounting for more than 20% of physical losses. This project is capital intensive thus the Company has requested assistance from the Water Sector Trust fund so as to implement the project. After implementation of the project NRW values would go down since the physical losses would be eradicated.

✓ The company also under the new tariff has placed a budget to replace the old pipes (FY 2024-2025 to the fifth year of the tariff period).

✓ The Company has also engaged the water sector trust fund (WSTF) to fund the supply and installation of smart water meters and domestic water meters which is around 50,000 in number.

Committee Observations

The Committee observed that—

- i. the company's Non-Revenue water was at 42% which was 17% above the sector benchmark of 25% as set out in WASREB guidelines; and
- ii. the strategies enumerated by the water company did not seem to be effective in mitigating the losses.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should put in place comprehensive measures to mitigate on the Non-Revenue Water, that is, both physical and commercial losses. The measures to include replacement of old age dilapidated infrastructure, installation of smart meters for accurate billing and the application of Geographical Information System (GIS) to receive real-time data for the detection of bursts and leakages among other measures. The Auditor-General to review the implementation of the measures put in place to mitigate the Non-Revenue Water and provide a status update on the matter in the subsequent audit cycle;
- ii. given the impact of Non-Revenue Water on the water company's cashflows, the Accounting Officer should ensure that a provision for Non-Revenue Water is included in the financial statements. Further, explanatory notes should be provided to detail the contributions of both commercial and physical loss factors to the overall Non-Revenue Water; and
- iii. the County Government to collaborate with the Ethics and Anti-Corruption Commission to ensure pre-emptive measures are put place to reduce cases of theft and illegal connections.

8. Over Expenditure on Staff Costs

The statement of profit or loss and other comprehensive income reflects total expenses balance of Kshs.1,094,484,262 which includes staff costs of Kshs. 459,376,627, general and operating expenses of Kshs.284,167,764 and maintenance expenses of

Kshs.57,149,881, all totaling Kshs.800,694,272. However, the staff costs constitute seventy-three (73%) of the costs. This is contrary to Section 3.9.10 of Water Service Regulatory Board Corporate Governance Guidelines, 2018 which states that when fixing remuneration of staff, the total expenditure for each financial year must not exceed the benchmark set for the services sector by nationally, so that personnel costs as share of operations and maintenance cost shall be contained within the parameter of 35% for a large company.

In the circumstances, Management was in breach of the law.

Management Response

The Company has a new tariff which was implemented from November 2024 that has enhanced operation and maintenance costs which had been constrained by the old tariff there by will bring down the ratio of staff cost to O&M to an average 43%.

Committee Observations

The Committee observed that the company's personnel costs represented 73% of the company's annual expenditure, exceeding the 35% ratio recommended by Water Services Regulatory Board (WASREB).

Committee Recommendations

The Committee recommends that the Company adheres with the provisions of regulation 25(1) of the Public Finance management (County Government) Regulations, 2015 which limits the wage bill to thirty-five percent (35%) of the total revenue and establish a lean staff complement, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.

9. Non-Compliance with Law on Ethnic Composition

A review of the human resource data revealed that the Agency had a total of three hundred and fifty-five (355) employees out of which two hundred and sixty-six (266) are from one dominant ethnic community representing 73% of staff population. This is contrary to the requirements of Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which states that no public establishment shall have more than one third of its staff from the same ethnic community.

In the circumstances, Management was in breach of law.

Management Response

The Company inherited majority of its staff from the defunct Eldoret Municipal Council during its formative stages thus having limited control on the Ethnic composition of those transferred to the water utility. Efforts to address the issue of Ethnic compositions are ongoing and whenever recruitment is done, the company ensures that it is considered in pursuit of compliance to the law. The company is an equal opportunity employer where recruitment is done competitively whenever there is internal or external advertisement. The successful candidate is usually considered objectively based on merit. There is no discrimination whatsoever in employment within the company.

Committee Observations

The Committee observed that 73% of the total employees comprised of staff from one dominant ethnic community thus there was no ethnic diversity among the company employees.

Committee Recommendations

The committee recommends that—

- i. the Board and the accounting officer makes deliberate efforts to progressively comply with section 65 of the County Governments Act, 2012 which provides that at least thirty percent 30% of the vacant posts at entry level be filled by candidates who are not from the dominant ethnic community; and**
- ii. the Board and the accounting officer to make deliberate efforts progressively in the endeavor to comply with Section 7 (1) and (2) of the National Cohesion and Integrity Act, 2008, which requires that public establishments shall seek to represent the diversity of the people of Kenya in employment of staff.**

10. Failure to Carry Out Board Performance Evaluation

The statement of financial performance and as disclosed in note 14 to the financial statements reflects Kshs. 11,001,491 in relation to board expenses. However, the board performance and evaluation reports were not provided for audit review to establish if the water company had set criteria for evaluation of the board or whether evaluation of their performance had been done. This is in contravention of Chapter One of Mwongozo on Board of Directors Section 1.12 on Board Evaluation which requires that the Board of directors should determine its performance criteria and undertake an annual evaluation of its performance and file a report with the parent ministry and State Corporation Advisory Committee.

In the circumstances, Management was in breach of the law.

Management Response

The Company did not have directors from May 2023 to December 2023 when the Current Board of Directors were appointed. Board evaluation being an annual activity was carried out between 16th to 18th December 2024 when the board completed their first year in Office.

Committee Observations

The Committee observed that the company operated without a board of directors for seven months (May-December 2023). Consequently, the mandatory annual board evaluation was delayed until December 2024, coinciding with the new board's completion of their first year in office.

Committee Recommendations

The Committee recommends that the query be marked as resolved.

CHAPTER THREE

REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR GATANGA WATER AND SANITATION COMPANY LIMITED FOR THE FINANCIAL YEAR 2023/2024

The Governor of Murang'a County, Hon. (Dr) Irungu Kang'ata, CBS, appeared before the Committee on Monday, 17th March, 2025 to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for the Gatanga Water and Sanitation Company Limited for the Financial Year 2023/2024. The Governor was accompanied by the following officers—

1. Prof. Kiarie Mwaura – CECM Finance
2. John Kairu – Managing Director (Gatanga Water and Company Ltd)
3. Alice Kimani – Accountant (Gatanga Water and Company Ltd)

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered a **Qualified Opinion** on the financial statements of the Gatanga Water and Sanitation Company Limited for the financial year on the following basis—

1. Inaccuracies in Staff Costs

Note 11 to the financial statements reflects Staff Costs of 39,408,743 which includes expenditure of Kshs. 35,237,409 paid to staff as gross salaries and allowances which differ with supporting schedule balance of Kshs.33,471,968.05 resulting to an unexplained variance of Kshs. 1,765,440.95.

In the circumstances, the accuracy of the gross salary expenditure of Kshs.35,237,409 could not be confirmed.

Management response

A schedule of gross salary expenditure of Kshs 35,237,409 that includes salaries and allowances is supported.

Rev. Julius. N Wanyoike (Chair), John Kairu (MD), Joseph. G Mwangi, Edise. W. Ndirangu, Lucy. W Kamau, Peter. N. Kimani, Tabitha. N. Mwilu, Joseph. K Mwaura, Mary. M Magochi.

Committee Observations

The Committee observed that whereas the schedule of gross salary to support the variance of Kshs. 1,765,440.95 was provided, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle; and**
- ii. the Auditor-General verifies the schedules provided by the management and provide a status update of the same to the Senate within sixty (60) days of the adoption of this report.**

2. Unsupported Deferred Income

The statement of financial position reflects Deferred Income of Kshs.13,632,433 which was not supported by documents showing nature of the income, when it was earned and the work plan for the activities to be carried.

In the circumstances, the accuracy and completeness of Deferred Income balance of Kshs.13,632,433 could not be confirmed.

Management Response

All supporting documents for deferred income showing nature of income, when it was earned and work plan for activities carried out has been provided.

Committee Observations

The Committee observed that whereas the documents to support Deferred Income of Kshs.13,632,433 were provided, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle; and**
- ii. the Auditor-General verifies the documents provided by the management and provide a status update of the same to the Senate within sixty (60) days of the adoption of this report.**

3. Unaccounted for Refundable Deposit and Prepayments

The statement of financial position reports Refundable Deposits and Prepayments balance of Kshs. 13,730,120 which differs with the bank statement for deposits Account balance of Kshs. 1,254,054 resulting to un-reconciled variance of Kshs.12,476,066.

Further, the amount has not been supported by movement schedules showing opening balance, additions during the year, paid during the year and the closing balance as at 30 June, 2024.

In the circumstances, the accuracy and completeness of Refundable Deposits and Prepayment balance of Kshs. 13,730,120 could not be confirmed.

Management Response

A schedule showing opening balance, additions, paid and closing balance are supported explained.

Committee Observations

The Committee observed that whereas the documents to support the variance of Kshs.12,476,066 were provided, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should, within 60 days of the adoption of this report, submit to the Committee and the Auditor-General a repayment plan with clear timelines for the repayment of the customer deposits;**
- ii. the Board of Directors should put in place a Customer Deposits Management Policy to guide how the water company can access, utilize and refund the money within specified timelines. Further, the Accounting Officer should ensure that there is full disclosure to the water company's customers on the utilization of the deposits;**
- iii. the Accounting Officer should ensure that all customer deposits are deposited in a fixed/call account whose access to the management is limited and where the accrued interests can be used to offset the bank charges. Management to submit evidence of the same to the Auditor-General within 60 days of the adoption of this report for verification;**
- iv. the Accounting Officer ensures that the company strictly adheres to the provisions of section 142 of the Public Finance Management Act, Cap.412A on borrowing by County Government entities, failure to**

- which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply;
- v. the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle; and
 - vi. the Auditor-General verifies the documents provided by the management and provide a status update of the same to the Senate within sixty (60) days of the adoption of this report.

4.Cash and Bank Balance

4.1 Lack of Cashbooks and Bank Reconciliations

The statement of financial position as at 30 June, 2024 reflects cash and bank balance of Kshs.3,032,830. However, the supporting bank reconciliation statements and cashbooks were not provided for audit contrary to Section 90 (1) of the Public Finance Management (National Government) Regulations 2015

In the circumstances, the accuracy and completeness of cash and bank balance of Kshs.3,032,830 could not be confirmed.

Management Response

All bank reconciliations and cashbooks have been provided. The supporting documents confirm the cash and bank balances of kshs 3,032,830 as at 30th June 2024 are also supported.

Committee Observations

The Committee observed that whereas the bank reconciliation statements and cashbooks to support the cash and bank balance of Kshs.3,032,830 were provided, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle; and

- ii. **the Auditor-General verifies the documents provided by the management and provide a status update of the same to the Senate within sixty (60) days of the adoption of this report.**

4.2 Undisclosed Bank Accounts

During the year under review, it was confirmed that the Gatanga Community Water Scheme operated four bank accounts, three (3) in Absa and one (1) in Equity, whose details have not disclosed in the financial statements. Further, the management explained that Equity Bank account with balance of Kshs. 253,452 has since been closed. However, the authority for the closure and the certificate of bank balance as at the time closure was not provided for audit verification.

In the circumstances, the accuracy and completeness of cash and bank balance of Kshs.3,032,830 could not be confirmed.

Management Response

Bank certificate balance of Kshs. 253,452 from Equity is also provided.

Committee Observations

The Committee observed that—

- i. Gatanga Community Water Scheme operated four bank accounts, three (3) in Absa and one (1) in Equity, whose details were not disclosed in the financial statements during the audit; and
- ii. The management failed to provide the authority for the closure and the certificate of bank balance of Ksh 253,452 of the equity bank for audit verification during the audit period.

Committee Recommendations

The Committee recommends that—

- i. **The Accounting Officer ensures that all four (4) bank accounts are disclosed within the financial statements of the subsequent year and the Auditor-General to provide a status report of the same to the Senate within the subsequent audit cycle;**
- ii. **the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle.**

5. Unsupported Inventories

The statement of financial position and as disclosed Note 22 to the financial statements reflects a balance of Inventories Kshs.308,695 which is not supported by ledger schedules or stores ledger.

In the circumstances, the accuracy and completeness of inventories Kshs.308,695 could not be confirmed.

Management Response

All support documents for inventories of kshs 308,695 have been provided.

Committee Observations

The Committee observed that whereas the ledger schedules and store ledger to support the inventory balance of Kshs. 308,695 were provided, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act.

Committee recommendations

The Committee recommends that—

- i. the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle; and**
- ii. the Auditor-General verifies the schedules provided by the management and provide a status update of the same to the Senate within sixty (60) days of the adoption of this report.**

6. Unsupported Short-term Deposits

Note 24 to the financial statement reflects a short-term deposit balance of Kshs.3,032,830 which is not supported schedules.

In the circumstances, the accuracy and completeness of short-term deposit Kshs.3,032,830 could not be confirmed.

Management Response

The management has noted the error and will rectify the financial statements.

Committee Observations

The committee observed that short-term deposit of Kshs 3,032,830 was not supported by a schedule during the audit period.

Committee Recommendations

The Committee recommends that the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle.

7. Going Concern of the Entity

The statement of financial position reflects total current assets balance of Kshs.64,236,272 against total current liabilities balance of Kshs.78,613,278, resulting to a negative working capital of Kshs. 14,377,006.

In the circumstances the Company may not be able to meet its current obligations as and when they fall due, and its continued operation as a going concern is dependent on the support of creditors.

Management Response

Gatanga WSP operated a non-cost recovery tariff over the year under review that was **expired**, reflecting negatively on financial viability of the company. However, in the current financial year the company has acquired a new updated and cost reflective water tariff which has been approved and gazetted in the Kenya Gazette issue No. Vol.CXXVI-No.66 Gazette Number 5971 Use of a cost recovery tariff will cure the threat of the company not being a going concern.

Committee Observations

The Committee observed that the company operated with a negative working capital of Kshs. 14,377,006 during the financial year under review, casting doubt on the company's ability to meet its obligations as and when they fall due.

Committee Recommendations

The Committee recommends that—

- i. the Governor of Murang'a County should take keen interest in the management and operations of the water company in line with Article 179 (4) of the Constitution;**

- ii. **The Accounting Officer should prepare and submit quarterly reports to the County Treasury in regard to the financial and non-financial status of the water company in line with section 166 of the Public Finance Management Act, Cap.412A, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;**
- iii. **the County Executive Committee Member in charge of water should take full responsibility for monitoring the financial performance of the county corporation in line with section 184 of the Public Finance Management Act, 2012 and regularly report to the Governor through the County Executive Committee in line with Article 179 (6) of the Constitution;**
- iv. **the County Treasury should undertake annual reporting on County Corporation including an assessment of the commercial viability of the company in line with the standards set by the Water Services Regulatory Board under section 77(2) of the Water Act, 2016; and**
- v. **the Accounting Officer should, within 60 days of the adoption of this report, put in place strategic and innovative measures for recovery and to boost the financial health of the water company for self-sustainability. Additionally, the management reviews and regularizes the company's existing assets and have updated assets register that reflect the current financial position. Further, management to determine and ascertain their commercial viability as required by the Public Sector Accounting Standards Board (PSASB).**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Pursuant to Article 229 (6) of the Constitution, based on the audit procedures performed by the Auditor General, the following matters formed the basis for conclusion that public resources were not applied lawfully and in an effective way –

1. Unbalanced Budget

The Statement of comparison of budget and actual reflects a final budget of Kshs.63,235,676 against expenditure of Kshs.76,489,947 resulting to unbalanced amount of Kshs. 13,254,271. No documentary evidence was provided inform of committee minutes to show the approvals of the budget.

In the circumstance, the accuracy and completeness of statement of comparison of budget and actual could not be determined.

Management Response

A copy of the approved budget was provided to the Committee. The budget foresaw support on capital expenditure from the County Government of Murang'a as reflected on its annual plan.

Committee Observations

The Committee observed that the company's budget for the financial year under review was unbalanced.

Committee Recommendations

The Accounting Officer should ensure strict adherence to regulation 31(c) of the Public Finance Management (County Governments) Regulations, 2015 which states that budgeted revenue and expenditure appropriation shall be balanced, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.

2. Non-Revenue Water

During the year under review, Gatanga Community Water Scheme produced 2,025,632 cubic meters (M3) of water, but only 1,165,251 (M3) was billed to customers at a cost of Kshs.60,488,605.

The balance of 860,381 cubic Meters (M3) water which is approximately forty-two (42%) percent of the total production is unaccounted for Water (UFW) which is way above the sector recommended limit of 25%. The abnormal loss of seventeen (17%) percent or 860,381 (M3) of the water produced has resulted in loss of sales estimated at Kshs.44,768,978, this has adversely affected the company's profitability for the year.

Management Response

Management continues to make progress in Non-Revenue Water Management, witnessing a steady drop from previous period where it was reported as 44%. With implementation of the new tariff, the company would have the required resources to ensure major strides in further reduction of the NRW.

Committee Observations

The Committee observed that the company's Non-Revenue water was at 42% which was 17% above the sector benchmark of 25% as set out in WASREB guidelines. However, the water company has made some efforts to reduce the NRW arising from commercial and physical losses.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should put in place comprehensive measures to mitigate on the Non-Revenue Water, that is, both physical and commercial losses. The measures to include replacement of old age dilapidated infrastructure, installation of smart meters for accurate billing and the application of Geographical Information System (GIS) to receive real-time data for the detection of bursts and leakages among other measures. The Auditor-General to review the implementation of the measures put in place to mitigate the Non-Revenue Water and provide a status update on the matter in the subsequent audit cycle;
- ii. given the impact of Non-Revenue Water on the water company's cashflows, the Accounting Officer should ensure that a provision for Non-Revenue Water is included in the financial statements. Further, explanatory notes should be provided to detail the contributions of both commercial and physical loss factors to the overall Non-Revenue Water; and
- iii. the County Government to collaborate with the Ethics and Anti-Corruption Commission to ensure pre-emptive measures are put place to reduce cases of theft and illegal connections.

3. Excessive Expenditure on Staff Costs

During the year under review, Gatanga Community Water Scheme raised Kshs.61,719,361 as overall revenue and spent Kshs.39,408,743 as staff expenses. The personnel expenditure represented 64% of revenue which exceeds the regulatory threshold of 35% contrary to Section 25(1b) of the Public Finance Management (County Governments) Regulations, 2015.

In the circumstances. Management was in breach of the law.

Management Response

Gatanga WSP operated a non-cost recovery tariff over the year under review that was expired, reflecting negatively on financial viability of the company. However, in the current financial year the company has acquired a new updated and cost reflective water tariff which has been approved and gazetted in the Kenya Gazette issue No. Vol. CXXVI-No.66 Gazette Number 5971. The personnel expenditure as a percentage of total revenue will naturally come down.

Committee Observations

The Committee observed that the company's personnel costs represented 64% of the company's annual expenditure, exceeding the 35% ratio recommended by Water Services Regulatory Board (WASREB).

Committee Recommendations

The Committee recommends that the Company adheres with the provisions of regulation 25(1) of the Public Finance management (County Government) Regulations, 2015 which limits the wage bill to thirty-five percent (35%) of the total revenue and establish a lean staff complement, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.

4. Non-Compliance with Law on Ethnic Composition

A review of Human Resource records revealed that Gatanga Community Water Scheme had eighty-three (83) members of staff out of whom, seventy-four (74) or 89% were drawn from the dominant ethnic community in the County contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008.

Management response

Advertisements for vacant positions are done on print and online media in order to cover the entire country. Gatanga water is an equal opportunity employer and does not discriminate against race, creed, gender or colour.

Committee Observations

The Committee observed that 89% of the total employees comprised of staff from one dominant ethnic community thus there was no ethnic diversity among the company employees.

Committee Recommendations

The Committee recommends that—

- i. the Board and the accounting officer makes deliberate efforts to progressively comply with section 65 of the County Governments Act, 2012 which provides that at least thirty percent 30% of the vacant posts at entry level be filled by candidates who are not from the dominant ethnic community; and
- ii. the Board and the accounting officer to make deliberate efforts progressively in the endeavor to comply with Section 7 (1) and (2) of the National Cohesion and Integrity Act, 2008, which requires that public establishments shall seek to represent the diversity of the people of Kenya in employment of staff.

5. Non-filing of Annual Company Returns with the Registrar of Companies

Audit examination of Statutory Returns records established that the Water Company failed to file its annual returns with the Registrar of Companies for the financial year 2023/2024, contrary to section 705 of the Companies Act.

Management Response

The company will endeavor to submit the returns as required.

Committee Observations

The Committee observed that the company did not file annual company returns for the period ended 30th June 2024 contrary to section 705 of the Companies Act.

Committee Recommendations

The Committee recommends that the Accounting Officer ensures that the company complies with the provisions of section 705 of the Companies Act, Cap.486, with regards to filing of annual returns, failure to which the provisions of section 708 of the Companies Act on penalties for offences shall apply.

6. Non-renewal of Service Provision Agreement

During the year under review, Gatanga Community Water Scheme has been operating without a service provision license from the Water Services Regulatory Board(WASREB). This was with effect from 31 August 2023 upon expiry of the license and has since not been renewed contrary to Section 78 (1) of the Water Act, 2016 that requires a company providing water services within a specified geographical area to obtain an operating license.

Management Response

The company has processed and acquired an operating license from the Water Service Regulatory Board WASREB, For the period 2024-2027.

Committee Observations

The Committee observed that the company operated without a valid license during the financial year under review contrary to section 78(1) of the Water Act, 2016. The management stated that the water company acquired the license, however, this was yet to be verified by the Auditor-General.

Committee Recommendations

The Committee recommends that—

- i. **The Board and Managing Director of the water company ensure strict compliance with the provisions of section 85(1) of the Water Act, Cap.372 on application of license, failure to which the provisions of section 147 of the Water Act on penalties for offences shall apply; and**
- ii. **the Auditor-General verifies that the company acquired the license and provide a status update on the same to the Senate within sixty (60) days of the adoption of this report.**

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Pursuant to section 7(1) of the Public Audit Act, based on procedures performed by the Auditor General, the following matter formed the basis for conclusion that internal controls, risk management and overall governance were not effective –

Inadequate Internal Audit Function and Lack of an Audit Committee

Review of the operations of the Internal Audit functions revealed that Gatanga Community Water Scheme's Internal Audit section had only one staff member who was not able to carry out all the internal audit functions effectively. This is contrary to Regulation 155(2) of the Public Finance Management (County Government) Regulation, 2015.

Management Response

The company has an internal auditor who is a graduate in Commerce and a CPA finalist. Management will continue enhancing the department and capacity building it to ensure effectiveness and efficiency in execution of its duties.

The board has an audit committee of a membership of three. Board minutes establishing board committees is hereby attached under.

Committee Observations

The Committee observed that the water company did not have an audit committee and an internal audit function in place during the financial year under review contrary to Section 155(1) of the Public Finance Management Act, Cap.412A.

Committee Recommendations

The Committee recommends that the Board of Directors ensures that the water company puts in place all internal control systems such as the Internal Audit Committee as provided under section 155 (5) of the Public Finance Management Act, 2012 among others to guide the internal operations of the water company.

Further, the managements to submit evidence of the same to the Auditor General for verification.

CHAPTER FOUR

REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR GUSII WATER AND SANITATION COMPANY LIMITED FOR THE FINANCIAL YEAR 2023/2024

The Governor of Kisii County, Hon. Paul Simba Arati, appeared before the Committee on Friday, 21st March, 2025 to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for the Gusii Water and Sanitation Company Limited (GWASCO) for the Financial Year 2023/2024. The Governor was accompanied by the following officers—

1. Kennedy Obincha – CECM-Finance
2. Lucy Wachira – Managing Director (GWASCO)
3. David O Obure – Board (GWASCO)

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered a **Qualified Opinion** on the financial statements of the Gusii Water and Sanitation Company Limited for the financial year on the following basis—

1.0 Accuracy of the Statement of Cashflows

The statement of cashflows reflects Kshs. 43,484,514 in respect to cash and cash equivalents at the beginning of the year. However, the audited financial statements for 2022-2023 reflects Kshs.43,737,350 on the same resulting to unreconciled variance of Kshs.252,836. In addition, the statement of cashflows reflects Kshs. 15,282,516 in respect to cash and cash equivalent at the end of the year which differs with bank and cash balances of Kshs. 15,443,560 in the statement of financial position resulting to unreconciled variance of Kshs. 161,044.

In the circumstances, the accuracy of the statement of cash flows for the year ended 30 June, 2024 could not be confirmed.

Management Response

Management acknowledges the auditor's observation regarding the statement of cash flows. The variance of KShs. 252,836 noted in the audited financial statements for the financial year 2022-2023 arose as a result of reconciliation of cash flows from operating activities whose effect will be adjusted in the subsequent year financial statements.

Committee Observations

The Committee observed that the financial statements of the water company included variances of Kshs. 252,836 and Kshs. 161,044 which remained unreconciled.

Committee Recommendations

The Committee recommends that the Accounting Officer should ensure strict compliance with the provisions of regulation 90 (1) of Public Finance Management (County Government) Regulations 2015 with respect to monthly reconciliation of bank statements, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply.

2.0 Accuracy of Customer Deposits

The statement of financial position and as disclosed in Note 24 to the financial statements reflects customer deposits balance of Kshs, 29,715,363 which represents amounts deposited by customers for new water meter paid upon connections. These funds are retained in the company's deposit account with Kenya Commercial Bank Limited. However, review of supporting documents provided for audit revealed that the balance of Kshs. 29,715,363 differs with closing balance of Kshs. 13,060,658 reflected in the deposits account bank statement, resulting to an unexplained variance of Kshs. 16,654,705.

In the circumstances, the accuracy of Kshs. 29,715,363 could not be confirmed

Management response

The management concurs with the auditor's observation on customer deposit account balances revealing a variance of Kshs. 16,654,705. The variance arose due to borrowings that were made between 2014-2015 to 2020-2021 financial year for the payment of electricity bills. The current board discussed the variances and resolved to have the amounts refund upon the availability of funds.

The management has established a payment plan to settle the balance of Kshs. 16,654,705.

Committee Observations

The Committee observed that—

- i. the water company borrowed an amount of Kshs. 16,654,705 from the customer deposits account to settle electricity bills. The amount was not refunded; and
- ii. the water company established a payment plan to clear the outstanding balance of Kshs. 16,654,705 within 48 months.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should, within 60 days of the adoption of this report, the Auditor-General monitors the compliance of the water company to the repayment plan and provide a status update on the same to the Senate during the subsequent audit cycle;
- ii. the Board of Directors should put in place a Customer Deposits Management Policy to guide how the water company can access, utilize and refund the money within specified timelines. Further, the Accounting Officer should ensure that there is full disclosure to the water company's customers on the utilization of the deposits;
- iii. the Accounting Officer should ensure that all customer deposits are deposited in a fixed/call account whose access to the management is limited and where the accrued interests can be used to offset the bank charges. Management to submit evidence of the same to the Auditor-General within 60 days of the adoption of this report for verification; and
- iv. the Accounting Officer ensures that the company strictly adheres to the provisions of section 142 of the Public Finance Management Act, Cap.412A on borrowing by County Government entities, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.

3.0 Accuracy of Cash and Cash Equivalents

The statement of financial position as at 30 June 2024 reflects a balance of Kshs. 17,595,498 in respect of cash and cash equivalents and as disclosed in Note 18 to the financial statements. However, review of cash book, bank reconciliation and bank statement provided for audit revealed that KCB revenue account number 1106368436 cash book has been overdrawn by Kshs. 2,312,982.31 but reflected as 2,151,938 balance in the financial statements. The resultant variances were however not explained.

In the circumstances, the accuracy of the Kshs. 15,443,560 cash and cash equivalents balance as at 30 June, 2024 could not be confirmed.

Management Response

Management acknowledges the auditor's observation that as at 30 June 2024, the company's KCB revenue Account No. 1106368436 reflected an overdraft balance of Kshs. 2,312,982.31. Management had raised payments for outstanding goods and services with the expectation that improved cash flows would facilitate the clearance of these obligations. The cheques were cleared in the subsequent month.

Committee Observations

The Committee observed that the variance in the balance of the overdraft between the cashbook and the financial statements was as a result of uncleared cheques which were later cleared thus mitigating the query.

Committee Recommendations

Noting the mitigation measures taken, the Committee recommends that the query be marked as resolved.

Emphasis of matter

1.0 Budgetary Control and Performance

1.1 Revenue analysis

The statement of comparison of budget and actual amounts for the year ended 30 June 2024 reflects budgeted receipts of Kshs. 506,425,522 and actual receipts of Kshs. 256,989,769 resulting to a revenue shortfall of Kshs. 249,435,753 or 49%.

In overall, the water company failed to meet its target revenue by Kshs.249,425,753 an indication of weak budget planning process. There is need for the company to relook at its budget making process with a view to planning a realistic budget to achieve its intended objectives.

Management response

Management acknowledges the auditor's observation on budgetary control and performance. The reported budget shortfall of Kshs. 249,435,753 was primarily due to the following factors:

- **Unrealized Grants** – The Company did not receive the expected grant from the Water Sector Trust Fund and the County Government, which the company had budgeted for Kshs. 136,627,511, but only Kshs. 20,100,701 (15%) was received, resulting in a shortfall of Kshs. 116,526,810, equivalent to 25% of the expected budget.
- **Revenue-Based Budget Adjustments** – The management has revised budget estimates to align with the company's collectable revenue.

Also, in order to improve on budgetary control and financial planning, the Company has taken the following measures:

- **Regular Budget Reviews** – The Company continuously revises its budgets based on performance to enhance budgetary controls
- **Enhanced Budgeting Process** – Management is committed to refining the budget-making process to establish more realistic and achievable financial projections aligned with the Company's objectives.

Committee Observations

The Committee observed that the water company had a revenue shortfall of Kshs. 249,435,753 or 49% of the budget during the financial year under review.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should comply with regulation 42(1)(b) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply;
- ii. the Board of Directors should institute proper and realistic budget planning as well as measures to enhance its own generated revenue, such as review of tariffs, connection of more customers and automation to address revenue leakages. The Auditor-General to confirm the effectiveness of the mitigating measures put in the water company and report in the subsequent audit cycle; and
- iii. within sixty (60) days of the adoption of this report, the management engages WASREB to have an approved tariff so as to have rates that are commensurate with the economic realities.

1.2 Expenditure analysis

The statement of comparison of budget and actual amounts reflects an expenditure budget of Kshs. 354,425,771 and an actual expenditure of Kshs. 326,681,176 resulting to a net under expenditure of Kshs. 27,844,595.

In overall, the Company under absorbed its budget by Kshs. 27,844,595(7%) of the total budget allocation. The funds could have been allocated to other deserving areas that would have improved delivery of goods and services to stakeholders. There is need therefore for the management to relook at its budgeting mechanism with a view to focusing on areas which will improve service delivery to the stakeholders.

Management response

Management acknowledges the auditor's observation on budgetary control and performance on the under expenditure of funds. Going forward the management will utilize any surplus on areas of need.

Committee Observations

The Committee observed that the water company failed to absorb Kshs. 27,844,595 or 7% of its budget during the financial year under review.

Committee Recommendations

The Committee recommends that the Accounting Officer should comply with regulation 42(1)(b) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.

2.0 Material Uncertainty in Relation to Going Concern

The statement of profit or loss and other comprehensive income reflects a loss of Kshs. 66,280,188 (Kshs. 5,296,250 profits in 2022-2023). The statement also reflects operating expenses of Kshs. 323,269,958 (Kshs. 264,306,680 in 2022-2023 indicating a loss-making trend.

In addition, the current liabilities of Kshs. 198,266,484 as at 30 June 2024 exceeded the current assets of Kshs. 159,346,810 resulting into a negative working capital of Kshs. 38,919,674. The Water Company is therefore technically insolvent and the financial statements have been prepared on a going concern basis on the assumption of continued financial support from the county government and its creditors.

Management response

We acknowledge the Auditor-General's report highlighting the material uncertainty regarding the company's ability to continue as a going concern.

To address the going concern risk and ensure financial sustainability, the company has implemented a series of mitigation measures as part of its 2024-2025 strategic plan.

- Under revenue growth initiatives, the company is actively expanding customer connectivity to increase the number of active connections and enhance revenue collection.
- The Company is reviewing the tariff to obtain a cost-reflective one to manage costs as well as finish declustering process to improve efficiency in the cost centers
- The company is focusing on enhancing operational efficiency by implementing infrastructure improvements, further reducing NRW.
- Finally, the company is reviewing and streamlining expenditures, with a particular focus on energy efficiency initiatives to lower electricity costs.

It is also important to note that in 2021-2022, the Company received Kshs. 91,986,550 in grants for operation and maintenance costs.

In 2022-2023, the Company received Kshs. 38,246,530, also for operations and maintenance. In 2023-2024, the Company received Kshs 20,100,701 being Kshs.

8,100,701 for water connectivity and 12,000,000 from County government for electricity costs.

The company did not receive any grant to support its operational expenses during the current year under review 2023-2024 and thus the cause of the downward trend.

Committee Observations

The Committee observed that—

- i. the water company operated with a negative working capital of Kshs.38,919,674 during the financial year under review, casting doubt on the company's ability to meet its obligations as and when they fall due; and
- ii. the water company's financial statements reflected a loss of Kshs. 66,280,188 during the financial year under review.

Committee Recommendations

The Committee recommends that—

- i. the Governor of Kisii County should take keen interest in the management and operations of the water company in line with Article 179 (4) of the Constitution;
- ii. The Accounting Officer should prepare and submit quarterly reports to the County Treasury in regard to the financial and non-financial status of the water company in line with section 166 of the Public Finance Management Act, Cap.412A, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;
- iii. the County Executive Committee Member in charge of water should take full responsibility for monitoring the financial performance of the county corporation in line with section 184 of the Public Finance Management Act, 2012 and regularly report to the Governor through the County Executive Committee in line with Article 179 (6) of the Constitution;
- iv. the County Treasury should undertake annual reporting on County Corporation including an assessment of the commercial viability of the company in line with the standards set by the Water Services Regulatory Board under section 77(2) of the Water Act, 2016; and
- v. the Accounting Officer should, within 60 days of the adoption of this report, put in place strategic and innovative measures for recovery and to boost the financial health of the water company for self-sustainability. Additionally, the management reviews and regularizes the company's existing assets and have updated assets register that reflect the current financial position. Further, management to determine and ascertain their commercial viability as required by the Public Sector Accounting Standards Board (PSASB).

Other Matter

1.0 Non-Revenue Water

The statement of profit and loss and other comprehensive income reflects operating revenue of Kshs. 228,317,433 as disclosed in Note 6 to the financial statements. Included in the balance is Kshs 149,285,051 in respect of water sales. Records provided for review indicated that the Company produced a total of 3,785,933 cubic meters (M³) of water during the year under review out of which 1,545,478 cubic meters (M³) of water was billed to customers for Kshs. 149,285,051.45 while the balance of 2,240,455 cubic meters (M³) or approximately 59.2% of the total volume of water produced represents non-revenue water. This is contrary to WASREB guidelines which sets the acceptable level of non-revenue water at 25% of the total water production. Management has not explained the measures which have been put in place to control the losses.

Management response

Management acknowledges that the Company still has high non-revenue water being attributed to:

- Aging Infrastructure – Frequent pipe bursts and leakages due to old and deteriorated pipelines.
- Water theft and Illegal Connections – Unauthorized water connections leading to unbilled consumption.
- Metering inaccuracies – Inaccurate, stuck, or vandalized meters leading to underreporting of water consumption.

However, significant progress has been made in reducing NRW over the past three years, from 77% in 2022-2023 to 59% in 2023-2024 having implemented the following measures:

- i. Establishment of an NRW Unit – A dedicated NRW unit, led by a senior officer, has been set up to oversee and coordinate reduction efforts.
- ii. Implementation of an NRW Strategy – The Company has developed and executed an NRW strategy in alignment with guidelines issued by WASREB
- iii. Mobilized materials for timely repair of burst and leakages, replaced stuck, old and vandalized meters.
- iv. Embraced the use of water police unit to address the illegal connections.

Committee Observations

The Committee observed that the company's Non-Revenue water was at 59.2% which was 34.2% above the sector benchmark of 25% as set out in WASREB guidelines. However, the water company made some efforts to reduce the NRW arising from commercial and physical losses.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should put in place comprehensive measures to mitigate on the Non-Revenue Water, that is, both physical and commercial losses. The measures to include replacement of old age dilapidated infrastructure, installation of smart meters for accurate billing and the application of Geographical Information System (GIS) to receive real-time data for the detection of bursts and leakages among other measures. The Auditor-General to review the implementation of the measures put in place to mitigate the Non-Revenue Water and provide a status update on the matter in the subsequent audit cycle;
- ii. given the impact of Non-Revenue Water on the water company's cashflows, the Accounting Officer should ensure that a provision for Non-Revenue Water is included in the financial statements. Further, explanatory notes should be provided to detail the contributions of both commercial and physical loss factors to the overall Non-Revenue Water; and
- iii. the County Government to collaborate with the Ethics and Anti-Corruption Commission to ensure pre-emptive measures are put place to reduce cases of theft and illegal connections.

2.0 Unresolved Prior Year Matters

There were issues raised in the audit report for 2022/2023 financial year. However, no report or recommendation from the Management and oversight bodies was submitted for audit verification and clearance. The issues therefore remain unresolved contrary to section 149(2)(1) of the Public Finance Management Act, 2012 which require Accounting officers in respect of the entity concerned to try to resolve any issues resulting from an audit that remain outstanding.

Management Response

Management has processed responses to the audit recommendations on issues raised in the financial year 2022/2023, which will be submitted in due course to the auditor general.

Committee Observations

The Committee observed that the water company had unresolved prior year matters demonstrating the management's lack of action to implement corrective measures.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should resolve any issues resulting from an audit that remains outstanding as required by section 149(2)(l) of the Public Finance Management Act, Cap. 412A, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences may apply; and
- ii. the Auditor-General provides a status update on the progress made on the matter in the subsequent audit cycle upon review of the progress report.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Pursuant to Article 229 (6) of the Constitution, based on the audit procedures performed by the Auditor General, the following matters formed the basis for conclusion that public resources were not applied lawfully and in an effective way –

1.0 Long Outstanding Audit Fees

The statement of financial position and as disclosed in note 23 to the financial statements reflects Kshs. 96,471,152 in respect to trade and other payables. Included in the Kshs. 96,471,152 is Kshs. 5,809,200 accrued audit fees payable to the office of the Auditor-General which has however remained unpaid. Although management has created a provision of Kshs.446,600 for this current year under review, this is still contrary to Section 41 (1)(c) of the Public Audit Act, 2015 which states that the funds of the Office of the Auditor-General shall consist of audit fees charged at the rates prescribed by the Auditor-General.

In the circumstances, Management was in breach of the law.

Management response

We acknowledge the auditor's observation regarding the outstanding audit fees amounting to Kshs 5,809,200, which has accrued over the years and remains unpaid. This was due to cashflow challenges. The company has taken measures to ensure compliance with Section 41(1)(c) of the Public Audit Act, 2015. As a commitment, we have paid Kshs. 300,000 vide cheque number 009298 dated 28 November 2024. Further, we have committed to clearing the outstanding balance within the year in a staggered phase to settle the matter.

Committee Observations

The Committee observed that the water company failed to pay audit fees amounting to Kshs. 5,809,200 owed to the Auditor-General. The water company made a payment of Kshs. 300,000 on 28th November 2024.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer engages the Auditor-General to agree on a repayment plan for the outstanding audit fees amounting to Kshs. 5,809,200 and file a report on the same with the Auditor-General for verification within sixty (60) days of the adoption of this report. The Auditor-General to provide a status update on the matter in the subsequent audit cycle; and
- ii. the County Executive Committee Member in charge of water should continuously monitor the financial performance of the water company in line with section 184 of the Public Finance Management Act, Cap 412A and report on the same to the County Executive Committee, making recommendations on how the water company can improve its performance.

2.0 Failure to Comply with Fiscal Responsibility principles on wage bill

The statement of profit and loss and other comprehensive income and as disclosed in note 9 to the financial statements for the year ended 30 June 2024 reflects Kshs.108,454,746 in respect of staff costs. The Kshs. 108,454,746 translates to forty-two percent (42%) of the total revenue of Kshs 256, 989,769 contrary to section 25 (1)(a) and (b) of the Public Finance Management (County Government) Regulations, 2015 which stipulates that county governments expenditure on wages and benefits for its public officers shall not exceed thirty-five per cent of the county government entity total revenue

In the circumstances, management was in breach of the law.

Management response

We acknowledge the findings of the auditor relating to the staff costs for the year ended 30 June 2024, which are disclosed in **Note 9** to the financial statements. The management has taken the following mitigation measures:

1. Freezing of new employment or new recruitment
2. Undertaking a comprehensive review of the staffing levels to match some departments.
3. Boosting the revenue collection

Committee Observations

The Committee observed that the water company spent Kshs. 108,454,746 (42% of the total operating expenditure) on staff costs contrary to section 25 (1)(a) and (b) of the Public Finance Management (County Government) Regulations, 2015 which limits the personnel expenditure to 35% of total operating expenditure.

Committee Recommendations

The Committee recommends that—

- i. the Company adheres with the provisions of regulation 25(1) of the Public Finance management (County Government) Regulations, 2015 which limits the wage bill to thirty-five percent (35%) of the total revenue and establish a lean staff complement; and**
- ii. the Auditor-General to provide a status update on the matter during the subsequent audit cycle to ascertain whether the measures enumerated have addressed the concern.**

3.0 Long outstanding retirement benefit obligations

The statement of financial position and as disclosed in Note 22 of the financial statement is Kshs 38,105,640 in respect of retirement benefits obligations. Analysis of the data provided for audit review revealed that the obligations had accrued from 2016 and management has not outlined significant steps taken to ensure the obligations are cleared.

In the circumstances, the Company is exposed to litigations and the regularity of the Kshs. 38,105,640 could not be confirmed.

Management Response

The company acknowledges the outstanding retirement benefits obligations amounting to Kshs. 38,105,640 as disclosed in Note 22 to the financial statements. This relate to County Pension Fund, National Water pension Scheme, and gratuity which have accumulated over the years due to cash flow challenges. However, the Company is making partial payments of the accrued arrears in addition to current obligation.

Committee Observations

The Committee observed that the company failed to remit retirement benefits totalling to Kshs.38,105,640, which remained outstanding since 2016, to the relevant institutions citing financial constraints.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer to engage the County Pension Fund and National Water Pension Scheme with the aim of formulating a payment agreement to settle the outstanding statutory deductions and provide a detailed status report on the same to the Auditor-General for subsequent reporting within 60 days from the adoption of this report;**
- ii. the Accounting Officer adheres to regulation 22(2)(a) of the Public Finance Management (County Government) Regulations, 2015, which provides that the accounting officer to comply with any tax, levy, duty,**

- pension, commitments and audit commitments as may be provided by legislation, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply;
- iii. the Board of Directors ensures the Water Company adheres to Section 19(4) of Employment Act, Cap.226 in regard to remittance of employee remuneration deductions in accordance with the time period specified by the relevant bodies, failure to which the provisions of section 87 of the Employment Act on penalties for offences shall apply;
 - iv. the County Executive Committee Member in charge of water should continuously monitor the financial performance of the water company in line with section 184 of the Public Finance Management Act and report on the same to the County Executive Committee, making recommendations on how the water company can improve its performance; and
 - v. the Auditor-General should review and provide a status update on the implementation of these recommendations and provide a report on this matter in the subsequent audit cycle.

4.0 Fees and Fines

The statement of profit or loss and other comprehensive income reflects Kshs. 188,915,410 in respect to general and operational expenses which further includes Kshs 5,351,490 in respect of fees and fines. The amount related to payment to various advocates for legal services rendered and costs related to enforcement of judgements through auctioneers. However, there was no professional opinion and letter of no objection from the County attorney who is indicated in the annual report and financial statements as the Principal legal advisor

In the circumstances, the regularity of the Kshs. 5,351,490 during the year could not be confirmed.

Management Response

We acknowledge the auditor's observation regarding the expenditure of Kshs. 5,351,490 incurred in fees and fines related to the enforcement of judgments. Moving forward, the Company will proactively ensure that all fees and fines receive a formal professional opinion or letter of no objection from the County Attorney.

Committee Observations

The Committee observed that the company paid fees and fines amounting to Kshs. 5,351,490 to various advocates for legal services rendered and for enforcement of judgements through auctioneers. The management failed to provide a professional opinion or a letter of no objection from the County attorney for audit review.

Committee Recommendations

The Committee recommends that the Ethics and Anti-Corruption Commission (EACC) conducts an investigation on the matter to determine the regularity of Kshs. 5,351,490 with a view to recommending for prosecution those who may have overseen the misapplication of public resources.

5.0 Lack of approved tariffs

The statement of profit or loss and other comprehensive income and as disclosed in note 6 to the financial statements reflects total operating income of Kshs. 228,318,433. It was however noted that the company was billing customers using tariffs that expired in the financial year 2020/2021. No evidence was provided of any tariff review request has been forwarded to Water Services Regulatory Board (WASREB) in seeking approval.

Consequently, the lawfulness of tariffs applied in billing customers could not be confirmed.

Management response

We acknowledge expiry of Regular Tariff Adjustment applied and approved by Water Services Regulatory Board. Management concluded Tariff Adjustment Process by engaging a consultant to undertake a Feasibility Study on Economical Charges for Water and Sanitation Services and a tariff adjustment proposal in the prescribed format by the Regulator. Due to the process of declustering the Company, the process was put on hold to allow the process to be concluded.

Committee Observations

The Committee observed that the company operated with an expired tariff during the financial year under review as the tariff expired in FY 2020/2021.

Committee Recommendations

The Committee recommends that—

- i. within sixty (60) days of the adoption of this report, the Accounting Officer should ensure that tariff adjustment is undertaken as required by Water Services Regulatory Board (WASREB) Tariff Guideline, 2023; and**
- ii. The Accounting Officer and the Board of Directors ensure that the water company makes tariff applications or seek extensions two years in advance to avoid the lapse before renewal.**

6.0 Regularity of Imprest Management

Review of payment records revealed that Kshs. 1,633,200 imprest was advanced to staff for various assignments during the year under review. The imprest was however not recorded in the imprest register as the management did not use the imprest issuance and accountability process where imprest warrants is raised with details including staff name, date of issuance, staff number, imprest warrant number and due date for ease of managing and controlling of imprest amount recorded thus making it difficult to determine the actual date for surrendering the imprest.

In addition, the imprest was expensed at source instead of charging the below the line accounts and charging respective expenditure accounts on surrender hence casting doubt on whether the imprest was properly and promptly surrendered contrary to Regulation 91(1), and Regulation 93(5) of the Public Finance Management (County Governments) Regulations, 2015 which require a holder of a temporary imprest to account for or surrender the imprest within seven (7) working days after returning to duty station and the Company's Financial Systems Policies and Procedures 6.2.1 which states that and imprest will be issued to officers for specific purposes and will be accounted for by submission of cash receipts and refund of the cash balance.

In circumstances, Management in breach of the law.

Management Response

We acknowledge the issues raised by the auditor in the review of the payment records and recognize the importance of ensuring strict adherence to established financial management protocols. The management has taken the following steps to address imprest management:

- a) Establishment of imprest registers.
- b) Officers surrendering their imprest within the required seven day.

Committee Observations

The Committee observed that—

- i. the company did not maintain an imprest register during the financial year under review hindering tracking and accountability; and
- ii. the company expensed imprest at the time of issuance, instead of being accounted for upon surrender, raising concerns about proper and timely settlement.

Committee Recommendations

The Committee recommends that—

- i. the EACC undertakes investigations on the regularity of imprest management in Gusii Water and Sewerage Company to ascertain if there was loss of public funds with a view to holding accountable those found culpable and provide a status update on actions taken within sixty (60) days of the adoption of this report; and
- ii. the Accounting Officer ensures strict adherence to Regulation 93(1) and (4) (c) of the Public Finance Management (County Governments) Regulations, 2015 in regards to maintenance of an imprest record, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply.

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROL, RISK MANAGEMENT AND GOVERNANCE

Pursuant to section 7(1) of the Public Audit Act, based on procedures performed by the Auditor General, the following matter formed the basis for conclusion that internal controls, risk management and overall governance were not effective –

Board Work Plan

Included in the statement of profit or loss and other comprehensive income and as disclosed in note 11 to the financial statements is Kshs. 5,931,653 being board expense. However, it was noted that the board committees had in operation a calendar of events but lacked a documented and approved board work plan, contrary to the requirements of the Mwongozo code of Governance for state corporations, 2015, which mandates the preparation and implementation of such a plan to ensure structured strategic execution of the board's responsibilities.

In the circumstances, the effectiveness of the internal controls over board operations could not be confirmed.

Management Response

Management acknowledges the auditor's observation regarding the need for a documented and approved board work plan.

In response, management has formulated, approved, and implemented a robust board work plan to guide and oversee board activities. This initiative will strengthen internal controls, promote accountability, and enhance the overall effectiveness of board operations.

Committee Observations

The Committee observed that whereas the Board Work Plan was provided and verified by the Auditor-General, the submission was done outside the timelines contemplated

under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act.

Committee Recommendations

The Committee recommends that the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle.

CHAPTER FIVE

REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR KAKAMEGA WATER AND SANITATION COMPANY LIMITED FOR THE FINANCIAL YEAR 2023/2024

The Governor of Kakamega County, Hon. FCPA Fernandes Barasa, OGW, appeared before the Committee on Tuesday, 25th March, 2025 to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for the Kakamega Water and Sanitation Company for the Financial Year 2023/2024. He was accompanied by –

1. Peninah Mukabane – CECM – Water and Environment
2. Michael Ogor – Managing Director (Kakamega Water and Sanitation Company)
3. Vivianne Mmbaka Komwonyo – County Attorney

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered a **Qualified opinion** on the financial statements of the Kakamega Water and Sanitation Company for the period under review on the following basis—

1. Trade and Other Receivables

1.1 Misstatement of Trade and Other Receivables

The statement of financial position reflects trade and other receivables balance of Kshs.247, 315,566 as disclosed in Note 18 to the financial statements. However, a detailed aging analysis to ascertain the age of the debts and a report on their recoverability was not provided for audit review.

In addition, the general ledger shows a trade receivables balance of Kshs.328, 592,352 which differs from Kshs.330, 203,606 in note 18 (a) to the financial statements resulting to an unexplained variance of Kshs.1,611,254.

In the circumstances, the accuracy and completeness of trade and other receivables balance of Kshs.247, 315,566 could not be confirmed.

Management Response

Response on non-provision of detailed aging analysis and a report on their recoverability.

The aging analysis was provided in the financial statements under note number 18 (a) page number 27 and a separate schedule supporting the figures was attached.

Management has resubmitted the same for your review.

Report on their recoverability During the audit process, management submitted the report on debt recoverability and the same has been availed for your review.

Explanation of the variance of Kshs.1, 611,254.

The original general ledger provided earlier amounting to Kshs. 328, 592,352 was revised to Kshs. 330,203,606 and submitted for audit after carrying out a reconciliation. The variance of Kshs.1, 611,254 was the amount of debtors that had not been included in the original Schedule due to timing differences. Management has provided a schedule of Kshs.1, 611,254 and a revised general ledger which add up to Kshs.330, 203,606 for your review.

Committee Observations

The Committee observed that—

- i. The company provided necessary documents to explain and to account for the variance of Kshs.1,611,254 and revised ledger to reflect correct amount of trade receivables amounting to Kshs.330, 203,606; and
- ii. detailed aging analysis to ascertain the age of the debts and a report on their recoverability was not provided for audit review.

Committee Recommendations

The Committee recommends that—

- i. the water company undertakes debtor's circularization to confirm the authenticity of the receivables and provide a status update on the same to the Senate within sixty (60) days of the adoption of this report;
- ii. the Accounting Officer should, within 60 days of the adoption of this report, submit a debtors' schedule to the Auditor-General for verification;
- iii. the Accounting Officer should within 60 days of the adoption of this report, submit an approved copy of the Debt Management Policy to the Auditor general for verification. The Auditor-General to verify the policy and submit a status update on the same in the subsequent audit cycle;
- iv. the Accounting Officer should, within 60 days of the adoption of this report, put in place recovery measures for the outstanding amount with clear timelines. The Auditor-General should review the implementation of the measures put in place provide a status update on the matter in the subsequent audit cycle; and
- v. The Accounting Officer to undertake a detailed analysis of its long outstanding trade receivables and with the Board's approval, write off the irrecoverable debts in line with the Section 130 (2) (d) of the Public Finance Management (County Governments) Regulations, 2015.

1.2 Unsupported Bad Debts Written-Off

The statement of financial position reflects trade and other receivables balance of Kshs.247, 315,566 as disclosed in Note 18 to the financial statements. The receivables balance was reduced by a bad debts written-off amount of Kshs.55, 408,532. However, the supporting documents of approval of the debts write-off by the company's board of directors and the county executive committee of the write-offs were not provided for audit review.

In the circumstances, the accuracy and completeness of trade and receivables balance of Kshs.247, 315,566 could not be confirmed.

Management Response

Response on non-provision of supporting documents of approval of debt write-off by the company's board of directors and the County Executive Committee.

Bad debts written-off amount of Kshs.55, 408,532.

This arose as a result of historical debts that accumulated over the years despite recovery efforts and measures put in place by management.

In line with the Company's policy, management presented the debts for write-off to the Board of Directors. The Board approved the write off vide a Board resolution dated 8th February 2025, which was submitted to OAG for review.

A cabinet memo has been prepared for presentation to the County Executive Committee for write-off of the bad debts. Upon approval by the County Executive Committee, the bad debts listing shall be submitted to the County Assembly for further approval and thereafter inform the National Treasury.

Prior year adjustment will be done in FY 2024/2025 to reinstate the balance of Kshs.55, 408,532 in the company's books of accounts pending approval from the County Executive Committee, County Assembly and the National Treasury.

Management has put in place measures to progressively reduce the receivables balance. Demand notices have been issued to defaulters to recover the debts. Other initiatives include debt aging analysis and verification undertaken in line with the Company's debt management policy.

Committee Observations

The Committee observed that the supporting documents of approval of the debts write-off by the company's board of directors and the county executive committee of the write-offs were not provided for audit review.

Committee Recommendations

The Committee recommends that—

- i. the water company adheres to the provisions of section 130 (2) (d) of the Public Finance Management (County Governments) Regulations, 2015 in writing off of bad debts;**
- ii. the Auditor-General to provide a status update on the matter during the subsequent audit cycle; and**
- iii. the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle.**

2. Misstatement of Trade and Other Payables

The statement of financial position reflects Trade and other payables balance of Kshs.263, 273,426 as disclosed in note 24 to the financial statements. However, the general ledgers and subsidiary ledgers for the payables reflect a balance of Kshs.278, 713,402 resulting to an unexplained variance of Kshs.15, 439,976.

In the circumstances, the accuracy and completeness of trade and other payables balance of Kshs.263, 273,426 could not be confirmed.

Management Response

Explanation of the variance of Kshs.15, 439,976

The variance of Kshs.15, 439,976 resulted from the outstanding payments to the Water Sector Regulatory Board (WASREB). The original schedules of Kshs.278, 713,402 which included Kshs. 15,439,976 for WASREB were extracted from the ERP system before reconciliation with Water Regulation Information System (WARIS) reporting platform which is managed by WASREB.

By the time of the audit, management had done system reconciliation and the final figure for trade payable to WASREB came to Kshs.35, 730,482 from the original figure of Kshs. 51,314,176.

Management reinstated the payables balance of Kshs 263, 273,426 as the final figure for trade payables.

Committee Observations

The Committee noted that the general ledgers and subsidiary ledgers for the payables reflect a balance of Kshs.278, 713,402 resulting to an unexplained variance of Kshs.15, 439,976.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer to take appropriate administrative action on responsible officers within the Accounts and Finance department who fail to keep complete financial records in accordance with section 156(1) of the Public Finance Management Act, Cap.412A and in line with their terms and conditions of appointment or employment, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;
- ii. the Accounting Officer should comply with section 149(2)(b) of the Public Finance Management Act, Cap.412A and section 47(2) of Public Audit Act, Cap.412B in the preparation and management of financial and accounting records, failure to which the provisions of section 62 of the Public Audit Act, Cap.412B and section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;
- iii. the National Treasury should enhance awareness and training on changes made to the accounting standards to all public officers handling financial matters in Counties;
- iv. the Accounting Officer should strengthen internal audit controls and ensure proper record keeping in line with section 155 of the Public Finance Management Act, Cap.412A and submit a quarterly report to the County Treasury and the Controller of Budget in accordance with section 168(3) of the Public Finance Management Act, Cap.412A, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;
- v. the Accounting Officer should enhance the capacity of in-post officers preparing financial statements to comply with the Public Sector Accounting Standards and should further invest in technology to enhance efficiency and improve the accuracy of financial statements; and
- vi. the Accounting Officer ensures that prior year adjustments are carried out in the company's financial statements of the subsequent year to correct the errors in order to reflect the true financial position of the company.

3. Material Uncertainty Related to Going Concern

The statement of profit or loss and other comprehensive income reflects a net operating loss of Kshs.5, 400,381 and Kshs.6, 354,903 for the current and previous financial year 2022/2023. In addition, the statement of changes in equity reflects a negative retained earnings amount of Kshs.325, 683,286. This reflects a severe financial challenge facing the company which raises significant doubt on its ability to operate as a going concern.

In the circumstances, the company's continued existence as a going concern is dependent on the financial support from its creditors and the Government.

Management Response

The going concern of the company is in doubt largely due to the World Bank loans borrowed by the Republic of Kenya through the National Treasury to construct bulk water supply infrastructure.

The amount of the negative retained earnings is attributed to the cumulative figure of losses accrued annually due to provision for interest on loans borrowed by the National Treasury. The company through a letter to the National Treasury on 13th March 2022, submitted that the obligation to repay these loans rests with the Republic of Kenya as the borrower as per the existing loan agreement and not the Company.

To improve the going concern status, management shall make prior year adjustments and derecognize the accrued interest on World Bank loans in the financial statements for the period ending 30th June 2025.

In the short run, the Company, with the support of the County Department of Water, Environment, Natural Resources and Climate Change, is currently undertaking a number of flagship projects geared to expand the revenue base and boost profitability. These initiatives

Includes:

1. Rehabilitation of Savona Water treatment plant works; an ongoing project expected to inject an additional 6,000m³/day for Kakamega residents. The project is expected to be completed by end of FY 2025/2026. The additional volume of water will consequently enhance the Company's revenues.
2. The company is progressively realizing last-mile connectivity through the takeover of 4 more schemes (Chombeli, Handid, Lubao and Chevoso). From the feasibility study conducted, the uptake of the new schemes is likely to increase the company's revenue base, thus, absorbing more fixed costs
3. Timely repair of damaged lines and bursts which will consequently reduce Non-Revenue Water (NRW) from 37% to 35 % as per the projections. Reduction on

NRW will consequently result in additional revenue coming in estimated at Kshs. 3 million in the FY 2024/2025.

Committee Observations

The Committee observed that the water company operated with a negative working capital during the financial year under review, casting doubt on the Company's ability to continue as a going concern.

Committee Recommendations

The Committee recommends that—

- i. The Governor of Kakamega County should take keen interest in the management and operations of the water company in line with Article 179 (4) of the Constitution;**
- ii. The Accounting Officer should prepare and submit quarterly reports in regard to the financial and non-financial status of the water company in line with section 166 of the Public Finance Management Act, Cap.412A, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;**
- iii. the County Executive Committee Member in charge of water should take full responsibility for monitoring the financial performance of the county corporation in line with section 184 of the Public Finance Management Act, Cap.412A and regularly report to the Governor through the County Executive Committee in line with Article 179 (6) of the Constitution;**
- iv. the County Treasury should undertake annual reporting on County Corporation including an assessment of the commercial viability of the company in line with the standards set by the Water Services Regulatory Board under section 77(2) of the Water Act, Cap.372, failure to which the provisions of section 147 of the Water Act on penalties for offences shall apply; and**
- v. the Accounting Officer should, within 60 days of the adoption of this report, put in place strategic and innovative measures for recovery and to boost the financial health of the water company for self-sustainability. Additionally, the management reviews and regularizes the company's existing assets and have updated assets register that reflect the current financial position. Further, management to determine and ascertain their commercial viability as required by the Public Sector Accounting Standards Board (PSASB).**

Emphasis of Matter

Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a final revenue budget and actual on comparable basis of Kshs.690,492,367 and Kshs.363,832,165 respectively, resulting into an underfunding of Kshs.326,660,203 or 47% of the budget.

Similarly, the statement reflects the final expenditure budget and actual on a comparable basis of Kshs.369,492,367 and Kshs.369,232,545 respectively, resulting in an under-expenditure of Kshs.259,822. However, the budget statement reflects an incorrect variance of Kshs.11, 628,609 of the budgeted amount.

In the circumstances, the under-funding of the planned activities may impact negatively on the service delivery of the Company.

Management Response

Underfunding of Kshs.326, 660,203 or 47%

The under-funding of Kshs.326, 660.203 was from the County Government, Water Sector Trust Fund and the USAID support partners. The projects earmarked for this funding were deferred to FY 2024/2025 and are currently ongoing.

Further, Management has taken note and will adhere in making realistic projections on any external funding and shall factor only committed funds by the financier or support partners.

Explanation of the incorrect variance of Kshs.11, 628,609.

Management has noted and state that the Kshs.11, 628,609 was a casting error on the statement of comparison of budget and actual amount. The error was occasioned by the provision for depreciation which is usually computed at the end of the financial year.

During preparation of financial statement the figure for depreciation was adjusted and the formula did not pick causing the error, however the error did not have any effect on the total loss realized.

Committee Observations

The Committee noted that an underfunding of Kshs.326,660,203 or 47% of the budget. There was also an under-expenditure of Kshs.259,822.

Committee Recommendations

The Committee recommends that—

- i. **the Accounting Officer should comply with regulation 42(1)(b) of the Public Finance Management (County Government) Regulations, 2015 on exerting**

budgetary control measures, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply; and

- ii. the Board of Directors should institute proper and realistic budget planning as well as measures to enhance its own generated revenue, such as review of tariffs, connection of more customers and automation to address revenue leakages. The Auditor-General to confirm the effectiveness of the mitigating measures put in the water company and report in the subsequent audit cycle.**

Other Matter

Unresolved Prior Year Matters

In the report for the previous year, several issues were raised under the Report on the Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, management has not resolved the issues or given any explanation for the failure to adhere to the provisions of the Public Sector Accounting Standards Board templates and The National Treasury's Circular.

Management Response

Management has implemented most of the prior year issues as indicated in the audit report under page number 36 and awaiting senate resolution on closure of the matters. Management has attached a summary of issues that have been implemented for your audit review.

Committee Observations

The Committee observed that the query remains unresolved as the management of the water company did not take action in resolving the queries raised in the report of the Auditor-General for the financial year 2022/2023.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should resolve any issues resulting from an audit that remains outstanding as required by section 149(2)(l) of the Public Finance Management Act, Cap. 412A, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences may apply; and**
- ii. the Auditor-General provides a status update on the progress made on the matter in the subsequent audit cycle upon review of the progress report.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Pursuant to Article 229 (6) of the Constitution, based on the audit procedures performed by the Auditor General, the following matters formed the basis for conclusion that public resources were not applied lawfully and in an effective way –

1. Non- Allowable Loss of Non-Revenue Water

During the year under review, record from the company revealed that it produced 4,737,376 cubic meters (M3) of water out of which 2,993,553 cubic meters (M3) or approximately 63% was distributed and billed to customers. However, the balance of 1,743,823 cubic meters (M3) or approximately 37% of the total volume produced was not billed. This is contrary to the Water Services Regulatory Board (WASREB) guidelines which provide an allowable maximum loss of 25% for every cubic meter (M3) or 435,956M3.

In the circumstances, the ineffective management of water negatively impact on the company's profitability and result in an allowable loss of non-revenue water of 1,307 867M3.

Management Response

The major causes of Non-Revenue Water are old dilapidated infrastructure, non-functional meters, and destruction of pipelines during road construction works, illegal water connections, pipeline and water infrastructure vandalism.

In the Company's 2021-2026 Strategic Plan, Non-Revenue Water Management is a key thematic pillar. Further, the company has developed a non-revenue water reduction policy and strategy, which is being implemented and monitored regularly by management.

During the year under review, upgrading of marram roads to tarmac roads by both National and County governments resulted in the destruction of the following water pipelines by road work contractors; Kakamega area:- Shitaho – Shivakala, Mahiakalo – Nyayo tea Zone- Shitaho, Bishop Sulumeti GHS – Shitaho community, Amalemba Primary - Township. Amina Salim street, Abdi Mnawa street. Shitoli Area- Sigalagala -Musingu, Musutsi-Shilalio, Mukumu- Shidodo, Mugomari- Malimili, Museno-Irobo- Masienze Posta-Shitochi- Sigalagala, Shikumbi - Lirhembe, Ilala - Shipalo, Muraka - Ilesi -Mukhonje, Shavihiga - Shibwe. Mumias area :- Matawa – Indangalasia, Lumino – Nyapora, St Peters – Nyapora, Mumias – Musanda Shinyalu area :- Itenyi line, Galilaya line. Lumakanda Scheme: Boaz Line

A total distance of 24.5Km was destroyed resulting to 784,720 M3 of water loss and 6,211 customers being affected

Management has taken the following mitigation measures for progressive reduction of Non-revenue Water:-

Destruction of water pipelines by road work contractors.

The company has engaged both the National and the County Government and resolved to ensure that the company is involved during design and construction of roads to reduce the destruction of water pipelines. Management has issued demand letters to the respective road works contractors for compensation of lost water and damaged pipelines.

Illegal water consumption

The company has enhanced inspection on disconnected accounts, is carrying out continuous meter sealing to deter illegal water consumption and procedurally reinstating disconnected customers to deter water theft.

Further, the company has partnered with the water police unit to curb illegal water consumption.

Under-registering aged consumer water meters

The company has procured portable meter test bench for testing and calibration of consumer meters. Further the company has partnered with Water Service Providers Association (WASPA) and Kisumu Water and Sanitation Company (KIWASCO) for bulk meter calibration

As a long-term measure, management has upgraded consumer meters from ordinary meters to smart-enabled class C-ones.

Frequent water pipeline bursts and leakages

The company has zoned the water supply infrastructure in terms of pipeline water pressures in order to guide on class of pipes to use and has upgraded aged and dilapidated water pipeline from UPVC pipes to

HDPE pipes which are more robust.

Further, the company has mapped the water supply infrastructure network on GIS platform to enhance response time to attend to bursts and leaks.

Ineffectiveness in management of NRW.

The company recognized the implication of high Non-Revenue Water (NRW) levels on its financial viability and approved the NRW management policy. The company has also developed and is implementing NRW reduction strategy on annual basis that has resulted in reduction of NRW by 2%. Management has up scaled establishment of 11 No. District Metered Areas (DMAs) for effective management of water supply.

6 Lack of a dedicated unit to manage NRW reduction.

The company established a NRW section whose responsibility is to implement NRW management strategies. The section is headed by a NRW manager. NRW has dropped from 42 to 37% as a result of establishing and equipping the department.

Committee Observations

The Committee observed that the Non-Revenue Water was 33% way above the sector benchmark of 25% prescribed by the Water Services Regulatory Board (WASREB) guidelines.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should put in place comprehensive measures to mitigate on the Non-Revenue Water, that is, both physical and commercial losses. The measures to include replacement of old age dilapidated infrastructure, installation of smart meters for accurate billing and the application of Geographical Information System (GIS) to receive real-time data for the detection of bursts and leakages among other measures. The Auditor-General to review the implementation of the measures put in place to mitigate the Non-Revenue Water and provide a status update on the matter in the subsequent audit cycle;**
- ii. given the impact of Non-Revenue Water on the water company's cashflows, the Accounting Officer should ensure that a provision for Non-Revenue Water is included in the financial statements. Further, explanatory notes should be provided to detail the contributions of both commercial and physical loss factors to the overall Non-Revenue Water; and**
- iii. the Governor of Makueni County to collaborate with the Ethics and Anti-Corruption Commission to ensure pre-emptive measures are put place to reduce cases of theft and illegal connections.**

2. Irregular Expenditure on Members of County Assembly (MCAs)

The statement of profit or loss and other comprehensive income reflects general and operational expenses of Kshs.128, 818,795 and as disclosed in Note 11 to the financial statements. Included in the amount is Kshs.4, 085,000 in respect of stakeholders' awareness and AGM expenditure. Included in the expenditure is Kshs.1, 279,000 for paying allowances to Members of the County Assembly, County Government of Kakamega during County Assembly meetings in Kakamega.

The meetings and payment of allowances were sanctioned by the County Executive and County Assembly. This is contrary to Regulation 42(1) (b) of the Public Finance

(County Governments) Regulations, 2015 which requires that an Accounting Officer shall ensure that public funds entrusted to their care are properly safeguarded and are applied for purposes for which they were intended and appropriated by the County Assembly.

In the circumstances, Management was in breach of law.

Management Response

The expenditure referenced was for a consultative meeting of the Company, County Executive and the County Assembly to adopt the legislation under FLOCCA Funding as a way of stakeholder public participation. The amount paid was not regarded as allowance but rather the re-imbursement for transport and other travel costs to the venue of the meetings. The FLOCCA project whose success relied on multi-stakeholder engagement, has assisted the company in rehabilitating Savona Water Treatment Works as well as solarization of its pumping system. Upon Completion, this project will enhance water production volumes, increase water supply hours for the residents of Kakamega and align the county to the climate change agenda.

Committee Observations

The Committee noted the County government of Kakamega spent Kshs.1,279,000 for paying allowances to Members of the County Assembly that was contrary to Regulation 42(1) (b) of the Public Finance (County Governments) Regulations, 2015.

Committee Recommendations

The Committee recommends that the Accounting Officer ensures that the water company strictly adheres to the Controller of Budget Circular, Circular No.15 of 2023 on Funding of County Assembly activities from executive budget.

3. Excess Wage Bill

The statement of profit or loss and other comprehensive income reflects staff costs amounting to Kshs.180, 074,012 as disclosed in note 10 to the financial statement. The amount is equivalent to 49% of the total revenue of the water company amounting to Kshs.363, 832,165 against the required ratio of 30%. Additionally, the current staff numbers one hundred and sixty-seven (167) staff which differs from recommended industry requirement for the water company of ninety (90) staff resulting in excess staffing of seventy-seven (77) personnel. This is contrary to Table 3.2 of WASREB Impact Performance Report No.16/2024 of Kenya Water Sector in 2022/2023 financial year which classifies Kakamega County Water and Sanitation Company as a very large water service provider and provides that the acceptable sector benchmark for staff productivity to be 5 per 1000 active connections.

In the circumstances, Management was in breach of the law.

Management Response

After the transfer of service of 38 staff to Rural Company in the year 2022 January, KACWASCO reorganized its staff and appointed various staff in certain positions for continuity of service delivery. The County Executive Committee recalled the transfer of the 38 staff and reinstated them in the existing ranks of the company which caused a high wage bill.

Management has put the following measures in place to reduce the excess wage bill,

1. Management is undertaking restructuring to streamline staff productivity and workload rationalization.
2. Management has also absorbed 4 new water schemes to enhance service delivery to the people of Kakamega County. A feasibility study was conducted and the schemes have been deemed viable. They include Chombeli, Handid, Lubao and Chevoso. Management intends to redeploy several staff to work in the new stations as a way of complying with the regulator on staff productivity ratio. It is estimated that these new stations will enhance the Company's revenue by Ksh. 500,000 per month.
3. Management has put in place strategies to reduce non-revenue water from 37% to 35 %. This is estimated to increase the company's revenue by Kshs. 3 million in the FY 2024/2025.
4. Management has frozen new hires and replacement of vacant positions. 5. The company has put measures to activate inactive and dormant accounts that is aimed at expanding its revenue base.

Committee Observations

The Committee observed that the query remains unresolved as the water company spent of Kshs 20,961, 339 (49% of the total revenue) on personnel expenses to Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015.

Committee Recommendations

The Committee recommends that—

- i. the Auditor-General to carry out audit of staff of Kakamega Water and Sanitation Company Limited to confirm that there is no existence of ghost workers and provide a status report on the same in the next audit cycle; and
- ii. the Company adheres with the provisions of regulation 25(1) of the Public Finance management (County Government) Regulations, 2015 which limits the wage bill to thirty -five percent (35%) of the total revenue and establish a lean staff.

4. Non-compliance with the Law on Ethnic Diversity

During the year under review, the audit revealed that one hundred and thirty-three (133) staff or 80% of the total staff population of one hundred and sixty-seven (167) are from one ethnic community this is contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which provides that no public establishment shall have more than one-third of its staff from the same ethnic community. In the circumstances, Management was in breach of the law.

Management Response

Most of the staff were employed before the enactment of section 7(2) of the National Cohesion and Integration Act 2008. Since enactment and coming into force of the above section of the law, management has endeavored to ensure compliance while recruiting staff of the company. Kakamega County Water and Sanitation Company was established under the Kakamega County Water and Sanitation Services Act 2021 and incorporated under the Companies Act 2015 after devolution. The Company has had various transitions since 2006 when it was first established. Majority of staff were inherited from the National Water Corporation and they were on permanent and pensionable terms. During financial year 2022/2023, the company advertised for various management positions and the recruitment factored in ethnicity representation. Management has provided the current staff employed for your audit review. In future recruitments, management shall adhere to Section 7(2) of the National Cohesion and Integration Act, 2008 as required.

Committee Observations

The Committee observed that the query remains unresolved as 133 of the total employees comprised of staff from one dominant ethnic community thus there was no ethnic diversity among the company employees.

Committee Recommendations

The Committee recommends that—

- i. **The Board and the accounting officer makes deliberate efforts to progressively comply with section 65 of the County Governments Act, 2012 which provides that at least thirty percent 30% of the vacant posts at entry level be filled by candidates who are not from the dominant ethnic community; and**
- ii. **The Board and the accounting officer to make deliberate efforts progressively in the endeavor to comply with Section 7 (1) and (2) of the National Cohesion and Integrity Act, 2008, which requires that public establishments shall seek to represent the diversity of the people of Kenya in employment of staff.**

5. Long Outstanding Trade and Other Payables

The statement of financial position reflects trade and other payables of Kshs.671,951,897 as disclosed in note 24 to the financial statements. Included in the balance is a long-term payables balance of Kshs.408, 678,432, which have been outstanding for more than three years. The long outstanding payables comprise of Kreditanstalt fur Wiederaufbau (KfW) of Kshs.38, 387,465, World Bank-Mumias of Kshs.275, 541,203, World Bank-Lumakanda of Kshs.63, 013,172, and Motor Vehicles of Kshs.7, 067,367. In the circumstances, there is risk of loss of public funds through litigations, interests and penalties. In the Circumstances, management was in breach of the law.

Management Response

Explanation of the long-term payables balance of Kshs.408, 678,432, which have been outstanding for more than three years The Long outstanding payables of Kshs. 408,678,432 comprises of Kshs.401,611,065.20 for accrued interest from the loans of Kshs. 4,296,194,094 that were borrowed by the Republic of Kenya from Federal Republic of Germany and KfW, Frankfurt Main in the year 2007 and a loan balance of Kshs 7,067,366.95 from CFAO motors borrowed by KACWASCO to finance purchase of 3 motor vehicles. The loans from KfW and World Bank were to finance the implementation of the Water Sector Development Program (Phase II, stage 2). The project executing agency, to whom the funds were channeled was the Lake Victoria North Water Works Development agency. These funds were used for infrastructure Development of the Kakamega water supply Tindinyo treatment works. The Government of the Republic of Kenya, borrowed a loan of Kes.1, 654,992,498 from World Bank for infrastructure development of the Mumias water supply/Nambacha treatment works and a further Kshs. 302,463,225 for infrastructure development of the Lumakanda water supply/Kipkaren treatment works. In total the outstanding loan amount is Kes. 4,296,194,094 (Four Billion, Two Hundred and Ninety-Six Million, One Hundred and Ninety-Four Thousand, and Ninety Four Shillings). Management submits that the obligation to repay these loans lies with the National Treasury and not the Kakamega County Water and Sanitation Company (KACWASCO) based on the following aspects:

1. It is the mandate of the National Government to provide bulk water infrastructure and it therefore borrowed the loans to fulfill this mandate.
2. The National Treasury signed the existing loan agreement as the borrower and LVNWWDA as the executing agency to the agreement. The company was therefore not a party to the agreement.

3. The PFM Act requires that before a loan is acquired by a devolved unit, there has to be an approval from the County Assembly and a guarantee from the National Treasury. These important procedures were not undertaken in this case.
4. Ownership of assets acquired from the loans still vests with Lake Victoria North, Water Works Development Agency, the implementing agency of the loan agreement yet the liability was purportedly passed to the Company. Management is not able to recognize the loans in the company books of account without the corresponding assets.

Following the above issues, it is clear that the principal loan and interest thereof should be derecognized from the Company's books of accounts. Management therefore requests the intervention of the Senate to ensure that the responsibility of the loan repayment is passed to the National Treasury as per the signed loan agreement. Further, management recommends that the Republic of Kenya through the National Treasury pronounces a vesting order of the assets in favor of the Company and conversion of the loan liability into reserve.

Committee Observations

The Committee noted that the water company payables balance of Kshs.408, 678,432 which have been outstanding for more than three years.

Committee Recommendations

The Committee recommends that the Accounting Officer engages all entities owed and formulate a repayment plan for payables amounting to Kshs.408, 678,432 and file a report on the same with the Auditor-General for verification. Auditor-General to provide a status update on the matter in the subsequent audit cycle.

6. Lack of an Updated Asset Register

The statement of financial position reflects Property, Plant and Equipment balance of Kshs.210, 706,464 as disclosed in note 16 to financial statements. However, the assets register maintained by the company did not include tag numbers, year of purchase, serial numbers and condition of the assets. In addition, physical verification carried out revealed that several assets were not tagged/coded. This is contrary to Regulation 143. (1) of the Public Finance Management (County Government) Regulations, 2015 which states that the Accounting Officer shall be responsible for maintaining a register of assets under his or her control or possession as prescribed by the relevant laws. In the circumstances, Management was in breach of the law. Management Response Management has an asset register however it is missing some of the components like tag numbers and book values to some of the assets that were inherited from Lake

Victoria North which needs revaluation to ascertain accurate book values. Management is currently undertaking asset tagging and further will engage professional valuers to complete the process.

Committee Observations

The Committee noted that the water company has currently updated the asset register.

Committee Recommendations

Noting the mitigation measures put in place, the Committee recommends that the matter be marked as resolved.

7. Failure to Conduct Governance Audit

During the year under review, a review of the Board activities revealed that the board of directors did not sanction a governance audit to be carried out and no supporting documents were not provided. This is contrary to Chapter 1 paragraph 1.13 (1) and (2) of the Mwongozo Code of Governance for State Corporations of 2015 which provides that, the Board in consultations with the oversight office, should ensure that it subjects the organization to an annual governance audit by a member regulated by the Institute of Certified Public Secretaries of Kenya (ICPSK) and accredited for that purpose. In the circumstances, the management was in breach of the law.

Management Response

The board had been newly appointed and was working on necessary governance structures including the Board committees, management team and relevant company policies. The structures are now in place and the board has approved 11 policies under implementation. We have noted the observation of the Auditor and the Board already sanctioned for a governance audit for the current FY 2024/2025

Committee Observations

The Committee noted that board of directors did not sanction a governance audit to be carried out and no supporting documents were not provided at the time of audit.

Committee Recommendations

The Committee recommends that the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle.

8. Inadequate information and technology (IT) Internal Controls

During the year under review, review of the water company records revealed that it did not have an ICT steering and strategic committee, CT security policy, and IT strategic plan and ICT operational plans. In addition, formal risk assessment was not carried out and no supporting documents were provided. This is contrary to Chapter 3.3 of Mwongozo code of governance 2015 the board has the responsibility to ensure that the organization has adequate systems and processes of accountability, risk management and internal control in place. In addition, Section 3.6 the board is responsible for the formulation and establishment of an ICT policy which should be integrated into the operations of the organization. In the circumstances, the adequacy of information and technology internal controls could be confirmed.

Management Response

Management has formed ICT steering and strategic committee and further drafted an ICT policy. The Board has validated and adopted the National ICT Governance guidelines. Management is in the process of doing a formal risk assessment.

Committee Observations

The Committee noted that the water company did not have an ICT steering committee in place to assist in development of ICT policy framework to enable the company realize long term ICT strategic goals.

Committee Recommendations

The Committee recommends that the County Executive Committee Member (CECM) - Finance ensures that the water company puts in place all internal control systems such as the ICT policy as provided under section 155 (5) of the Public Finance Management Act, 2012 among others to guide the internal operations of all the water companies. Further, the management to submit evidence of the same to the Auditor-General for verification.

CHAPTER SIX

REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR KAPSABET NANDI WATER AND SANITATION COMPANY LIMITED FOR THE FINANCIAL YEAR 2023/2024

The Governor of Nandi County, Hon. Stephen Kipyego Sang, EGH, appeared before the Committee on Thursday, 13th March, 2025 to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for the Kapsabet Nandi Water and Sanitation Company Limited for the Financial Year 2023/2024. He was accompanied by –

1. Hillary K. Serem – CECM-Finance
2. Dr Francis Sang – County Secretary
3. Micah Kipleting – Commercial Manager (Kapsabet Nandi Water and Sanitation Company Ltd)

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered a **Qualified opinion** on the financial statements of the Kapsabet Nandi Water and Sanitation Company for the period under review on the following basis—

1. Property, Plant and Equipment

The statement of financial position reflects property, plant and equipment balance of Kshs.22,793,308 as disclosed in Note 14(a) to the financial statements. As previously reported the balance excludes property, plant and equipment balance of Kshs.706,977,432 owned by Lake Victoria Water Service Board which had not been transferred at the close of the year, as management have disclosed that the transfer of ownership is underway.

Management Response

The Company could not recognize the assets amounting to Kshs.706,977,432 because they still belong to, and are being reflected in the asset register of, Lake Victoria North Water Works Development Agency (LVNWWDA). However, the Company has disclosed all the assets owned by the Agency, and which are awaiting the transfer.

The company followed its policy on property, plant and equipment (refer to page 10 (g) of the audited financial statements) which partly states that; “Property, plant and equipment shall include fixed assets granted by Government, development partners and those acquired by the Company but shall exclude all fixed assets leased and owned by LVNWWDA unless they have been transferred to the Company.”

Further follow up was done by the Company on 2nd December, 2025 and on 31st January 2025, LVNWWDA responded with a list of assets owned by the Agency but currently being used by the Company.

The Company is in the process of acquiring ownership documents for the seven (7) parcels of land on which the main office buildings, water treatment plants, pump station and water tanks are domiciled.

Committee Observations

The Committee observed that the water company had property, plant and equipment balance of Kshs.706,977,432 owned by Lake Victoria Water Service Board which had not been transferred at the close of the year.

Committee Recommendations

The Committee recommends that—

- i. the Governor ensures that the water company secures full ownership of the queried property, plant and equipment and provide a status update to the committee within 60 days of adoption of this report;
- ii. the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9 (1)(e) of the Public Audit Act, Cap.412B, failure to which the Committee shall recommend for their investigation and prosecution in line with section 62(2) of the Public Audit Act, 2015;
- iii. the Accounting Officer ensures that the water company maintains an up-to-date asset register in the format prescribed by the Public Sector Accounting Standards Board (PSASB) and the company to carry out a valuation of all its assets and submit the same to the Auditor-General within 60 days from the adoption of this report;
- iv. the Governor engages the Intergovernmental Relations Technical Committee (IGRTC) to ensure that the process of transfer of all assets and liabilities are completed in a timely manner; and
- v. the Auditor-General to undertake physical verification of all assets of the water company and provide a status report to the Committee within 60 days from the adoption of this report.

Emphasis of Matter

1.0 Budgetary Control and Performance

The statement of comparison of budget and actual amounts for the year ended 30 June, 2024 reflects total final Income budget and actual receipt of Kshs.124,959,008 and

Kshs.118,349,821 respectively resulting to under-collection of Kshs.6,609,187 or 5.3% of the budget. Similarly, the Company spent an amount of Kshs.100,866,351 against actual receipts of Kshs.118,349,821 resulting to an under-utilization of Kshs.17,483,470 or 15% of the actual receipts.

The underfunding affected the planned activities and may have impacted negatively on service delivery to the public.

Management Response

The variance in income of Kshs. 6,609,187 was occasioned by delayed disbursement from Water Sector Trust Fund (WSTF) as had been anticipated during the year under review. This was received in December, 2024.

The under-utilization of Kshs.17,483,470 was occasioned by partial release of funds by WSTF at the close of the financial year.

In addition, there were no legal expenses in the year under review.

Committee Observations

The Committee observed that the water company had an under-collection of Kshs.6,609,187 or 5.3% of the budget and also had an under-utilization of Kshs.17,483,470 or 15% of the actual receipts.

Committee Recommendations

The Committee recommends that the Accounting Officer should comply with regulation 42(1)(b) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.

Other Matter

3.0 Unresolved Prior Years Matters

In the audit report of the previous year, several issues were raised under Report on the Financial Statements and Report on Lawfulness and Effectiveness in the use of public resources. However, the issues remained unresolved, as relevant Parliamentary Committee had not discussed them.

Management Response

The Company Audit Committee has considered the Prior Year Audit Matters and given their recommendations for action by the Management and the progress of resolving them was disclosed

Further, the Company appeared before the Public Investments and Special Funds Committees of the County Assembly and the Senate on the Prior Year Audit Matters and is awaiting the recommendations for action by the Management.

Committee Observations

The Committee observed that the query remains unresolved as the management of the water company did not take action in resolving the queries raised in the report of the Auditor-General for the financial year 2022/2023.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should resolve any issues resulting from an audit that remains outstanding as required by section 149(2)(l) of the Public Finance Management Act, Cap. 412A, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences may apply; and
- ii. the Auditor-General provides a status update on the progress made on the matter in the subsequent audit cycle upon review of the progress report.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Pursuant to Article 229 (6) of the Constitution, based on the audit procedures performed by the Auditor General, the following matters formed the basis for conclusion that public resources were not applied lawfully and in an effective way –

1.0 Non-Revenue Water

The statement of profit or loss and other comprehensive income for the year ended 30 June 2024 reflects total revenue of Kshs.118,349,821 which includes operation revenue amount of Kshs.79,963,956 as disclosed in Note 6 to the financial statements Analysis of the water production and billing records of the Company revealed that the Company produced a total of 1,202,689m³ but billed a total of 737,776 m³ leaving a total of 464,913m³ unaccounted for representing 39% of the total production which is above the maximum 25% acceptable level of Non-Revenue Water.

In the circumstances, Management was in breach of the law.

Management Response

The NRW of 39% was occasioned by aged and dilapidated pipe network, burst and leakages, illegal connections / water theft, self-reconnections & by-passes, stuck and

faulty meters & meter tampering. However, the company has put in place the following measures;

1. Formation of NRW Unit – The team undertakes daily inspection of lines, dormant accounts and large consumers with a view of eliminating illegal water use.
2. Metering – the Company endeavors to maintain 100% metering.
3. Continuous Rehabilitation of pipelines, Zoning and Installation of Zonal meters – 54 km rehabilitated with PPR and 44 zonal meters installed to help address NRW at source. The County Government will budget for upgrading to PPR a total of 124km in the subsequent financial year.
4. Quick response to reported burst and leakages including identifying cases of theft of water.
5. The Company has an emergency contact line (0716006464) for customers to report any cases of bursts and leakages along the pipelines.
6. Enactment of Nandi County Water Bill which will enhance the Company's ability to prosecute illegal use hence reduction of NRW.

Committee Observations

The Committee observed that the Non-Revenue Water was 39% way above the sector benchmark of 25% prescribed by the Water Services Regulatory Board (WASREB) guidelines.

Committee Recommendations

The Committee recommends that—

- i. **the Accounting Officer should put in place comprehensive measures to mitigate on the Non-Revenue Water, that is, both physical and commercial losses. The measures to include replacement of old age dilapidated infrastructure, installation of smart meters for accurate billing and the application of Geographical Information System (GIS) to receive real-time data for the detection of bursts and leakages among other measures. The Auditor-General to review the implementation of the measures put in place to mitigate the Non-Revenue Water and provide a status update on the matter in the subsequent audit cycle;**
- ii. **given the impact of Non-Revenue Water on the water company's cashflows, the Accounting Officer should ensure that a provision for Non-Revenue Water is included in the financial statements. Further, explanatory notes should be provided to detail the contributions of both commercial and physical loss factors to the overall Non-Revenue Water; and**

- iii. **the Governor of Nandi County to collaborate with the Ethics and Anti-Corruption Commission to ensure pre-emptive measures are put place to reduce cases of theft and illegal connections.**

2.0 Failure to Observe One Third Staff Establishment Rule

Review of the human resource records revealed that the Company had twenty eight (28) employees out of whom twenty five (25) were from the dominant ethnic community in the County representing 89% of the Company's workforce. This was contrary to Section 7(1) of the National Cohesion and Integration Act, 2008 which states that all public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff and (2) No public establishment shall have more than one third of its staff from the same ethnic community

In the circumstances, Management was in breach of the law.

Management Response

The Company inherited staff from Ministry of Water and Irrigation, National Water Conservation and Pipeline Corporation and also from County Government of Nandi. However, the company will gradually ensure that the requirement is met progressively in all future recruitments.

Committee Observations

The Committee observed that the query remains unresolved as 28 (89%) of the total employees comprised of staff from one dominant ethnic community thus there was no ethnic diversity among the company employees.

Committee Recommendations

The Committee recommends that—

- i. **The Board and the accounting officer makes deliberate efforts to progressively comply with section 65 of the County Governments Act, 2012 which provides that at least thirty percent 30% of the vacant posts at entry level be filled by candidates who are not from the dominant ethnic community; and**
- ii. **The Board and the accounting officer to make deliberate efforts progressively in the endeavor to comply with Section 7 (1) and (2) of the National Cohesion and Integrity Act, 2008, which requires that public establishments shall seek to represent the diversity of the people of Kenya in employment of staff.**

3.0 Trade and Other Receivables

The statement of financial position reflects trade receivables balance of Kshs.25,008,529 as disclosed in Note 21 to the financial statements. It was noted that there was an increase of Kshs.7,041,086 or (39%) from the Kshs.17,967,443 which was reported in the previous financial year. Review of the ageing analysis provided shows that debts totaling to Kshs.12,810,242 representing 51% of the balance had remained outstanding for over 90 days implying that their recoverability was doubtful. This was contrary to Section 6.3 of the Company's financial policy manual that allows up to 60 days moratorium before payment for monthly bill or any other amounts due on contractual obligation. Further, Management did not demonstrate tangible efforts towards recovery of the long outstanding debts or write off of the overdue debts.

In the circumstances, the recoverability of receivables balance of Kshs.25,008,529 reflected in the financial statements is doubtful and may negatively affect the operations of the company.

Management Response

The Company has put in place the following measures as an effort to collect all the outstanding arrears;

- (i) Disconnection of defaulters.
- (ii) Use of demand notices and reminder SMS.
- (iii) Introduction of negotiated payment plans.
- (iv) Inspection of dormant accounts to ascertain the reasons on nonpayment after disconnection for action.
- (v) Formation of a dedicated revenue collection team which conducts daily visits to customers with assigned targets on collection.

Committee Observations

The Committee observed that the query remains unresolved as the company had long outstanding trade and other receivables amounting to Kshs.12,810,242 which remained outstanding for over for over 90 days.

Committee Recommendations

The Committee recommends that—

- i. the water company undertakes debtor's circularization to confirm the authenticity of the receivables and provide a status update on the same to the Senate within sixty (60) days of the adoption of this report;
- ii. the Accounting Officer should, within 60 days of the adoption of this report, submit a debtors' schedule to the Auditor-General for verification;
- iii. the Accounting Officer should within 60 days of the adoption of this report, submit an approved copy of the Debt Management Policy to the Auditor

- general for verification. The Auditor-General to verify the policy and submit a status update on the same in the subsequent audit cycle;
- iv. the Accounting Officer should, within 60 days of the adoption of this report, put in place recovery measures for the outstanding amount with clear timelines. The Auditor-General should review the implementation of the measures put in place provide a status update on the matter in the subsequent audit cycle; and
 - v. The Accounting Officer to undertake a detailed analysis of its long outstanding trade receivables and with the Board's approval, write off the irrecoverable debts in line with the Section 130 (2) (d) of the Public Finance Management (County Governments) Regulations, 2015.

4.0 Long Outstanding Trade Payables

The statement of financial position reflects trade and other payables balance of Kshs.18,694,397 which includes trade payables of Kshs.15,872,147, audit fees for the Office of the Auditor General of Kshs.1,920,000 and staff payables of Kshs.902,250 as disclosed in Note 28 to the financial statements. Aging analysis of the trade payables revealed that trade and other payables amounting to Kshs.8,919,619 had been outstanding for over 365 days. Management of the Company did not provide a settlement plan to be followed to settle the debts. Further, there was no evidence that the Company had engaged the creditors for non-payment of the debts.

In the circumstances, Management was in breach of the law.

Management Response

The Company faced cash flow challenges and hence did not honour payments to some of its creditors in time. However, company is negotiating with WASREB for a waiver, out of the outstanding amount of Kshs. 12,838,607. The Company has paid as follows;

No	Creditor	Amount	Paid in 2023-2024
1.	WASRE B	10,289,916	480,000
2.	WRMA	628,691	100,000
3.	OAG	1,920,000	232,000

Note: WRA abstraction charges were challenged in court and the Company is still waiting for determination of the court case.

Committee Observations

The Committee observed that the query remains unresolved as the company had long outstanding trade and other payables amounting to Kshs.8,919,619 which remained outstanding for over one year.

Committee Recommendations

The Committee recommends that the Accounting Officer engages the Auditor-General and all other entities owed to formulate a repayment plan for the payables amounting to Kshs.8,919,619 and file a report on the same with the Auditor-General for verification. The Auditor-General to provide a status update on the matter in the subsequent audit cycle.

CHAPTER SEVEN

REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR THE KIBWEZI-MAKINDU WATER AND SANITATION COMPANY LIMITED FOR THE FINANCIAL YEAR 2023/2024

The Governor of Makueni County, Hon. Mutula Kilonzo Junior, CBS, appeared before the Committee on Monday, 17th March, 2025 to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for the Kibwezi-Makindu Water and Sanitation Company Limited (KIBMAWASCO) for the Financial Year 2023/2024. He was accompanied by –

1. Damaris M. Kavio – CECM-Finance
2. Francis Muendo – Finance Manager (KIBMAWASCO)
3. John Nguni – Chief Officer Financial Services

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered a **Qualified Opinion** on the financial statements of the Kibwezi- Makindu water and sanitation company for the period under review on the following basis-

Emphasis of Matter

1. Budget and Budgetary Performance

The statement of Comparison of Budget and Actual Amounts for the period ended 30th June 2024 reflects final revenue budget and actual on comparable basis of Kshs 98,152,933 and Ksh 86,480,292 respectively resulting to a shortfall of Kshs 11,672,641 or approximately 12% of the budget.

The underfunding may affect the planned activities and may impact negatively on service delivery to the public.

Management Response

The company's budgeted income is based on projected water bills revenue, which is subject to water consumer consumption behaviors among other external factors. Whenever the projected revenue is not achievable the management has to cut down some expenses to match the realizable revenue, Expenditure is managed to ensure that the core mandates of the company are not underfunded in avoidance of adverse impact on service delivery to the public.

Committee Observations

The Committee noted that there was a revenue shortfall of Kshs 11,672,641 or approximately 12% of the budget.

Committee Recommendations

The Committee recommends that—

- i. The Accounting Officer should ensure strict compliance with section 149(2) (h) and (i) of the Public Finance Management Act, Cap. 412A and the standards prescribed by the Public Sector Accounting Standards Board under IPSAS 24 on the presentation of budget information in the financial statements for an entity that prepares their financial statements under the accrual basis of accounting, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply;**
- ii. the Accounting Officer should comply with regulation 42(1) (b) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply; and**
- iii. the Board of directors should institute proper and realistic budget planning as well as measures to enhance its own generated revenue, such as review of tariffs, connection of more customers and automation to address revenue leakages. The Auditor-General to confirm the effectiveness of the mitigating measures put in the water company and report in the subsequent audit cycle.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Pursuant to Article 229 (6) of the Constitution, based on the audit procedures performed by the Auditor General, the following matters formed the basis for conclusion that public resources were not applied lawfully and in an effective way –

1. Lack of an Approved Bad Debts Policy

Statement of profit or loss & Other comprehensive Income reflects General and operations expenses totaling Kshs 39,629,095 as disclosed in Note 10 to the financial statement. Includes in the amount is Ksh 2,258,131 relating to provision for doubtful debts. However, the Company does not have a policy on Management of bad and doubtful debts.

In the circumstances the accuracy of the provision for doubtful debts totaling to Kshs. 2,258,131 could not be confirmed.

Management Response

The management has developed a debt management policy which will guide the company on provision of doubtful debt, the draft Debt Management Policy is pending approval of the Board.

Committee Observations

The Committee observed that the does not have a policy on Management of bad and doubtful debts.

Committee Recommendations

The Committee recommends that the Accounting Officer should within 60 days of the adoption of this report, submit an approved copy of the Debt Management Policy to the Auditor general for verification. The Auditor-General to verify the policy and submit a status update on the same in the subsequent audit cycle.

2. Irregular Investment in Short Term Deposit

The statement of financial position and as disclosed in Note 21 to the financial statement reflects short-term deposits totaling Kshs. 12,000,000. However, approval by the Board to invest in short term deposits was not provided for audit review.

Management Response

The Company short-term deposits of Kshs. 12,000,000 is a rollover of previously fixed short-term deposits which was approved by the Board in year 2020/2021, hence the company relied of the same, However, upon maturity of current short-term deposit of Kshs. 12,000,000 the subsequent short-term deposit of Kshs. 13,000,000 was approved by the Board.

Committee Observations

The Committee observed that the approval by the Board to invest in short term deposits was not provided for audit review.

Committee Recommendations

The Committee recommends that the Accounting Officer ensures that supporting documents are availed to the Auditor during audit as required under section 9(1)(e) of the Public Audit Act, failure to which the Committee shall recommend for their investigation and prosecution in line with section 62(2) of the Public Audit Act, 2015 in the subsequent audit cycle.

3. Non-Revenue Water

Review of Company records indicated water production of 2,229,715 cubic meters (M3) out of which 939,765 M3 were billed to customers. The balance of 1,289,950 or approximately 58% of total production represents Non-Revenue Water (NRW) which is above the accepted threshold of 25% set by the Water Service Regulatory Board (WASREB). Although, Management attributed the loss to water leakages and illegal connections, no measures have been put in place to address the issues.

In the circumstance, Management was in breach of law.

Management Response

Kibwezi Makindu Water and Sanitation Company Limited (KIBMAWASCO) recorded Non-Revenue Water (NRW) of 58% as of FY 2023 – 2024, the water loss is attributed to water leakages through dilapidated water infrastructure and pipeline burst, illegal connections, water theft and water infrastructure vandalism. Watering inefficiency.

The company has put in place the following measure to curb the Non-Revenue Water.

1. The company has established a Non-Revenue Water Unit to implement the NRW reduction strategy and plan.
2. The company is planning to carry out phased augmentation of the dilapidated Main distribution infrastructure through partnering with the County Government of Makueni and sourcing for funds through engagement of Water Sector Trust Fund (WSTF) among other stake holders.
3. The company is developing a metering policy to assist in accuracy of the water billings and control water metering inefficiencies.
4. The company has embarked on a plan to develop District Metering Areas (DMAs) in order to measure water supplied and billed within the District Metering Areas (DMAS) to control illegal connection and water theft
5. The Company has continuously created awareness on the importance of water infrastructure through public barazas, media publicity, frequent patrolling of the water pipeline prone to vandalism and working in partnership with administration police unit like Critical Infrastructure Protection Unit (CIPU) to curb vandalism of water systems.
6. The company is embracing use of technology through acquisition of leak detectors, pipe lockers, smart meters and Geographic Information System (GIS).

Committee Observations

The Committee observed that the Non-Revenue Water was 58% way above the sector benchmark of 25% prescribed by the Water Services Regulatory Board (WASREB) guidelines.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should put in place comprehensive measures to mitigate on the Non-Revenue Water, that is, both physical and commercial losses. The measures to include replacement of old age dilapidated infrastructure, installation of smart meters for accurate billing and the application of Geographical Information System (GIS) to receive real-time data for the detection of bursts and leakages among other measures. The Auditor-General to review the implementation of the measures put in place to mitigate the Non-Revenue Water and provide a status update on the matter in the subsequent audit cycle;
- ii. given the impact of Non-Revenue Water on the water company's cashflows, the Accounting Officer should ensure that a provision for Non-Revenue Water is included in the financial statements. Further, explanatory notes should be provided to detail the contributions of both commercial and physical loss factors to the overall Non-Revenue Water; and
- iii. the Governor of Makueni County to collaborate with the Ethics and Anti-Corruption Commission to ensure pre-emptive measures are put place to reduce cases of theft and illegal connections.

4. Use of Out-Dated Tariff Structure

Review of the tariff structure in force revealed that it was approved by the Water Service Regulatory Board for use in the financial years 2017/2018 to 2020/2021. However, the Company continued to apply the outdated tariff more than eleven (11) years after its expiry. This is contrary to Section 72 of the Water Act. 2016 which that Water Service Regulatory Board to evaluate and recommend water and Sewerage tariffs to the County water service providers and approve the imposition of such tariff in line with consumer protection standards. Although the tariffs were updated in the financial year 2024/2025 and approved by WASREB, the tariffs are yet to be effected.

In the circumstances, Management was in breach of the law.

Management Response

No response provided by the management.

Committee Observations

The Committee noted that the Company continued to apply the outdated tariff more than eleven (11) years after its expiry. This is contrary to Section 72 of the Water Act. 2016.

Committee Recommendations

The Committee recommends that the water company adheres to Section 72 of the Water Act, 2016 failure to which, the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.

CHAPTER EIGHT

REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR KWALE WATER AND SEWERAGE COMPANY LIMITED FOR THE FINANCIAL YEAR 2023/2024

The Governor of Kwale County, Hon. Fatuma Mohamed Achani, EGH, appeared before the Committee on Thursday, 20th March, 2025 to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for the Kwale Water and Sewerage Company Limited for Financial Year 2023/2024. She was accompanied by –

- | | |
|-----------------------|--------------------------|
| 1. Mr. Hemed Mwabudzo | - CECM Water |
| 2. Ms. Saumu Beta | - CECM Environment |
| 3. Mr. Alex Onduko | - Chief Officer, Finance |
| 4. Mr. Erick Parmet | - Managing Director |

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered a **qualified opinion** on the financial statements of Kwale Water and Sewerage Company Limited for the period under review on the following basis-

1. Unsupported Share Capital and Reserves

1.1. Ordinary Share Capital

The statement of financial position and Note 24 to the financial statements reflect issued and fully paid ordinary share capital of Kshs. 2,000,000 of par value of Kshs. 1,000 each. However, the share certificate was not provided for audit review.

Management response

Management submitted that before devolution the company shareholding was under the defunct Town Council of Kwale holding 1,998 shares, chairman of Town Council of Kwale 1 share and 1 share held by the Clerk of Kwale Town Council thus making a total of 2,000 shares. Currently the management has regularized the Memorandum and Articles of Association to reflect the current ownership by Kwale County Government.

	Subscriber	Shareholding
1.	CEC in charge of Water Services- Kwale County Government- (in trust for the County)	300
2.	CEC in charge of Finance Kwale County Government – (in trust for the County)	100

3.	County Secretary Kwale County Government – (in trust for County)	100
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Management further stated that issuance of the share certificate would be effected once the registration process is completed. The MEMOARTS have already been submitted to the registrar of companies for processing through the e-citizen portal. Evidence of submission of documents through e-citizen, new MEMOARTS and old MEMOARTS were provided for scrutiny.

Committee Observations

The Committee observed that the query remains unresolved as the process of transferring the ownership of the water company from the defunct Town Council of Kwale to the County Government was yet to be concluded as is required under the Water Act Cap. 372.

Committee Recommendations

The Committee recommends that the Governor ensures that process of transferring the ownership of the water company from the defunct Town Council of Kwale in favor of the County Government is concluded within 60 days of the adoption of this report. Further, the Governor should provide the share certificate and the CR 12 of water company to the Auditor-General for verification. The Auditor-General to provide a status update on the matter in the subsequent audit cycle.

1.2. Capital Reserves

The statement of financial position and Note 24(a) to the financial statements reflects capital reserve balance of Kshs. 36,719,864. However, schedule showing details of capital reserves was not provided for audit.

In the circumstances the accuracy and completeness of share capital and reserves of Kshs. 2,000,000 and Kshs. 36,719,864 respectively could not be confirmed.

Management response

Management submitted that Kwale Water and Sewerage Company Limited (KAWASCO) was incorporated on the 26th September 2005. The company's mandate is to efficiently and effectively provide quality, reliable and adequate water services to the residents of Kwale County in accordance with a versatile service provision agreement (SPA) and WASREB minimum service levels. At takeover of Kwale Water and Sewerage Company in its first audited financial statement of FY 2006/07, where an amount of Kshs. 36,719,864 was disclosed as third-party balances under accounts receivables and the same amount was also included under long term

liability as customer third party balances (bills at takeover). The National Pipeline Corporation did not provide the listing of customers holding the amount to facilitate for follow up and recovery.

Through the Board of Directors KAWASCO wrote to the National Pipeline Corporation to get the listing of these debtors or if cannot be provided, to advise on writing off of these debtors.

Committee Observations

The Committee observed that the query remains unresolved for the following reasons –

- i. the amount of Kshs. 36,719,864 represented accounts receivables from third party (National Pipeline Corporation) customers at the inception of the water company that had remained unrecovered;
- ii. despite efforts by the management to engage National Pipeline Corporation to provide a debtors schedule of the said customers for ease of follow up and recovery, none has been provided to date, undermining the water company's efforts to recover the money; and
- iii. the continued reporting of the amount by the water company does not give a fair view of its financial performance.

Committee Recommendations

The Committee recommends that due to the historical nature of the third-party customer balances, the Accounting Officer responsible for the water company should write off the amount in accordance with section 150 of the Public Finance Management Act Cap. 412A and regulations 141 and 150 of the Public Finance Management (County Governments) Regulations, 2015. The Auditor General to monitor the matter and provide a status update in the subsequent audit cycle

2. Long Outstanding Accounts Receivables

Note 21 (a) to the financial statements reflects gross trade receivables balance of Kshs. 336,288,946. Included in this amount is receivables amounting to Kshs. 275,867,905 which has been outstanding for over 120 days. Management did not, however, disclose measures put in place to recover the debts.

In the circumstances the collectability and validity of the trade receivables balance of Kshs. 275,867,905 is doubtful.

Management Response

Management submitted that Kwawasco has made efforts to recover the long outstanding trade receivables, the Company contracted a law firm to undertake debt collection,

however the exercise did not yield much results and it turned out to be very costly for the company.

The company on its own effort was able to collect all the amount billed in the financial year 2023/24 and was able to collect Kshs. 946,266 from the old debts. Below is a schedule of the aging analysis of debtors

Years	Kwawasco aging analysis
2017/18	179,141,688
2018/19	20,905,994
2019/20	19,116,846
2020/21	22,063,980
2021/22	20,604,092
2022/23	14,035,305
2023/24	(946,266)
Total Debts	274,921,639

OLD DEBT RECOVERY STRATEGIES

A. EFFORTS OF THE COMPANY TO REDUCE DEBTS

In an effort to reduce the old debt the company has been issuing demand letters to customers with large outstanding debts. The company has issued letters to Government agencies and private entities including beach hotels with outstanding bills. The company undertook payment plans with customers in an effort to reduce their outstanding debts and restore services.

Monthly Debt Reduction efforts July 2024 – Feb 2025

	Billed	Collected	Diff	comment
Jul-24	16,565,622	16,770,610	(204,988)	over collection
Aug-24	21,609,460	20,487,060	1,122,400	Under collection
Sep-24	21,798,164	22,093,343	(295,179)	over collection
Oct-24	21,203,747	20,997,161	206,586	Under collection
Nov-24	22,443,779	21,701,287	742,492	Under collection
Dec-24	17,461,690	21,520,259	(4,058,569)	over collection
Jan-25	20,105,706	20,796,593	(690,887)	over collection
Feb-25	20,479,661	20,700,661	(221,000)	over collection

	161,667,829	165,066,974	(3,399,145)	Over collection
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These collective efforts since July 2024 has resulted to old debt collection of Ksh 3,399,145 which has reduced the overall debt to Kshs. 271,522,494

B. REVENUE/DEBT COLLECTION STRATEGIES.

1.Billing- All customers are billed on monthly basis. Upon billing, the customer is given seven days to settle the bill and a further seven days' disconnection notice. Revenue Supervisor ensures that the disconnections are effected on the basis of debt age and in any case not later than 30 days from the date of billing

2. Disconnection- The billing system generates a list of accounts due for disconnection in order of the amounts outstanding. The Revenue Supervisor (RS) schedule the accounts to be disconnected on a particular day. Upon successful disconnection, the RA transmit the disconnection information in the system. The system upon receipt of the disconnection information, debit the customer account with reconnection fees as stipulated in the tariff

3.Reconnection-Upon the customer's settlement of the outstanding amount, the system flags the account for reconnection, the Revenue supervisor schedules all accounts flagged for reconnection

4.Disconnection from the mains-Where the normal disconnection is not practicable and/or not likely to yield the desired results, the Company compels to disconnect the supply from the main supply line.

5.Payment by Installments-The company consider circumstances that may have led to customer not being able to clear the outstanding amount at once.

This applies where; -Customers come forward before expiry of their notices requesting for extension of the period of payment. Such cases are closely evaluated before consideration for extended payment period. Upon successful evaluation, the payment period is staggered in equal monthly instalments not exceeding six months.

6.Contracting on premises with outstanding debt-Where tenants default on payment of bills and run away, the landlord "takes full responsibility for the outstanding amount"

7.Swapping debts-The Company further enforces payment of any outstanding debts that are more than 60 days old through the disconnection and/or transfer of debt for "customers" with multiple accounts from the un-cleared ones to those that are paid up.

C. DEBT RECOVERY STRATEGIES.

Administrative Action-When procedures have been followed and the debt is still outstanding after 30 days, the company takes the steps below

1.Legal Action-Legal action may begin after sending the notice of outstanding bills and all administrative action has failed. In such cases, the debtors are taken to court as a last effort to recover the debt.

2. Eligibility for debts write off-Any debt not recovered after the above strategies can be recommended for write off.

3. Bad Debt Provision-Annual provision for bad debts shall be an equivalent to the proportion of debts aged above 365 days.

Committee Observations

The Committee observed that the query remains unresolved for the following reasons –

- i. measures put in place by the management failed to demonstrate their contribution towards debt recovery; and
- ii. the collectability and validity of long outstanding trade receivables is doubtful; and
- iii. the water company has no debt management policy that put in place a framework for debt management by the water company.

Committee Recommendations

The Committee recommends that—

- i. the water company undertakes debtor's circularization to confirm the authenticity of the receivables and provide a status update on the same to the Senate within sixty (60) days of the adoption of this report;
- ii. the Accounting Officer should, within 60 days of the adoption of this report, submit a debtors' schedule to the Auditor-General for verification;
- iii. the Accounting Officer should within 60 days of the adoption of this report, submit an approved copy of the Debt Management Policy to the Auditor general for verification. The Auditor-General to verify the policy and submit a status update on the same in the subsequent audit cycle;
- iv. the Accounting Officer should, within 60 days of the adoption of this report, put in place recovery measures for the outstanding amount with clear timelines. The Auditor-General should review the implementation of the measures put in place provide a status update on the matter in the subsequent audit cycle; and
- v. The Accounting Officer to undertake a detailed analysis of its long outstanding trade receivables and with the Board's approval, write off the irrecoverable debts in line with the Section 130 (2) (d) of the Public Finance Management (County Governments) Regulations, 2015.

3. Material Uncertainty Related to Going Concern

The statement of financial position reflects total current liability balance of Kshs. 622,449,838 and total current assets balance of Kshs. 384,306,862 resulting in negative working capital of Kshs. 238,142,976 or a current ratio of 0.6. This is an indication that

the company may not be able to settle its current obligation as and when they fall due. The condition indicates the existence of material uncertainty which may cast doubt on the company ability to continue as a going concern and the company existence is dependent on continued support from the County Government of Kwale, shareholders and creditors. Management did not disclose the measures being taken to mitigate this condition.

In the circumstances, the company's ability to continue as a going concern could not be confirmed.

Management Response

Management responded as follows –

The going concern issues are attributed to several factors that continue to make the company incur huge costs in terms of operation and maintenance of the existing water supply network. These include cost of electricity, bulk water, pipes and fittings, pumps & accessories water treatment chemicals and water meter maintenance.

The huge costs associated with operations and maintenance is due to the factors below;

- Dilapidated infrastructure- part of the infrastructure is made of steel which is highly corroded hence cannot contain high pressures this calls for frequent replacement of pipes /fittings.
- Leakages and bursts where the company loses a lot of revenue to an accounted for water
- Customer Meter tampering & theft resulting to frequent replacement of customer meters.
- Vandalism –there is a high demand for metallic fittings for scrap metal.
- Pipe damages by Road contractors undertaking new roads/ maintenance of existing roads.
- Wild animals invasion especially elephants in the drier parts of the County- cause huge damages.
- Billing of Tiwi boreholes by CWWDA- yet Kwawasco pays for electricity bills, bears staff and maintenance cost.

Remedies:

- The company through its own revenue is investing on replacing some of the dilapidated lines which are prone to leaks and burst to reduce non-revenue water.
- The county Government through the Water Services Department provided support by purchasing 1000pcs water meters'/customer meters in form of grant to replace the non-working meters. Another consignment of 3,600 customer meters was purchased by the company through the WSDP project.

- Replacement of 14kms of AC line from Mwachema- check point which would reduce non-revenue and illegal connections.
- The anticipated completion of Ukunda Water Supply Improvement project funded by the World Bank-WSDP- where 68kms of supply lines have been laid and potential to supply 10,000m³ /day to over 5,800 new connections will significantly increase the revenue for the company. Project completion date is October 2025.

Through the above initiatives the company is anticipating to increase revenue which in turn will significantly erode the issue of going concern as it is caused by high cost of production with very low turnover.

Committee Observations

The Committee observed that the query remains unresolved for the following reasons-

- i. the water company had a negative working capital of Kshs. 238,142,976 or a current ratio of 0.6, an indication that it may not be able to settle its current obligation as and when they fall due; and
- ii. Management did not disclose the measures being taken to mitigate the undesirable condition.

Committee Recommendations

The Committee recommends that—

- i. **the Governor of Kwale County should take keen interest in the management of Kwale Water and Sewerage Company Limited (KWAWASCO) in accordance with Article 179(4) of the Constitution;**
- ii. **the County Executive Committee Member responsible for water should take responsibility for monitoring the financial performance of the water company in accordance with section 184 of the Public Finance Management Act Cap. 412A and regularly report on its financial health and viability to the Governor through the County Executive Committee in accordance with Article 179 (6) of the Constitution;**
- iii. **the Accounting Officer responsible for the water company should prepare and submit to the County Treasury, quarterly reports regarding the financial and non-financial status of the water company in accordance with section 166 of the Public Finance Management Act;**
- iv. **the County Treasury should undertake annual reporting on the water company including an assessment of the commercial viability of the company in accordance with the standards set by the Water Services Regulatory Board (WASREB) as provided under section 77(6) of the Water Act;**

- v. the Accounting Officer should conduct a thorough analysis of the water company's long-standing trade receivables and payables to ensure that the financial position of the company is accurately and fairly represented;
- vi. the Accounting Officer should, within 60 days of adopting this report, implement strategic and innovative measures aimed at recovering and strengthening the financial health of the water company to ensure self-sustainability. Additionally, management should review and regularize the company's existing assets, maintain an updated asset register that accurately reflects the current financial position, and determine the commercial viability of these assets in compliance with the requirements of the Public Sector Accounting Standards Board (PSASB).

Emphasis of Matter

Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflect final revenues budget and actual on a comparable basis of Kshs. 967,729,472 and Kshs. 866,091,871 respectively, resulting to an underperformance of Kshs. 101,638,601 or 11% of the budget.

The underperformance may have impacted negatively on the performance of planned activities and services delivery to the stakeholders.

Management Response

No response was provided by the management.

Committee Observations

The Committee observed that the query remains unresolved as the water company's budget had an underperformance of Kshs. 101,638,601 or 11% of the budget which may have impacted negatively on the performance of planned activities and services delivery to the stakeholders.

Committee Recommendations

The Committee recommends that—

- i. The Accounting Officer should ensure strict compliance with section 149(2) (h) and (i) of the Public Finance Management Act, Cap. 412A and the standards prescribed by the Public Sector Accounting Standards Board under IPSAS 24 on the presentation of budget information in the financial statements for an entity that prepares their financial statements under the

- accrual basis of accounting, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply;
- ii. the Accounting Officer should comply with regulation 42(1) (b) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply; and
- iii. the Board of directors should institute proper and realistic budget planning as well as measures to enhance its own generated revenue, such as review of tariffs, connection of more customers and automation to address revenue leakages. The Auditor-General to confirm the effectiveness of the mitigating measures put in the water company and report in the subsequent audit cycle.

Unresolved Prior Year Matters

In the audit report of the previous financial year, several issues were raised under the reports on financial statements, Lawfulness and Effectiveness in use of Public Resources and Effectiveness of Internal Controls, Risk Management and Governance which remain unresolved as 30 June 2024. Management has indicated the issues as having been resolved but did not provide evidence to support that status.

Management Response

Management responded as follows-

The unresolved issues are policy issues and the management is in the process of addressing the matters;

- The issue of Non-revenue which was previously at 62% in 2020/21 while in the year 2023/24 has reduced to 49%.
- The MEMOARTS and the ownership of the company has been addressed with the submission of the new MEMOARTS to the registrar of companies via e-citizen portal.
- The capital reserve amounting to Kshs. 36,719,864 was discussed by Board the of Directors and management wrote to National Water and Pipeline Corporation to either give the listing of these debtors or give authority to write-off.

Below is the list of issues raised in the audit report of the previous financial year and the current status;

1. Inaccuracy of the Income Tax Expense (Credit) of Kshs. 2,357,392

The management took in the recommendation of the auditors and adjusted the Financial statements of FY 2023-24 accordingly to imply the tax liability for the current period to be nil in line with the provisions of the Income Tax Act, Cap 470 Section 92(a) as the company had made loss for previous period of Kshs. 17,583,795

2. Unreconciled Variance on Cost of Bulk Water

The management of Kwawasco and that of CWWDA held reconciliation meetings and agreed on the figures.

3. Expired Water Tariffs structure

Kwawasco is now operating under a new tariff approved by WASREB and expiring in 2026. An extract of the gazette notice on the water tariff was provided for scrutiny.

4. Nonregistration for Data protection

The entity has a valid data protection license. A copy of the data protection license was provided for scrutiny.

Committee Observations

The Committee observed that the query remains unresolved. While progress had been made in addressing prior years' matters, a significant number of queries were still outstanding.

Committee Recommendations

The Committee recommends that the Accounting Officer responsible for the water company should resolve any issues resulting from an audit that remains outstanding as required by section 149(2)(l) of the Public Finance Management Act, Cap 412A. The Auditor-General to monitor progress and provide a status update in the subsequent audit cycle.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Pursuant to Article 229 (6) of the Constitution, based on the audit procedures performed by the Auditor-General, the following matters formed the basis for conclusion that public resources were not applied lawfully and in an effective way –

1. Non-Revenue Water

The statement of profit or loss and other comprehensive incomes reflect operating revenue of Ksh. 191,080,148. The annual report and financial statements indicates that the company's total quantity of bulk water received amounted to 4,099,482 cubic meters (m3) out of which 2,104,536 cubic meters (m3) or 51% were billed to customers at Kshs. 197,872,649. The balance of 1,949,651 cubic meters(m3) or 49% was Non-Revenue Water (NRW). This is higher than 25% allowable loss by the water service regulatory board (WASREB) guidelines.

In the circumstances the management was in breach of the law.

Management Response

Management responded as follows-

Non-Revenue water is caused by many factors and the company has put measures in place to ensure it is reduced to the acceptable levels as stated below;

<u>CAUSES</u>	<u>MEASURES</u>
1. Dilapidated infrastructure due to old age and corrosion which is rampant in coastal region- The existing network is made up of galvanized iron pipes which is currently eroded and cannot withstand high pressure leading to spillages.	❖ The company is embracing modern technology by installing HDPE pipes which is not prone to corrosion as our standard operating procedure. ❖ With the support of world bank, the company is currently doing a new pipeline reticulation which will replace the aged pipeline leading to decrease in spillages hence low non-revenue water
2. Frequent Burst and leaks across our Schemes-This has resulted to water wastage before it is noticed since some of our network crisscrosses forest and wilderness.	❖ The company has set timelines for Quick response to bursts and leaks whenever they occur ❖ The company has repair kits for fittings and pipes
3. Suspected Illegal connections-The Company has found cases where individuals bypass water meters and use water without authorization.	❖ The company embarked on inspection and investigation of illegal connection especially in ukunda where several suspected illegal connections were discovered and culprits surcharged. The practice

4.Meter reading errors, billing errors and meter stoppages.	has been escalated to other schemes. ❖ Establishing DMA in ukunda with the help of WSDP consultants which will highly unearth unauthorized water users ❖ The company is replacing a 14Km Asbestos line with HDPE which will remove the illegal connections since only valid consumers will be transferred to the new line ❖ The company has embraced digital meter reading which relays on-time data to the billing system hence reducing inaccuracies ❖ Joint bulk meter reading exercise with Coast water works development agency which is done on 25th day of every month for accuracy readings. ❖ Replacement of malfunctioning meters- The company sourced for over 3000 consumer meters ❖ The company is embracing the use of meter seals to avoid meter tampering ❖ The company purchased meter testing device for accuracy test and calibration of meters.
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5.Vandalism –There is rampant damage of pipeline and fittings especially metallic which had led to water wastage leading to high unaccounted for water. 6.Pipeline damages by Road contractors while upgrading the existing roads- There has been scenarios where contractors mercilessly damages existing water infrastructure during construction works 7.Wild animal invasion –There is conflict with the wildlife during dry seasons while they are looking for water making them damage water infrastructure, this is mainly common with elephants which sometimes uproots a long stretch of the pipeline leading to water wastage	❖ Carrying out meter reading audits ❖ There is metering policy and connection procedures to close the gaps that existed before. ❖ The company is currently using non-metallic fittings to avoid damages. ❖ The company is also engaging the local administration to inform the public on the repercussions of vandalism and finally reporting any vandalism to law enforcers ❖ There is an engagement with road agencies that is KeNHA, KURRA , KeRRA and County road department on the issues of water pipeline along the roads ❖ Deepening the pipeline within the affected areas to avoid water detection by elephants i.e. Busho line in Taru ❖ The company engages the local KWS office.
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Finally, the company has recruited personnel in charge of Non-Revenue Water.

Committee Observations

The Committee observed that the query remains unresolved for the following reasons—

- i. the water company register high Non-Revenue Water of 49%, that is, 24 percentage points above the sector benchmark of 25% as per Water Services and Regulatory Board (WASREB) Guidelines;
- ii. Non-Revenue Water may arise from either commercial losses or physical losses. However, the water company did not provide a detailed breakdown to illustrate the contribution of each category to the overall Non-Revenue Water;
- iii. measures put in place by the water company to address the Non-Revenue Water are inadequate and their effectiveness is yet to be ascertained; and
- iv. this high level of Non-Revenue Water largely contributed to the Company's revenue shortfall and budgetary underperformance, as well as the material uncertainty relating to a going concern.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer responsible for the water company should put in place comprehensive measures to mitigate the Non-Revenue Water. These measures include the installation of smart meters to ensure accurate billing, the replacement of the old water supply network as well as the introduction of a Geographic Information System (GIS) which will help the company receive real-time data on leaks in pipes and monitor maintenance;
- ii. the Governor should engage the Ethics and Anti-Corruption Commission (EACC) to facilitate the development of a comprehensive institutional corruption prevention policy for the company;
- iii. given the impact of Non-Revenue Water on the water company's cashflows, the Accounting Officer should ensure that a provision for Non-Revenue Water is included in the financial statements. Further, explanatory notes should be provided to detail the contributions of both commercial and physical loss factors to the overall Non-Revenue Water; and
- iv. the Auditor-General to monitor implementation and effectiveness of the measures put in place to mitigate on the Non-Revenue Water and report in the subsequent audit cycle.

2. Affirmative Action on Gender Balance, Ethnicity and Regional Distribution

The statement of profit or loss and other comprehensive incomes and Note 10. to the financial statements reflect staff cost of Kshs. 73,625,373. Analysis of the payroll data revealed that the company had one hundred and forty (140) employees. Out of which one hundred and fifteen (115) were from the dominant ethnic community in the region

contrary to section 7(2) of the National Cohesion and Integration Act, 2008 which requires that no public establishment to have more than one third of its staff from the same ethnic community.

In the circumstances, Management was in breach of the law.

Management Response

Management responded as follows-

- The geographical location of boreholes and working stations, including borehole A, 8, Madabara 1, Madabara 2, godoni Tank, Bububu pumping station, and Kikwezani presents security challenges that make them less conducive for female employees, as some are situated in remote forested areas. Additionally, technical roles such as meter reading require motorcycle riding skills, which many women lack experience in.

However, steps have been taken to improve gender balance through the employment of a female Non-Revenue Assistant and an ICT Officer.

- Ethnic diversity has also been a challenge due to geographical distances, as employees from different regions may find it difficult to relocate with their families consequently, the locals are more likely to secure opportunities as they come and settle and work more easily. Nonetheless, ethnicity within the company is not centralized within one community but is rather scattered across the country.

Committee Observations

The Committee observed that the query remains unresolved as the water company failed to comply with section 7(2) of the National Cohesion and Integration Act, 2008 which requires no public establishment to have more than one third of its staff from the same ethnic community.

Committee Recommendations

The Committee recommends that—

- i. **The Governor should ensure that there is compliance with section 7(1) and 2 of the National Cohesion and Integrity Act which states that; *(1) All public establishment shall seek to represent the diversity of people of Kenya in employment of staff; (2) No public establishment shall have more than one third of its employees from same ethnic group; and***
- ii. **The Board and the Accounting Officer makes deliberate efforts to progressively comply with section 65 of the County Governments Act, 2012 which provides that at least thirty percent 30% of the vacant posts at entry**

level be filled by candidates who are not from the dominant ethnic community.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Pursuant to section 7(1) of the Public Audit Act, based on procedures performed by the Auditor General, the following matter formed the basis for conclusion that internal controls, risk management and overall governance were not effective –

1. Lack of Approved Information Technology Security Policy and Disaster Recovery Plan

Review of the ICT environment revealed that the Company had a draft ICT policy developed in 2021. The policy had not been approved for implementation to enable Management of business process for the delivery of services in an effective and efficient manner. Lack of automated system and ICT policy might lead to loss of data confidentiality and inaccuracies in data processed.

In the circumstances, effectiveness of internal controls on the ICT environment could not be confirmed.

Management Response

Management responded as follows-

During the audit, the officers from the Office of Auditor General requested for ICT policy which was provided in soft copy. The management has provided the approved ICT Policy. Copies of the approved ICT Policy and Board Minutes approving the ICT Policy were provided for scrutiny.

Committee Observations

The Committee observed that whereas the water company submitted an approved ICT Policy, and the query marked as resolved, the submission was made outside the timelines contemplated under the Public Audit Act and constitutes an offence under section 62(2) of the Act.

Committee Recommendations

The Committee recommends that the Accounting Officer should ensure timely submission of documents during the audit process in accordance with section 9(1)(e) of the Public Audit Act, failure to which the Committee shall recommend for their investigation and prosecution in line with section 62(2) of the Public Audit Act.

2. Trade and Other Payables

The statement of financial position and Note 31 to the financial statements reflects trade and other payables balance of Ksh. 618,610,442 which includes trade payables of Ksh. 597,851,083, out of which Ksh. 568,140,488 has been outstanding for more than ninety (90) days. This indicates a significant portion of the trade payables that is overdue and may have implications on the entity's financial health and liquidity.

In the circumstances, effectiveness of management of accounts payables could not be confirmed.

Management Response

Management responded as follows-

Out of the outstanding Trade Payables of Ksh. 568,140,488, which has been outstanding for more than (90) day, An amount of Ksh. 535,460,732 is long outstanding balance from CWWDA that was contentious. The reconciliation between Kwawasco and CWWDA was concluded on May 2024 by the reconciliation team from both sides. Though the Company is still in financial distress, the management is considering coming up with a schedule on how the company will settle the outstanding amount. **Signed minutes of the reconciliation meeting between CWWDA and Kwawasco were provided for scrutiny.**

Payables contributing to that amount are as tabulated below

Trade and other payables Summary over (90) days	
CWWDA	535,460,732
KPLC	4,954,236
Wasreb	2,752,460
Trident Insurance	2,834,999
First Engineering	1,054,048
Others	6,291,536
Payroll liabilities	14,792,477
Total	568,140,488

Committee Observations

The Committee observed that the query remains unresolved for the following reasons—

- i. a significant portion of the trade payables is overdue and may have implications on the Company's financial health and liquidity; and
- ii. no comprehensive plan was availed by the management indication how the water company intends to settle its obligations.

Committee Recommendations

The Committee recommends that within 30 days of the adoption of this report, the Accounting Officer responsible for the water should put in place a debt repayment plan with clear timelines on how the water company intends to settle its obligations and submit evidence of the same to the Auditor-General for monitoring of implementation. The Auditor-General to monitor implementation of the plan and provide a status update on the same in the subsequent audit cycle.

CHAPTER NINE

REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR LAMU WATER AND SEWERAGE COMPANY LIMITED FOR THE FINANCIAL YEAR 2023/2024

The Governor of Lamu County, Hon. Issa Timamy, EGH, appeared before the Committee on Tuesday, 18th March, 2025 to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for the Lamu Water and Sewerage Company Limited (LAWASCO) for the Financial Year 2023/2024. The Governor was accompanied by the following officers—

1. Mohamed Mbwana Ali – CECM-Finance
2. Eng. Najash A Hafidh – Managing Director (LAWASCO)
3. Amb. Ali Abbas – County Secretary

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered a **Qualified Opinion** on the financial statements of the Lamu Water and Sewerage Company Limited for the financial year on the following basis—

1. Inaccuracies in the Financial Statements

The Statement of financial position reflects trade and other receivables balance of Kshs.36,996,559 whereas Note 29 to the financial statements reflects Kshs.37,139,335 resulting to unreconciled variance of Kshs.142,776. In addition, Note references are incorrectly stated. The statement of cash flows reflects depreciation of Kshs.4,821,867 and comparative amount of Kshs.1,932,743 which do not represent actual cash outflow thereby resulting to misapplication of accounting principles and standards. The statement of cash flows reflects closing cash and cash equivalent balance of Kshs.14,040,149 and comparative balance of Kshs.25,036,129 which differ with the recomputed balances of Kshs.22,726,905 and Kshs.25,636,259 respectively resulting to unreconciled variance of Kshs.8,686,756 and Kshs.600,130.

The statement of comparison of budget and actual amounts reflects actual on comparable basis surplus/deficit of Kshs. (6,598,233) while the recomputed amount is Kshs.13,420,144 and performance difference of Kshs.7,171,970 instead of the recomputed amount of Kshs. (12,846,407). In addition, the statement reflects total recurrent expenditure performance difference amount of Kshs.32,785,614 instead of the recomputed amount of Kshs.33,222,714 resulting to unexplained variance of Kshs.437,100. Further, the percentage utilization of maintenance stated as 9% and total

expenditure as 87% while the recomputed percentages resulted to 12% and 67% respectively.

Note 12 to the financial statements reflects general and operations expenses amount of Kshs.25,296,757 whereas the recomputed amount is Kshs.25,316,257 resulting to unreconciled variance of Kshs.19,500.

Note 29 to the financial statements reflects trade and other receivables balance of Kshs.37,139,335 whereas the statement of financial position reflects Kshs.36,996,559 resulting to unreconciled variance of Kshs.142,776.

In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

Management Response

We have reviewed the audit findings and acknowledge the discrepancies and inaccuracies highlighted in the financial statements for the period under review. The management is committed to financial accuracy and compliance with accounting standards.

However, all our accounting procedures and records are currently manual due to lack of an integrated financial management information system. The Company Management have requested the County Executive for assistance to acquire one to sort the inaccuracy and information gaps noted by audit. In the meantime, Management has requested the Executive internal audit department to review financial statement and records to confirm their accuracy and consistency to avoid recurrence of audit observation.

Committee Observations

The Committee observed that there were numerous errors within the financial statements which were yet to be corrected. The management attributed these errors to the use of manual accounting procedures.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer to take appropriate administrative action on responsible officers within the Accounts and Finance department who fail to keep complete financial records in accordance with section 156(1) of the Public Finance Management Act, Cap.412A and in line with their terms and conditions of appointment or employment, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;**

- ii. the Accounting Officer should comply with section 149(2)(b) of the Public Finance Management Act, Cap.412A and section 47(2) of Public Audit Act, Cap.412B in the preparation and management of financial and accounting records, failure to which the provisions of section 62 of the Public Audit Act, Cap.412B and section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;
- iii. the National Treasury should enhance awareness and training on changes made to the accounting standards to all public officers handling financial matters in Counties;
- iv. the Accounting Officer should strengthen internal audit controls and ensure proper record keeping in line with section 155 of the Public Finance Management Act, Cap.412A and submit a quarterly report to the County Treasury and the Controller of Budget in accordance with section 168(3) of the Public Finance Management Act, Cap.412A, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;
- v. the Accounting Officer should enhance the capacity of in-post officers preparing financial statements to comply with the Public Sector Accounting Standards and should further invest in technology to enhance efficiency and improve the accuracy of financial statements; and
- vi. the Accounting Officer ensures that prior year adjustments are carried out in the company's financial statements of the subsequent year to correct the errors in order to reflect the true financial position of the company.

2. Unsupported Operating Revenue

The statement of profit and loss and other comprehensive income reflects operating revenue of Kshs.22,002,707, and as disclosed in Note 6 to the financial statements. However, the amount is not supported by way of customer name, account number, and meter number and billing record.

In the circumstances, the accuracy and completeness of operating revenue amount of Kshs.22,002,707 could not be confirmed.

Management Response

Management acknowledges the finding and agrees that robust documentation is critical for transparency and accountability in financial reporting.

Presently, all customer billing records are maintained in excel worksheets however; Management is in the process of upgrading the Financial Management Information system including the integrated billing system to cure the problem. See an excel worksheet that shows Customers name, meter number and billed record.

Committee Observations

The Committee observed that the management failed to submit customer name, account number, and meter number and billing record to support operating revenue balance of Kshs.22,002,707 for audit verification. The company currently maintains the customer billing records through excel worksheets.

Committee Recommendations

The Committee recommends that—

- i. within sixty (60) days of the adoption of this report, the Ethics and Anti-Corruption Commission (EACC) to conduct investigations on the matter of unsupported operating revenue amounting to Kshs.22,002,707 to ascertain any possible loss of funds and also conduct corruption risk assessment so as to guide the water company in enhancing transparency and accountability; and**
- ii. the Accounting Officer to take appropriate administrative action on responsible officers within the Accounts and Finance department who fail to keep complete financial records in accordance with section 156(1) of the Public Finance Management Act, Cap.412A and in line with their terms and conditions of appointment or employment, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;**
- iii. the Accounting Officer should strengthen internal audit controls and ensure proper record keeping in line with section 155 of the Public Finance Management Act, Cap.412A and submit a quarterly report to the County Treasury and the Controller of Budget in accordance with section 168(3) of the Public Finance Management Act, Cap.412A, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;**
- iv. the Accounting Officer should enhance the capacity of in-post officers preparing financial statements to comply with the Public Sector Accounting Standards and should further invest in technology to enhance efficiency and improve the accuracy of financial statements; and**
- v. the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle.**

3. Unvalued Property, Plant and Equipment and Delayed Civil Works

The statement of financial position reflects property, plant and equipment balance of Kshs.47,809,817. The balance includes land and buildings of unknown values whose title deeds were not provided. Further, the balance includes work-in-progress valued at Kshs.6,781,734 in respect of construction of decentralized treatment facility in Mokowe through tender No. LAWASCO/ONT/MOKOWE/2020-2021 at contract sum of Kshs.9,675,534 for a duration of nine (9) months ending on 30 September, 2022. The project remains incomplete two (2) years later, although the contractor was granted several extensions but with no meaningful progress of work.

In addition, the certificates of work certified in October, 2023 indicate higher percentages of work done than those issued in July, 2024 clearly indicating that works-in-progress valuations are exaggerated and the project supervision was not effective.

In the circumstances, the accuracy, completeness, valuation and ownership of property, plant and equipment balance of Kshs.47,575,317 could not be confirmed.

Management Response

- Land and buildings of unknown values

The following is a list of the Lands and Buildings owned by LAWASCO:-

	LR NO.	LOCATION/ SITE	SIZE/QUAN TITY	STATUS	VAL UE	REMAR KS
N O.	LANDS					
1	LAMU BLOCK I/1254	LAMU ISLAND	0.470ha	NO TITLE DEED	1	AWAITI NG VALUAT ION
2	LAMU BLOCK II/126	LAMU ISLAND	0.025ha	NO TITLE DEED	1	AWAITI NG VALUAT ION
3	SHELLA BLOCK III/9	LAMU ISLAND	958	NO TITLE DEED	1	AWAITI NG VALUAT ION
4	MOKOW E	MOKOWE	0.379 ha	TITLE ISSUED	1	AWAITI NG VALUAT ION

5	BELE BELE	HINDI	0.5 ha	NO TITLE DEED	1	AWAITI NG VALUAT ION
	BUILDINGS					
1	LAMU BLOCK I/1254 G.L	LAMU	4.67m x 4.17m	NOT DEMARCA TED	1	AWAITI NG VALUAT ION
2	LAMU BLOCK II/125	LAMU	14.79m x 5.59m	NOT DEMARCA TED	1	AWAITI NG VALUAT ION
3	LAMU BLOCK I/1254 G.L	LAMU	9m x 4.9m	NOT DEMARCA TED	1	AWAITI NG VALUAT ION
4	LAMU BLOCK I/1254G.L	LAMU	9.5m x 5m	NOT DEMARCA TED	1	AWAITI NG VALUAT ION
5	LAMU BLOCK IV/9 G.L B/NO MWD/L MU/5	SHELLA	9.1m x 4.55m	NOT DEMARCA TED	1	AWAITI NG VALUAT ION
6	LAMU BLOCK IV/9 G.L B/NO MWD/L MU/4	SHELLA	15.3m x 5.2m	NOT DEMARCA TED	1	AWAITI NG VALUAT ION
7	LAMU BLOCK IV/9 G.L B/NO MWD/L MU/5	SHELLA	8.25m x 4m	NOT DEMARCA TED	1	AWAITI NG VALUAT ION

8	LAMU BLOCK I/1254 G.L	LAMU	10.6m x 7.6m	NOT DEMARCA TED	1	AWAITI NG VALUAT ION
9	MWD/L MU/1 (NOT SURVEY ED)	MOKOWE	15.71m x 12.53m	NOT DEMARCA TED	1	AWAITI NG VALUAT ION

The company owns 5 parcel of Lands on which nine buildings reside on out of which only one is titled namely Mokowe water station that is registered under the County Government of Lamu. The Land is reserved for Mokowe water Offices. (Mokowe Title Deed)

There untitled 4 parcels of land are in various stages of processing as reflected in the county executive status report.

- Work in progress

The correct value of work in progress is Kshs.6,781,734 in respect of construction of decentralized treatment facility in Mokowe as reflected by Payment Certificate 2. The audit observation on exaggerated valuation was based on an erroneous monthly report.

The project implementation delays was occasioned by various reasons, among which are as listed below:

- I. Floods which rendered the site inaccessible
- II. Insecurity and August 2022 General Election
- III. Late disbursement of funds by the Water Sector Trust Fund

Committee Observations

The Committee observed that—

- i. the management provided a schedule of the properties owned by the company and clarified that the company was in possession of only one (1) out of (5) of the title deeds for the parcels of land. The remaining four (4) were yet to be processed; and
- ii. the management stated that the construction of a decentralized treatment facility in Mokowe was 95% complete, with the new project completion date set for 31st May, 2025.

Committee Recommendations

The Committee recommends that—

- i. within sixty (60) days of the adoption of this report, the Governor of Lamu County ensures that the title deeds of the four (4) parcels of land are processed to safeguard the company's assets;
- ii. the Accounting Officer ensures that the water company maintains an up-to-date asset register in the format prescribed by the Public Sector Accounting Standards Board (PSASB) and the company to carry out a valuation of all its assets and submit the same to the Office of the Auditor-General within 60 days from the adoption of this report; and
- iii. the Auditor-General to monitor the progress of the project and provide a status update of the same to the Senate within 60 days of the adoption of this report.

Emphasis of Matter

Budget Control and Performance

The summary statement of appropriation reflects final budget and actual on comparable basis of Kshs.86,962,000 and Kshs.67,022,793 respectively, resulting to a budget underfunding of Kshs.19,939,207 representing 23% of the budget. Similarly, the company spent Kshs.58,247,649 against an actual receipt of Kshs.67,022,793 resulting to under-absorption of Kshs.8,775,144 representing 13% of the receipts.

The underfunding and under-utilization affected the planned activities and may have impacted negatively on service delivery to the public.

Management Response

Budget Underfunding

The underfunding of Kshs.19,939,207 (23% of the budget) was primarily due to under collection- low revenue collection caused by low production, interrupted water supply due to regular power outages and vandalism at the wells, and high levels of non- revenue water.

To mitigate this, the company has undertaken the following measures:

- Improved billing efficiency including: monthly meter reading and serving or replacement of stalled water meter
- Solar power backup system for the pumping station
- Debt recovery

Under-Utilization of Receipts

The under-utilization of Kshs.8,775,144 (13% of actual receipts) is as a result of an error of omission of depreciation and amortization expenses from the in-kind contribution (Conditional Grant) from county government to support SWASAP program under Water Trust Fund projects. This amount was utilized as captured in the table below. (To provide a breakdown for the Mentioned amount in the respective allocation)

SUMMARY OF COST ESTIMATES FOR PROJECT COMPONENTS		
Item	Description	Budget (Kshs.)
1	supply and delivery of pumps and accessories	1,276,696.00
	LAMU COUNTY GOVERNMENT CONTRIBUTION FOR SWASAP PROJECTS FUNDED BY WSTF	
2	Construction of Mpeketoni public sanitation facility	1,024,000.00
3	County contribution for Kiunga community conservancy project	3,124,541.00
4	County contribution for Pate marine community conservancy	3,349,907.00
	TOTAL	8,775,144.00

Impact on Service Delivery

While the underfunding and under-utilization posed challenges, the company remains committed to minimizing disruptions to service delivery. We are working on streamlining operations and securing alternative funding.

Committee Observations

The Committee observed that—

- i. The company had a revenue shortfall amounting to Kshs.19,939,207 (23% of the budget) as a result of unrealistic budgeting and poor planning.
- ii. The company failed to absorb 13% (Kshs.8,775,144) of its budget at the end of the financial year which may have negatively impacted service delivery to the public.

Committee Recommendations

The Committee recommends that—

- i. The Accounting Officer should ensure strict compliance with section 149(2) (h) and (i) of the Public Finance Management Act, Cap. 412A and the standards prescribed by the Public Sector Accounting Standards Board under IPSAS 24 on the presentation of budget information in the financial statements for an entity that prepares their financial statements under the accrual basis of accounting, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply;
- ii. the Accounting Officer should comply with regulation 42(1) (b) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply; and
- iii. the Board of directors should institute proper and realistic budget planning as well as measures to enhance its own generated revenue, such as review of tariffs, connection of more customers and automation to address revenue leakages. The Auditor-General to confirm the effectiveness of the mitigating measures put in the water company and report in the subsequent audit cycle.

Other Matter

Unresolved Prior Year Audit Matters

The audit report for the previous year highlighted several issues in respect of the financial statements, lawfulness and effectiveness of public resources. Management's report on the progress made in resolving the issues did not indicate the status of these issues as at 30 June, 2024.

Management Response

a. Unsupported Revenue

Collection LAWASCO is operating a cashless payment system. Customers pay through M-pesa paybill or LAWASCO collection Bank accounts at Equity and KCB. The management has noted the issue of reconciliation and will engage the system vendor to add security features in the system and also introduce an automated receipt for both the client and LAWASCO.

b. Non-remittance of mandatory fees

LAWASCO was experiencing financial challenges in the past years. However, currently the management is settling the mandatory statutory deductions. - (payment vouchers)

c. **Inconsistency in property, plant and equipment**

The land valuation issue has been addressed in the valuation roll for the registered land and for the unregistered land, the valuation will be done by the government valuer who has recently been posted to Lamu County.

Expired water sale tariff

Recognizing the urgency of addressing the expired tariff issue, LAWASCO has been actively engaging with the Water Services Regulatory Board (WASREB) regarding the tariff application and renewal process. The following steps have been taken to ensure compliance and financial stability:

1. Tariff Renewal Process Update

- LAWASCO initiated the tariff review process in accordance with WASREB regulations.
- The company has been in continuous correspondence with WASREB, providing the necessary documentation and justifications for tariff adjustments.
- The final draft of the Tariff Annex has been prepared and is scheduled for submission to WASREB for review and approval.

2. Mitigation Measures to Sustain Operations

- LAWASCO has implemented cost-containment measures to manage operational and maintenance expenses while awaiting tariff adjustments.
- Alternative revenue enhancement strategies, including improved billing efficiency and enhanced revenue collection mechanisms have been adopted.
- Strengthened enforcement against illegal connections and improved meter accuracy to ensure revenue maximization.

3. Compliance and Future Prevention

- LAWASCO is committed to ensuring that tariff renewals align with regulatory timelines moving forward.

d. Lack of ownership documents for assets.

e. The company owns 5 parcel of Lands on which nine buildings sits on. Out of the 5 parcel of Land only Mokowe water station is registered under the County Government of Lamu. The Land is reserved for Mokowe water Offices.

We are following up the final processing of the Title Deeds for the remaining 4 parcels of land.

f. Non- Revenue Water

This was because of the dilapidated infrastructure and the old town reticulation design that made it difficult to install the district metering area to monitor zonal consumption. The company operates on a combined system in the distribution network both pumping and gravity, some customers are connected directly to the mainline from the production point this contributed to difficulty in establishing our water balance and pressure management in our water supply. The Management has come up with a Non-Revenue Water reduction plan by doing thorough surveillance in all the zones to capture all illegal connections and penalize whoever is connected illegally. The Management has also ensured that all bursts and leakages are repaired in good time to avoid further losses and meters have been procured to deal with stalled and damaged meters which also contribute to the high levels of non-revenue water. The following corrective measures are being undertaken:

1. Infrastructure and Technical Upgrades

- **Leak Detection & Repair Program:** Deployment of real-time acoustic sensors, IoT leak detection devices, and GIS mapping to rapidly identify and repair leaks, with an 85% repair target within 48 hours.
- **Pipeline Rehabilitation:** Prioritization of high-loss zones for 10 km of pipeline replacement annually to reduce physical losses.
- **District Metered Areas (DMAs):** Establishment of DMAs within 36 months to enhance monitoring and accountability of water flows.
- **Pressure Management:** Optimizing network pressure to prevent bursts and reduce leakage by 40% within 36 months.

2. Metering and Revenue Collection Enhancements

- **Faulty Meter Replacements:** 2,000 faulty meters will be replaced in 24 months, and smart prepaid meters introduced to improve billing accuracy.
- **Customer Re-registration:** Comprehensive data cleanup to eliminate ghost connections and align billing with actual consumption.
- **Illegal Connection Enforcement:** Strengthened legal actions and biannual audits to detect and prosecute illegal connections, targeting a 50% reduction in unauthorized water use within 24 months.

3. Institutional Strengthening and Compliance

- **Dedicated NRW Unit:** Established a 24/7 monitoring team for rapid response and real-time data tracking.
- **Capacity Building:** Quarterly staff training on NRW reduction strategies and smart metering technologies.

- Stakeholder Engagement: Ongoing consumer awareness campaigns through radio, SMS, and social media to promote conservation and compliance.

4. Monitoring, Evaluation, and Performance Reporting

- Monthly NRW Audits: Performance benchmarking against reduction targets.
- Digital Dashboards: Implementation of automated water balance monitoring systems to provide real-time tracking of losses.
- Quarterly Performance Reviews: Targeting a 5% NRW reduction per year, ensuring alignment with WASREB regulations.

g. Lack of risk management policy

The management have come up with a risk management policy in line with section 158(1) (a) and (b) of the Public Finance Management regulations 2015 to prevent fraud and boost internal controls, awaiting approval by the Board.

h. Lack of records to support long term payables

There were no invoices received from Coast Water Services Board to support the Long – term payables However the company has written to Coast Water Works Development Agency (formally Coast Water Services Board) requesting them to provide a copy of the lease agreement, Lease fee invoices and the updated Long-term payable ledgers.

Committee Observations

The Committee observed that the water company had unresolved prior year matters demonstrating management lack of action to implement corrective measures.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should resolve any issues resulting from an audit that remains outstanding as required by section 149(2)(l) of the Public Finance Management Act, Cap. 412A, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences may apply; and
- ii. the Auditor-General provides a status update on the progress made on the matter in the subsequent audit cycle upon review of the progress report.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Pursuant to Article 229 (6) of the Constitution, based on the audit procedures performed by the Auditor General, the following matters formed the basis for conclusion that public resources were not applied lawfully and in an effective way –

1. Non-Compliance with the Public Sector Accounting Standards Board (PSASB) Reporting Requirements

The table of contents refers Key management team to page ix and environmental and sustainability reporting to page xxv instead of pages vi and xx respectively. Foot notes to the statement of budget and actual amounts do not provide explanations for variations in excess of ten percent (10%). Note 20 to the financial statement reflects property, plant and equipment schedule, however, the total column was not visible.

In the circumstances, Management did not comply with the Kenya Public Sector Accounting Standards Board requirements.

Management Response

We acknowledge this audit finding and are committed to complying with the Kenya Public Sector Accounting Standards Board requirements.

In the meantime, Management has requested the Executive internal audit department to review financial statement and records to confirm their accuracy and consistency to avoid recurrence of audit observation.

Committee Observations

The Committee observed that the financial statements of the water company for the period under review were not prepared in compliance with the reporting standards prescribed by the Public Sector Accounting Standards Board (PSASB).

Committee Recommendations

The Committee recommends that—

- i. the County Executive Committee Member responsible for finance ensures compliance with section 105(1)(d) and (g) of the Public Finance Management Act, Cap. 412A with respect to enforcement of compliance by county entities with all applicable norms or standards regarding accounting practices as prescribed by the Accounting Standards Board, failure to which the penalties under section 199 of the Act shall apply;**
- ii. the Accounting Officer to take appropriate administrative action on responsible officers within the Accounts and Finance department who**

- fail to keep complete financial records in accordance with section 156(1) of the Public Finance Management Act, Cap.412A and in line with their terms and conditions of appointment or employment, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply; and
- iii. the Accounting Officer should enhance the capacity of in-post officers preparing financial statements to comply with the Public Sector Accounting Standards and should further invest in technology to enhance efficiency and improve the accuracy of financial statements.

4. Non-Revenue Water Management

The statement of profit or loss and other comprehensive income and as per Note 6 to the financial statement reflects operating revenue amount of Kshs.22,002,707 out of which Kshs.19,707,894 is in respect of sale of water. Analysis of production of water disclosed that the total volume of water produced was 487,891 cubic meters, out of which 228,687 cubic meters (47%) was billed to customers at Kshs.19,707,894, the balance of 259,174 cubic meters or 53% represents non-revenue water which is 28% higher than the allowable loss limit of 25% by the Water Service Regulatory Board (WASREB) guidelines. The 259,174 cubic meters of unaccounted for water may have resulted to a loss of revenue estimated at Kshs.22,335,216.

In the circumstances, the Non-Revenue Water Reduction measures were not effective during the year under review and Management was in breach of policy guidelines.

Management Response

This was because of the dilapidated infrastructure and the old town reticulation design that made it difficult to install the district metering area to monitor zonal consumption. The company operates on a combined system in the distribution network both pumping and gravity, some customers are connected directly to the mainline from the production point this contributed to difficulty in establishing our water balance and pressure management in our water supply. The Management has come up with a Non-Revenue Water Reduction plan by doing thorough surveillance in all the zones to capture all illegal connections and penalize whoever is found connected illegally. The Management has also ensured that all bursts and leakages are repaired in good time to avoid further losses and meters have been procured to deal with stalled and damaged meters which also contribute to the high levels of non- revenue water.

The following corrective measures are being undertaken:

1. Infrastructure and Technical Upgrades

- **Leak Detection & Repair Program:** Deployment of real-time acoustic sensors, IoT leak detection devices, and GIS mapping to rapidly identify and repair leaks, with an 85% repair target within 48 hours.
- **Pipeline Rehabilitation:** Prioritization of high-loss zones for 10 km of pipeline replacement annually to reduce physical losses.
- **District Metered Areas (DMAs):** Establishment of DMAs within 36 months to enhance monitoring and accountability of water flows.
- **Pressure Management:** Optimizing network pressure to prevent bursts and reduce leakage by 40% within 36 months.

2. Metering and Revenue Collection Enhancements

- **Faulty Meter Replacements:** 2,000 faulty meters will be replaced in 24 months, and smart prepaid meters introduced to improve billing accuracy.
- **Customer Re-registration:** Comprehensive data cleanup to eliminate ghost connections and align billing with actual consumption.
- **Illegal Connection Enforcement:** Strengthened legal actions and biannual audits to detect and prosecute illegal connections, targeting a 50% reduction in unauthorized water use within 24 months.

3. Institutional Strengthening and Compliance

- **Dedicated NRW Unit:** Established a 24/7 monitoring team for rapid response and real-time data tracking.
- **Capacity Building:** Quarterly staff training on NRW reduction strategies and smart metering technologies.
- **Stakeholder Engagement:** Ongoing consumer awareness campaigns through radio, SMS, and social media to promote conservation and compliance.

4. Monitoring, Evaluation, and Performance Reporting

- **Monthly NRW Audits:** Performance benchmarking against reduction targets.
- **Digital Dashboards:** Implementation of automated water balance monitoring systems to provide real-time tracking of losses.
- **Quarterly Performance Reviews:** Targeting a 5% NRW reduction per year, ensuring alignment with WASREB regulations.

Committee Observations

The Committee observed that—

- i. the Non-Revenue water for the company was at 53% which was 28% above the sector benchmark of 25% as set out in WASREB guidelines; and
- ii. although the water company put mitigation measures to reduce the level of non-revenue water, the level of the non-revenue water increased from the previous year, an indication that the measures are not effective.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should put in place comprehensive measures to mitigate on the Non-Revenue Water, that is, both physical and commercial losses. The measures to include replacement of old age dilapidated infrastructure, installation of smart meters for accurate billing and the application of Geographical Information System (GIS) to receive real-time data for the detection of bursts and leakages among other measures. The Auditor-General to review the implementation of the measures put in place to mitigate the Non-Revenue Water and provide a status update on the matter in the subsequent audit cycle;
- ii. given the impact of Non-Revenue Water on the water company's cashflows, the Accounting Officer should ensure that a provision for Non-Revenue Water is included in the financial statements. Further, explanatory notes should be provided to detail the contributions of both commercial and physical loss factors to the overall Non-Revenue Water; and
- iii. the County Government to collaborate with the Ethics and Anti-Corruption Commission to ensure pre-emptive measures are put place to reduce cases of theft and illegal connections.

5. Expired Water Sales Tariff

The statement of profit or loss and other comprehensive income reflects total income of Kshs.67,022,793. The amount includes Kshs.22,002,707 in respect of operating income. However, the water tariff used in billing from 31 July, 2017 expired on 31 July, 2020. Although, Management had instituted the renewal process, the same had not been completed as at the time of audit in November, 2024.

Management is in breach of the law and the Company may not recover its operational and maintenance costs.

Management Response

Recognizing the urgency of addressing the expired tariff issue, LAWASCO has been actively engaging with the Water Services Regulatory Board (WASREB) regarding the

tariff application and renewal process. The following steps have been taken to ensure compliance and financial stability:

1. Tariff Renewal Process Update

- LAWASCO initiated the tariff review process in accordance with WASREB regulations.
- The company has been in continuous correspondence with WASREB, providing the necessary documentation and justifications for tariff adjustments.
- The final draft of the Tariff Annex has been prepared and is scheduled for submission to WASREB for review and approval.

2. Mitigation Measures to Sustain Operations

- LAWASCO has implemented cost-containment measures to manage operational and maintenance expenses while awaiting tariff adjustments.
- Alternative revenue enhancement strategies, including improved billing efficiency and enhanced revenue collection mechanisms, have been adopted.
- Strengthened enforcement against illegal connections and improved meter accuracy to ensure revenue maximization.

3. Compliance and Future Prevention

- LAWASCO is committed to ensuring that tariff renewals align with regulatory timelines moving forward.

Committee Observations

The Committee observed that the water company used expired water tariffs to bill their customers. The water company applied for renewal of the tariffs, however, the process is yet to be completed.

Committee Recommendations

The Committee recommends that—

- i. The Accounting Officer engages WASREB to fast-track the approval of a new water tariff and provide a status update within 60 days from the adoption of this report; and**
- ii. The Accounting Officer and the Board of Directors ensure that the water company makes tariff applications or seek extensions two years in advance to avoid the lapse before renewal.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Pursuant to section 7(1) of the Public Audit Act, based on procedures performed by the Auditor General, the following matter formed the basis for conclusion that internal controls, risk management and overall governance were not effective –

1. Failure to establish an Independent Internal Audit Function and Board

Review of records provided indicated that Lamu Water and Sewerage Company Limited Management had not yet established an internal audit function, contrary to the Public Finance Management Regulations (County Government) to play an advisory role to Management and help prevent and detect fraud by reviewing the internal systems. Further, the contracts for board members lapsed in November 2023 but the Management did not renew the contracts nor appointed new board members. The company continued to operate without a board up to the time of the audit in November 2024.

The governance structure of the water company was not properly constituted and therefore the checks and balances were not functional or effective during the year under review.

Management Response

Management acknowledges the non-compliance with Regulation and the potential risks associated with the lack of an independent internal audit function. We are not able to establish the internal audit function in the company due to financial constraints. Going forward the company has arranged to be utilizing the County internal Audit department to source this function.

We acknowledge the lapse in board member contracts, which expired in November 2023, and the absence of a board until January 2025.

New board members were appointed in January 2025, following the appropriate corporate governance procedures recommended by WASREB.

Committee Observations

The Committee observed that—

- i. The water company operated without an internal audit function in place during the financial year under review.
- ii. The company operated without a board in place as the contracts of the Board members lapsed in November 2023. New board members were appointed in January 2025, thus mitigating the matter.

Committee Recommendations

The Committee recommends that—

- i. **the County Executive Committee Member (CECM) - Finance ensures that the water company puts in place all internal control systems such as the Internal Audit Committee as provided under section 155 (5) of the Public Finance Management Act, 2012, and a Risk Management Policy as provided under section 158 (1) of Public Finance Management (County Governments) Regulations, 2015 among others to guide the internal operations of the water company. Further, the managements to submit evidence of the same to the Auditor General for verification; and**
- ii. **the Auditor-General to verify the functionality of the Board and provide a report on the same to the Senate during the subsequent audit cycle.**

CHAPTER TEN

REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR MALINDI WATER AND SEWERAGE COMPANY LIMITED FOR THE FINANCIAL YEAR 2023/2024

The Governor of Kilifi County, Hon. Gideon Maitha Mung'aro, OGW, appeared before the Committee on Monday, 10th March, 2025 to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for the Malindi Water and Sewerage Company Limited for the Financial Year 2023/2024. The Governor was accompanied by the following officers—

- | | | |
|------------------------|---|------------------------|
| 1. Mr. Hezekiah Mwarua | - | Chief Officer- Finance |
| 2. Mr. Felix Wanje | - | MD MAWASCO |
| 3. Mr. K. Lughanje | - | County Attorney |

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered a **Qualified Opinion** on the financial statements of the Malindi Water and Sewerage Company Limited for the financial year on the following basis—

1. Unsupported Bulk Water Cost

The statement of profit and loss and other comprehensive income reflects general and operations expenses totaling Kshs. 311, 873, 581. Included in this expenditure is Kshs 192,927,622 incurred on purchase of bulk water. However, the master meter readings to support the bulk water expenses were not provided for audit.

Further, the bulk water expenditure includes Kshs. 171,724, 393 in respect of electricity bills paid to Kenya Power and Lighting Company (KPLC) on behalf of Coast Water Works Development Agency (CWWDA). However, the payments have not been supported with an agreement between the two (2) parties.

In the circumstances, the accuracy and completeness of the general and operations expenses totaling Kshs. 311, 873, 581 could not be confirmed.

Management Response

The management was in agreement with the Auditor General's observations.

The Management acknowledges that out of the 36No bulk water meters dedicated to the Company by the Coast Water Works Development Agency, 7No bulk water meters were billed on estimate basis as a result of malfunctioning of the bulk water meters. This was brought to the attention of the bulk water supplier for correction. The

estimation was based on three months previous actual bills which is within the Sector acceptable billings procedure where no actual readings are available.

The Management acknowledges payment to Kenya Power and Lighting Company on behalf of Coast Water Works Development Agency as a result of them not paying for power for water production. This non-payment resulted to constant disconnection. Coast Water Works Development Agency instructed the Company to pay directly to Kenya Power and Lighting Company on their behalf and present the payment to them for acknowledgment through a letter dated the 17th day of July, 2020.

The Management shall forthwith request Coast Water Works Development Agency to formalize this arrangement by way of a written agreement.

Committee Observations

The Committee observed that the water company made a payment of Kshs. 171,724,393, recorded under bulk water expenditure, in respect of electricity bills paid to Kenya Power and Lighting Company (KPLC) on behalf of Coast Water Works Development Agency (CWWDA). There was no formal agreement between the two entities on this arrangement.

Committee Recommendations

The Committee recommends that within sixty (60) days of the adoption of this report, the Governor of Kilifi County, through the Board of the water company, establishes a tripartite agreement between Malindi Water and Sewerage Company Limited, Kenya Power and Lighting Company (KPLC) and Coast Water Works Development Agency (CWWDA) to establish a formal agreement outlining pre agreed terms of engagement.

2. Long outstanding Trade and Other Receivables

The statement of financial position and Note 24 to the financial statements reflects trade and other receivables balance of Kshs.489,160,107. Included in the balance is Kshs. 330,680,177 in respect of debts which had been outstanding for more than six (6) months. In addition, the customers' accounts did not reflect current bills an indication that these accounts are not active. However, evidence of debt recovery measures was provided. In addition, the balance includes long outstanding customer deposit receivables balance of Kshs.8,443,600. Management explained that the deposits were in respect of customer fixed deposits received before the inception of the Company in 2006 and was to be refunded by Coast Water Works Development Agency (CWWDA). However, no refund had been made as at the time of audit.

In the circumstances, the accuracy and recoverability of trade and other receivables balance of Kshs. 489, 160, 107 could not be confirmed.

Management Response

The management was in agreement with the Auditor General's observations.

This trade balance and receivables represent long outstanding debtors disconnected for non-payment to the Company. The Management has created a Debt Collection Unit under the Commercial Officers (Credit Assistants) in the Company Organogram to help in the debt collection. The Management has further engaged a debt collector to recover the outstanding debt.

The Management has sent reminders to Coast Water Works Development Agency regarding the outstanding Customer Fixed Deposit refund to the Company. The reminder letter dated the 6th day of January, 2025 was provided.

Committee Observations

The Committee observed that—

- i. The company's trade and other receivables balance included an amount of Kshs. 330,680,177 which remained outstanding for more than six (6) months.
- ii. The company put into place measures to recover the debts including the appointment of a debt collector, however, the debt collector proved to be ineffective therefore, there was no value for money;
- iii. The company did not have a bad debt policy in place during the financial year under review;
- iv. The company's trade and other receivables balance also included an amount of Kshs.8,443,600 in respect of long outstanding customer deposit which was in respect of customer fixed deposits received before the inception of the Company in 2006 and was to be refunded by Coast Water Works Development Agency (CWWDA). The CWWDA is yet to refund the amount despite a reminder from the water company.

Committee Recommendations

The Committee recommends that—

- i. within sixty (60) days of the adoption of this report, the Governor of Kilifi County engages the Coast Water Works Development Agency (CWWDA) to ensure the facilitation of a debt swap agreement for the agency's Kshs. 8,443,600 obligation;
- ii. the Accounting Officer should, within 60 days of the adoption of this report, submit a debtors' schedule to the Auditor-General for verification;

- iii. within 60 days of the adoption of this report, the Accounting Officer ensures that a Bad Debt Policy is developed and submit a copy of the same to the Auditor general for verification. The Auditor-General to verify the policy and submit a status update on the same in the subsequent audit cycle; and
- iv. the Accounting Officer to undertake a detailed analysis of its long outstanding trade receivables and with the Board's approval, write off the irrecoverable debts in line with the Section 130 (2) (d) of the Public Finance Management (County Governments) Regulations, 2015 failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.

3. Long outstanding Trade and other payables balance

The statement of financial position reflects trade and other payables balance of Kshs.965,350,866. The balance includes Kshs.544,312,512 in respect of long outstanding bulk water purchases from Coast Water Works Development Agency (CWWDA) that has not been supported by bulk water purchase agreement or statements from the Board demanding payments.

Further, the balance includes employee payables of Kshs. 21,643,104 that have not been supported by a payroll indicating employee name, personal number, gross pay and the relevant deductions and net payables.

In addition, Note 34 to the financial statements reflects a balance of Kshs 949,769,352 which vary with the balance of Kshs.965,350,866 resulting to unreconciled variance of Kshs 15,581,514.

In the circumstances, the accuracy and completeness of trade payables balance of Kshs 965,350,866 could not be confirmed.

Management Response

The management was in agreement with the Auditor General's observations that the purchase of bulk water from Coast Water Works Development Agency is without a fully signed bulk water supply agreement. The agreement as done by Coast Water Works Development Agency was supposed to be signed by four (4) parties namely, the Coast Water Works Development Agency, MAWASCO, CECM Water Kilifi and the Water Services Regulatory Board. The Management forwarded the signed agreement to the Coast Water Works Development Agency that was signed by the Company and the CECM Water for their onward submission to the Water Services Regulatory Board. The bulk water supply agreement was not recognized by the Auditor General as it was not fully signed by all the parties therein.

The Management acknowledges not to have paid all staff salaries and previous staff salary deductions totaling to Kshs. 21, 643, 104 as at the 30th day of June 2024. The staff salaries are paid between the 1st to the 7th day of every succeeding month. The Management paid the staff salaries on the 5th day of July 2024.

The balance sheet on page 2, Note 34 reflects a balance of Kshs. 965, 350, 866/= while the notes to the financial statements on page 41 shows a balance of Kshs 949, 769, 352/= showing a difference of Kshs. 15, 581, 514/=.

The Management acknowledges to have erred in preparing Note 34 to the financial statements on page 41. The balance sheet Note 34 on page 2 showing a balance of Kshs. 965,350,866/= is the correct balance. In future such errors shall be corrected by double checking reports.

Committee Observations

The Committee observed that—

- i. The company's trade and other payables balance included long outstanding bulk water purchases amounting to Kshs.544,312,512 owed to Coast Water Works Development Agency (CWWDA) which was not supported by bulk water purchase agreement;
- ii. whereas the schedules to support the employee payables of Kshs. 21,643,104 was provided and verified by the Auditor-General, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act; and
- iii. the variance of Kshs. 15,581,514 was an error which was yet to be reconciled.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer to take appropriate administrative action on responsible officers within the Accounts and Finance department who fail to keep complete financial records in accordance with section 156(1) of the Public Finance Management Act, Cap.412A and in line with their terms and conditions of appointment or employment, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;
- ii. within sixty (60) days of the adoption of this report, the Governor of Kilifi County, through the Board of the water company, establishes an agreement between Malindi Water and Sewerage Company Limited, and Coast Water Works Development Agency (CWWDA) to establish a formal agreement outlining pre agreed terms of engagement;

- iii. the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle;
- iv. the Accounting Officer to ensure that a prior year adjustment is made in the financial statements of the subsequent year to account for the variance of Kshs. 15,581,514. The Auditor-General to provide a status update on the same in the subsequent audit cycle; and
- v. the Accounting Officer should enhance the capacity of in-post officers preparing financial statements to comply with the Public Sector Accounting Standards and should further invest in technology to enhance efficiency and improve the accuracy of financial statements.

4. Inaccurate Customer Deposit Balance

The statement of financial position reflects customer deposits balance of Kshs. 79,613,114. However, the customer deposit bank statement reflects a balance of Kshs. 1,298,963 resulting to unreconciled variance of Kshs. 78,314,151. Further, Board approvals for use of the funds in financing operating activities was not provided. In the circumstances, the accuracy, completeness and existence of customer deposits balance of Kshs. 79,613,114 could not be confirmed.

Management Response

The customer balance of Kshs. 79,613,114/=, as recorded in the Fixed Deposit Register, was reported in Note 36, while the Customer Fixed Deposit Bank Balance of Kshs. 1,298,963/= was reported in Note 27 to the financial statements.

All monies received by the Company is banked in the main revenue collection account. The funds collected as deposits are later transferred to the customer fixed deposit account. The Management acknowledges not to have transferred this fixed deposit collections from the main collection account as the same was utilized for operations during the non-cost recovery period. The Directors of the Company have put forward a resolution that, starting from March 2025, all current deposits will be fully banked, and previous deposits will be refunded over a period of 10 years. The Board resolution as communicated to the Management on the 3rd day of March, 2025 was provided to the Committee for review.

Committee Observations

The Committee observed that the water company borrowed Kshs. 78,314,151 from the customer deposits account which was yet to be refunded.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should, within 60 days of the adoption of this report, submit to the Committee and the Auditor-General a repayment plan with clear timelines for the repayment of the customer deposits;**
- ii. the Board of Directors should put in place a Customer Deposits Management Policy to guide how the water company can access, utilize and refund the money within specified timelines. Further, the Accounting Officer should ensure that there is full disclosure to the water company's customers on the utilization of the deposits;**
- iii. the Accounting Officer should ensure that all customer deposits are deposited in a fixed/call account whose access to the management is limited and where the accrued interests can be used to offset the bank charges. Management to submit evidence of the same to the Auditor-General within 60 days of the adoption of this report for verification; and**
- iv. the Accounting Officer ensures that the company strictly adheres to the provisions of section 142 of the Public Finance Management Act, Cap.412A on borrowing by County Government entities, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.**

Emphasis of matter

Budgetary Control and Performance

The summary statement of appropriation reflects final revenue budget and actual on comparable basis of Kshs. 1,411,745,425 and Kshs. 1,299,856,447 respectively, resulting to a budget under funding of Kshs. 111,888,978 representing 8% of the budget. Similarly, the Management spent Kshs. 1,217,840,221 against an actual receipt of Kshs. 1, 299, 856, 447 resulting to under absorption of Kshs. 82, 016, 226 representing 6% of the receipts.

Management Response

The revenue budget was underfunded because donor funds from Water and Sanitation Development Project (WSDP) were not received as expected in the second half of the financial year under review. These funds were received in July 2024. Future budgets will be adjusted to reflect accurate income projections.

The limited utilization of actual receipts was attributed to delayed raising of Invoices by Service Providers. In future we shall monitor all the service providers to raise invoices in time to match the financial year projects.

Committee Observations

The Committee observed that—

- i. the water company had a revenue shortfall of Kshs. 111,888, 978 (8% of the budget) during the financial year under review.
- ii. The water company failed to absorb Kshs. 82,016,226 or 6% of its budget during the financial year under review.

Committee Recommendations

The Committee recommends that the Accounting Officer should comply with regulation 42(1)(b) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.

Other Matter

Unresolved Prior Year Audit Matters

The audit report for the previous year highlighted several issues in respect of the financial statements, lawfulness and effectiveness of public resources. Management's report on the progress made in resolving the issues did not indicate the status of these issues as at 30 June, 2024.

Management Response

The status of the prior year's Audit Matters is detailed on page 41 to page 48 of the financial statement. Issues within the Company's control were addressed promptly, while those necessitating financial planning have been incorporated into the current financial budget. Matters involving other organizations have been escalated and will be reported in the financial year 2024 - 2025.

Committee Observations

The Committee observed that the management of the water company did not take action in resolving the queries raised in the report of the Auditor-General for the financial year 2022/2023.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should resolve any issues resulting from an audit that remains outstanding as required by section 149(2)(l) of the Public Finance Management Act, Cap. 412A, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences may apply; and
- ii. the Auditor-General provides a status update on the progress made on the matter in the subsequent audit cycle upon review of the progress report.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Pursuant to Article 229 (6) of the Constitution, based on the audit procedures performed by the Auditor General, the following matters formed the basis for conclusion that public resources were not applied lawfully and in an effective way –

1. Non-Compliance with Laws and Regulations

1.1 Non-Compliance with Affirmative Action on Gender, Ethnicity and Regional Balance

Records provided for audit revealed that the Company had a staff establishment of two hundred and sixteen (216) staff out of which only one percent (1%) of the staff population were persons living with disability and sixty seven percent (67%) of the staff population come from the dominant ethnic group. Further, one hundred and seventy-seven (177) (83%) of the staff population were male. This is contrary to paragraph B.22 (2) of the Public Service Commission Human Resource Policies and Procedures Manual 2015 which states that the Government will endeavour to have a gender balanced Civil Service by ensuring that not more than 2/3 of positions in its establishment are filled by either gender.

In the circumstances, Management was in breach of Policy Guidelines.

Management Response

The management was in agreement with the Auditor General's observations.

The Management shall come up with measures to address this adverse ratio over time. The current staff demographics were inherited from the Company's formation period in

2006, and Management has been working to correct this imbalance including consideration where the youth form 55% of the Staff Establishment.

The recent staff recruitment was aimed at addressing this issue, and this approach will continue until compliance is achieved. The last recruitment was reserved for the female gender.

Committee Observations

The Committee observed that out of the entire staff establishment of the water company, only one percent (1%) of the staff were persons living with disability while sixty seven percent (67%) of the staff population came from the dominant ethnic group and 83% of the staff population were male contrary to paragraph B.22 (2) of the Public Service Commission Human Resource Policies and Procedures Manual 2015.

Committee Recommendations

The Committee recommends that—

- i. The Board and the accounting officer makes deliberate efforts to progressively comply with section 65(1)(e) of the County Governments Act, 2012 which provides that at least thirty percent 30% of the vacant posts at entry level be filled by candidates who are not from the dominant ethnic community; and**
- ii. The Board and the accounting officer to make deliberate efforts progressively in the endeavor to comply with Section 7 (1) and (2) of the National Cohesion and Integrity Act, 2008, which requires that public establishments shall seek to represent the diversity of the people of Kenya in employment of staff.**

1.2 Non-Remittance of Pension Deductions

The statement of financial position and Note 37 to the financial statements reflects a balance of Kshs.137,170,821 in respect of retirement benefit obligations. Review of records revealed that this balance is owed to LAPTRUST as pension scheme contribution that had not been remitted as at 30 June, 2024. This is contrary to Section 53 A(1) of the Retirement Benefits Act No.3 of 1997 Revised 2016 which states that where an employer, having with the agreement of an employee who is a member of a scheme, made a deduction from the employee's emoluments for remittance to the scheme, fails to remit the deduction within fifteen(15) days of the deduction, the scheme may, after giving such employer not less than seven (7) days' notice, institute proceedings for the recovery of the deductions. In addition, Management has not disclosed the interest and penalties which the unremitted balance had attracted.

In the circumstances, Management was in breach of the law.

Management Response

The management was in agreement with the Auditor General's observations.

There were delays in remittances for some months. To address this, an agreement with the Pension Fund Managers for remittances for those months not remitted was agreed upon on the 7th day of August, 2023. We aim to improve cash flow by increasing revenue collection and reducing operating expenses. This will be achieved through tariff reviews, expanding water coverage, increasing connectivity, and reducing operating costs.

Committee Observations

The Committee observed that the management provided a settlement agreement between the water company and LAPTRUST to clear the unremitted pension deductions amounting to Kshs.137,170,821.

Committee Recommendations

The Committee recommends that the Auditor-General to monitor the company's compliance to the settlement agreement and provide a status update on the same to the Senate during the subsequent audit cycle.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Pursuant to section 7(1) of the Public Audit Act, based on procedures performed by the Auditor General, the following matter formed the basis for conclusion that internal controls, risk management and overall governance were not effective –

Effectiveness of Non-Revenue water Management

The statement of profit or loss and other comprehensive income reflects operating revenue of Kshs.662,556,547 in respect of water sales. However, the water production during the year under review was 6,185,029 cubic meters against water sales of 5,095,342 cubic meters resulting to non-revenue water loss of 1,089,687 cubic meters or 16% instead of the 12% recommended for the company by WASREB. This was contrary to Table 3.0 (i) of WASREB conditions attached to the tariff approval for non-revenue water under Kenya Gazette dated 11th August 2023 which provided that the acceptable non-revenue water is 12% and any non-revenue water above 12% is unacceptable in respect of the Company.

In the circumstances, the Company's non-revenue measures were not effective during the year under review thereby negatively affecting the Company's profitability.

Management Response

The regulator recommends a non-revenue threshold of 25% or below. During the review period, the Management had set a stretch target of 12% and achieved 16%, which is within the allowable threshold. The Management is reviewing non-revenue water loss activities to reach more desirable levels.

Committee Observations

The Committee observed that the company's Non-Revenue Water at 16% which was below the sector benchmark of 25% set by WASREB.

CHAPTER ELEVEN

REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR THE MBOONI WATER AND SANITATION COMPANY LIMITED FOR THE FINANCIAL YEAR 2023/2024

The Governor of Makueni County, Hon. Mutula Kilonzo Junior, CBS, appeared before the Committee on Monday, 17th March, 2025 to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for the Mbooni Water and Sanitation Company Limited (MBONWASCO) for the Financial Year 2023/2024. He was accompanied by –

1. Damaris M. Kavoi – CECM- Finance
2. Titus Mutwii – Managing Director (MBONWASCO)
3. John Nguni – Chief Officer Financial Services

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered a **qualified opinion** on the financial statements of the Mbooni water and sanitation company for the period under review on the following basis-

1. Long Outstanding Receivables

The Statement of Financial Position and as disclosed in Note 13 to the Financial Statements reflect trade and other receivables balance of Kshs. 4,118,889.00. Included in the balance are receivables totaling Kshs. 1,235,667.00 which have been outstanding for over 360 days. In addition, the Company did not have a debt policy. Management did not demonstrate measures put in place to recover the long outstanding debts.

In the circumstances, the recoverability of trade and other receivables balance of Kshs. 1,235,667.00 could not be confirmed.

Management Response

The region has experienced long periods of drought during the year under review thus supply of water has been erratic. Due to this, the customers have been having difficulties in timely payment of water bills. Despite that, the company has been issuing demand notices

To strengthen management of the company, a substantive Managing Director was employed and the Board of Management composition enhanced

This has enhanced company's efficiency in policy formulation. The Company has developed a debt recovery framework to guide in drafting the policy in the current Financial Year.

Committee Observations

The Committee observed that the water company had receivables totaling Kshs. 1,235,667.00 which had been outstanding for over 360 days. The water company did not have a debt policy.

Committee Recommendations

The Committee recommends that—

- i. the water company undertakes debtor's circularization to confirm the authenticity of the receivables and provide a status update on the same to the Senate within sixty (60) days of the adoption of this report;
- ii. the Accounting Officer should, within 60 days of the adoption of this report, submit a debtors' schedule to the Auditor-General for verification;
- iii. the Accounting Officer should within 60 days of the adoption of this report, submit an approved copy of the Debt Management Policy to the Auditor general for verification. The Auditor-General to verify the policy and submit a status update on the same in the subsequent audit cycle;
- iv. the Accounting Officer should, within 60 days of the adoption of this report, put in place recovery measures for the outstanding amount with clear timelines. The Auditor-General should review the implementation of the measures put in place provide a status update on the matter in the subsequent audit cycle; and
- v. The Accounting Officer to undertake a detailed analysis of its long outstanding trade receivables and with the Board's approval, write off the irrecoverable debts in line with the Section 130 (2) (d) of the Public Finance Management (County Governments) Regulations, 2015.

Emphasis of Matter

1. Budgetary Control and Performance

The Statement of Comparison of Budget and Actual Amounts reflects final receipts budget and actual on a comparable basis of Kshs. 5,022,676 and Kshs. 4,222,240 respectively resulting to an under funding of Kshs. 800,436 or approximately 16 % of the budget.

The under-funding may affect the planned activities and may impact negatively on service delivery to the public.

Management Response

The company is rural based and is faced with a challenge in revenue collection due to the operating environment which mostly is characterized by low income of the consumers. However, the management is pursuing the following revenue strategies:

- a) The board has a drafted debt recovery policy framework.
- b) Enhancing revenue generation through increasing revenue base by tapping potential customers by attracting development partners for expansion of the water infrastructure and embracing new technology. This is a project under FLLoCA for Kinze water project which is a water distribution project embracing use of alternative energy. The main works entail; Pumping system solarization and distribution network rehabilitation with water kiosk and storage tank inclusive.
- c) Payment plans options for customers with huge bills to pay in installments.
- d) Reducing the level of non-revenue water by use of standard Water meters, ensuring there are no illegal connections and increasing billing efficiency submitted to under the USAID-STAWI grant calls.
- e) Through the County Government, taking over management of viable public water projects within the service area as per the WASREB guidelines on provision of water services in the rural and underserved areas, 2019. Among proposed water projects is Athi-Kalawa Water, Sanitation & Hygiene (AKWASH) project being implemented by the County Government in collaboration with World Vision Kenya.
- f) Additionally, the Company is one among thirty-three Water Service Providers participating in the National K-WASH program funded by World Bank and supported by State Department of water and Sanitation through Counties.

Through this program, the company is in the process of developing a Performance Improvement Action Plan which is a key indicator under Disbursement Linked Indicator Six (DLI-6). The overall outcome will be Improving financial performance of Water Services Providers in participating Counties.

Committee Observations

The Committee observed that there was an under funding of Kshs. 800,436 or approximately 16 % of the budget.

Committee Recommendations

The Committee recommends that the Accounting Officer should comply with regulation 42(1) (b) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.

Other Matter

1. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial statements, Report on Lawfulness and Effectiveness in Use of Public Resources and report of effectiveness of internal controls, risk management and governance. The management has not resolved the issues contrary to section 149 (2) (1) of the public finance management Act, 2012 which requires the Accounting officers designated to try to resolve any issues resulting from any audit that remain outstanding.

Management Response

The management has made progress in resolving the matters raised as shown in the progress report on follow up of prior year auditor's recommendations in The company has profiled all the un resolved prior year matters and it is engaging the relevant stakeholders to bring them to a close.

Committee Observations

The Committee observed that the query remains unresolved as the management of the water company did not take action in resolving the queries raised in the report of the Auditor-General for the financial year 2022/2023.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should resolve any issues resulting from an audit that remains outstanding as required by section 149(2)(l) of the Public Finance Management Act, Cap. 412A, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences may apply; and
- ii. the Auditor-General provides a status update on the progress made on the matter in the subsequent audit cycle upon review of the progress report.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Pursuant to Article 229 (6) of the Constitution, based on the audit procedures performed by the Auditor General, the following matters formed the basis for conclusion that public resources were not applied lawfully and in an effective way –

1. Lack of Water Tariff

The statement of profit or loss and other comprehensive income reflects revenue from sale of water of Kshs.2, 613,160. However, the tariff in use is undated and is not gazette by the Water Services Regulatory Board (WASREB). This is contrary to paragraph 4.0 (11) of the WASREB tariff guidelines of June 2023 which state that the process for tariff adjustment is initiated by the water service provider (WSP) and upon approval by the board of directors, WASREB shall gazette the Tarrif with a 30 days' notice for implementation by the WSP and this process shall take a maximum of 6 (Six) months from the receipt of a complete application. Although Management explained that the undated and ungazetted tariffs had been in use since 2012, the same has not been updated.

In the circumstances, the management was in breach of the water services regulatory board (WASREB) Tariff guidelines.

Management Response

The County focused on enhancing critical aspects of ownership and management of the company by employing a substantive managing director, securing the ownership of the company and constituting full board as per law. This has tremendously given the company efficiency in operation.

Currently, the application process for a new tariff.

Committee Observations

The Committee observed that the query remains unresolved as the water company used water tariffs that was undated is not gazetted by the Water Services Regulatory Board (WASREB).

Committee Recommendations

The Committee recommends that the Accounting Officer to engage WASREB to fast track the completion of the tariffs review process within 60 days of the adoption of this report, and the Auditor-General verifies the same and provides a status update in the subsequent audit cycle.

2. Non-Compliance with the law on Fiscal Responsibility- Wages Bill

The statement of profit or loss and other comprehensive income and as disclosed in Note 8 to the financial statements reflect staff cost of Kshs. 3,249,328 which represents approximately 77% of the total revenue of Kshs. 4,222,240. This is contrary to Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which requires the County Government expenditure on wages and benefits for public officers to be limited to 35% of the total revenue.

In the circumstances, the management was in breach of the law.

Management Response

The company in Collaboration with FLLOCA has embarked on expanding customer base in a bid to collect more revenue. The scope of works includes solarization of Kinze pumping station, extension of Namba Nyaanya line and installation of 3No.- 10,000Lts plastic water tanks.

Committee Observations

The Committee observed that the query remains unresolved as the water company spent of Kshs. 3,249,328 (77% of the total revenue) on personnel expenses to Regulation 25(1) (b) of the Public Finance Management (County Governments) Regulations, 2015.

Committee Recommendations

The Committee recommends that the Company adheres with the provisions of regulation 25(1) of the Public Finance management (County Government) Regulations, 2015 which limits the wage bill to thirty -five percent (35%) of the total revenue and establish a lean staff, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.

3. Excessive Non-Revenue Water

The Statement of Profit or Loss and Other Comprehensive Income and as disclosed in Note 6 to the financial statements reflect operating revenue from water sales of Kshs.2, 613,160. Records provided for audit review revealed that the Company produced a total of 56,036 cubic meters (m3) of water. However, only 30,873 cubic meters were billed to customers. The balance of 25,163 cubic meters or approximately 45% of the total water produced with a sale value of Kshs. 2,129,853 represents Non-Revenue Water (NRW). This is above the allowable loss of 25% provided by the Water Services Regulatory Board Guidelines.

In the circumstances, Management was in breach of law and non-water revenue negatively impacts on the Company's profitability and long -term sustainability.

Management Response

The company is working closely with the County Government, USAID-STAWI, FLLOCA and K-WASH programs to upgrade most of the water infrastructure which consists of old leaking pipes, clogged water pipes, lack of master meters and leaking water tanks leading to the excess water loss above the allowable 25%. Already rehabilitation works is going on in Mulima and Mbumbuni Markets and the environs.

A extended distribution from Mulima by the County Government which entails desilting of the earth dam, construction of a water treatment unit, pumping system, rising main, pipeline rehabilitation & storage tank installations/ rehabilitation and will

be connected to the existing pipeline and project through FLLoCA catering for solarisation, extension line and rehabilitation of an existing line.

Committee Observations

The Committee observed that the Non-Revenue Water was 45% way above the sector benchmark of 25% prescribed by the Water Services Regulatory Board (WASREB) guidelines.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should put in place comprehensive measures to mitigate on the Non-Revenue Water, that is, both physical and commercial losses. The measures to include replacement of old age dilapidated infrastructure, installation of smart meters for accurate billing and the application of Geographical Information System (GIS) to receive real-time data for the detection of bursts and leakages among other measures. The Auditor-General to review the implementation of the measures put in place to mitigate the Non-Revenue Water and provide a status update on the matter in the subsequent audit cycle;**
- ii. given the impact of Non-Revenue Water on the water company's cashflows, the Accounting Officer should ensure that a provision for Non-Revenue Water is included in the financial statements. Further, explanatory notes should be provided to detail the contributions of both commercial and physical loss factors to the overall Non-Revenue Water; and**
- iii. the Governor of Makueni County to collaborate with the Ethics and Anti-Corruption Commission to ensure pre-emptive measures are put place to reduce cases of theft and illegal connections.**

4. Failure to Observe Ethnicity and People with Disabilities Distribution Rule

Review of personnel records indicated that as at 30 June 2024, the Company had a total of thirteen (13) employees who were all from the same ethnic community. Further, none of the employees was a person living with disability. This is in contrary to Sec 65(1) (e) of the County Government Act which states that in selecting candidates for appointment, the County Government Board shall consider the need to ensure that at least 30% of the vacant positions at entry level are filled by candidates who are not from the dominant community in the County. In addition, paragraph 2.2.2 (1) of public service commission diversity policy 2016, states that every public service institution shall adopt measures aimed at facilitating the realization of constitutional principles of ensuring an inclusive public service and that at least five percent (5%) of appointments in the public sector shall comprise persons with disability.

In the circumstances, Management was in breach of the law.

Management Response

The company is in a rural set up with the majority of the staff being from the same ethnic group for ease of interaction with the community. However, the company will in future consider staff from other ethnic groups while filling positions that are not very interactive such as technical manager, Finance manager etc.

Committee Observations

The Committee observed that the query remains unresolved as 13 of the total employees comprised of staff from one dominant ethnic community thus there was no ethnic diversity among the company employees.

Committee Recommendations

The Committee recommends that—

- i. **The Board and the accounting officer makes deliberate efforts to progressively comply with section 65 of the County Governments Act, 2012 which provides that at least thirty percent 30% of the vacant posts at entry level be filled by candidates who are not from the dominant ethnic community; and**
- ii. **The Board and the accounting officer to make deliberate efforts progressively in the endeavor to comply with Section 7 (1) and (2) of the National Cohesion and Integrity Act, 2008, which requires that public establishments shall seek to represent the diversity of the people of Kenya in employment of staff.**

5. Lack of a Strategic Plan

Review of the Company's records revealed that the Company did not have an approved strategic plan. This is contrary to section 149 (2) (g) of the public finance management Act, 2012 which states that in carrying out responsibility imposed by subsection (1), an accounting officer shall, in respect of an entity concerned, prepare a strategic for the entity in conformity with medium term fiscal framework financial objectives of the County government.

In the circumstances, Management was in breach of the law.

Management Response

The company has been lacking critical managers and fully constituted board to prepare, consider and approve policies to comply with the law. During the year under review, the County embarked on putting together the relevant managers, secure ownership and

put the company into a trajectory to turn it around. The management has written to USAID USTAWI requesting assistance in review/formulation of a new strategic plan and a business proposal.

Committee Observations

The Committee observed that the water company had not have an approved strategic plan. This is contrary to section 149 (2) (g) of the public finance management Act, 2012.

Committee Recommendations

The Committee recommends that the water company develops and implements a strategic plan within 60 days of the adoption of this report and submit the same to the Auditor-General for verification.

6. Long Outstanding Trade and Other Payables

The Statement of Financial Position and as disclosed in Note 17 to the Financial Statements reflect trade and other payables balance of Kshs. 8,480,181. Included in the balance is Kshs. 5,664,499 or approximately 67% of payables which has been outstanding for more than 3 years. This is contrary to Section 94 (1) (a) (i) of the Public Finance Management Act, 2012 which states that a state organ or public entity is in serious material breach or persistent material breach if the state organ or public entity fails to make any payment as and when due. In addition, management did not provide for audit review measures put in place to settle the liabilities.

In the circumstances, Management was in breach of the law.

Management Response

This company was at the verge of collapse and needed to be turned around because it was technically insolvent as at June 2023. The company lacked critical managers and a fully constituted board for effective running as well as preparation, consideration and approval of policies to comply with the law. During the year under review, the County management embarked to putting together the relevant managers, securing ownership and putting the company into a trajectory to turn it around.

The company is developing strategies to increase their revenue for instance reduction of non-revenue water, upward revision of water tariff among others which will subsequently enable the company to break even and settle the long outstanding payables together with the current obligation as and when they fall due.

In addition, the company will benefit from two flagship water projects being undertaken by the County Government through the mainstream budget and development partners. The projects are Mulima water project which entails desilting of the earth dam,

construction of a water treatment unit, pumping system, rising main, pipeline rehabilitation & storage tank installations/ rehabilitation and FLLOCA project extending water distribution through the Kinze water project.

Committee Observations

The Committee observed that the query remains unresolved as the company had long outstanding trade and other payables amounting to Kshs. 5,664,499 which remained outstanding for over three years.

Committee Recommendations

The Committee recommends that the Accounting Officer engages all entities owed and formulate a repayment plan for payables amounting to Kshs. 5,664,499 and file a report on the same with the Auditor-General for verification. Auditor-General to provide a status update on the matter in the subsequent audit cycle.

REPORT OF EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Pursuant to section 7(1)(a) of the Public Audit Act, based on the audit procedures performed by the Auditor-General, the internal control, risk management and governance were not effective—

1. Lack of Internal Audit and Audit Committee

The company does not have an internal audit department to guide and evaluate its internal controls contrary to legislation 153(1) of the public finance management (County Governments) regulations, 2015 which requires internal auditors to review and evaluate budgetary performance, financial management, transparency and accountability mechanism and processes in the company and to give a reasonable assurance through audit committee on the state of risk management, control and governance within the organization, and review the effectiveness of the financial and non-financial performance management systems of the company. Further, the company has not established an audit committee as stipulated in regulation 167 (1) of the public finance management (County governments) regulations, 2015 which requires each county government entity to establish an audit committee.

In the circumstances, the company governance structure was not properly constituted and therefore it was not possible to confirm whether checks and balances were functioning as intended.

Management Response

The company is currently unable to recruit an Internal Auditors and establish an internal audit department due to financial limitations. Despite this constraint, the company has actively sought internal audit support through the County Government's Internal Audit Directorate and the Audit Committee. This collaboration has enabled the company to benefit from oversight and independent review of its financial and operational processes, ensuring compliance. See attached audit correspondences by the County Government's Internal Audit Directorate, Additionally, the company has established a functional Audit Committee to enhance governance and internal control mechanisms.

Committee Observations

The Committee observed that the water company operated without an Audit Committee and an Internal Audit Function during the financial year under review.

Committee Recommendations

The Committee recommends that the Board of Directors ensures that the water company puts in place all internal control systems such as the Internal Audit Function as provided under section 155 (5) of the Public Finance Management Act, 2012 among others to guide the internal operations of the Municipality. Further, the management to submit evidence of the same to the Auditor General for verification.

2. Lack of Risk Management Policy and Strategy

The company management had not put in place Risk management policy, strategies, and risk register to mitigate against risks. It was, therefore, not clear how management manages risks exposures. This is in contravention of regulation 158(1) (a) and (b) of the Public Finance Management (County Governments) Regulations, 2015, which requires the Accounting Officer to ensure that the County Government entity develops risk management strategies, which include fraud prevention mechanisms and the County Government develops a system of risk management and internal control that builds a robust business operation.

In the circumstances, the effectiveness of risk management measures put in place could not be confirmed.

Management Response

The Water Company does not have a Risk Policy currently but has been using the County Risk Policy. The current management has realized the need for the policy to address the very unique needs in the water sector and is in the process of developing a draft in the current Financial Year.

Committee Observations

The Committee observed that the water company did not have a risk management policy in place to effectively execute internal controls of the water company.

Committee Recommendations

The Committee recommends that the Board of Directors ensures that the water company puts in place all internal control systems such as a Risk Management Policy as provided under section 158 (1) of Public Finance Management (County Governments) Regulations, 2015 among others to guide the internal operations of all the funds. Further, the managements to submit evidence of the same to the Auditor-General for verification.

3. Lack of Approved Information Technology Security Policy

Review of the company's information technology systems revealed that the company did not have an approved IT policy for governance and management of its ICT resource. In addition, there is no ICT steering committee in place to assist in the development of ICT policy framework to enable the company to realize long term ICT strategic goals. Lack of an approved IT policy may result in an unclear direction regarding maintenance of information security across the organization and safe guarding the company's ICT assets. Further, without a sound and approved framework, users do not have any rules and procedures to follow in order to minimize risks of errors, fraud, and the loss of data, - confidentiality, integrity and availability.

In the circumstances, the effectiveness of IT, internal controls could not be confirmed.

Management Response

The Water Company does not have an approved IT policy for governance and management of its ICT resource but utilizes the County ICT policy to support its operations. The management is working towards embracing technology in service delivery and developing a policy to drive this agenda.

Committee Observations

The Committee noted that the water company did not have an ICT steering committee in place to assist in development of ICT policy framework to enable the company realize long term ICT strategic goals.

Committee recommendations

The Committee recommends that the Board of Directors ensures that the water company puts in place all internal control systems such as the ICT policy as provided under section 155 (5) of the Public Finance Management Act, 2012

among others to guide the internal operations of all the funds. Further, the managements to submit evidence of the same to the Auditor-General for verification.

CHAPTER TWELVE

REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR MURANG'A SOUTH WATER AND SANITATION COMPANY LIMITED FOR THE FINANCIAL YEAR 2023/2024

The Governor of Murang'a County, Hon. (Dr) Irungu Kang'ata, CBS, appeared before the Committee on Monday, 17th March, 2025 to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for the Murang'a South Water and Sanitation Company Limited for the Financial Year 2023/2024. The Governor was accompanied by the following officers—

1. Prof. Kiarie Mwaura – CECM Finance
2. Mary Magochi- CECM Water
3. Macharia – Managing Director (Murang'a South Water and Sanitation Company Ltd)

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered a **Qualified Opinion** on the financial statements of the Murang'a South Water and Sanitation Company Limited for the financial year on the following basis—

1. Material Uncertainty in Relation to Going Concern

The statement of financial position reflects current liabilities balance of Kshs. 211,933,727 which exceeds the current assets balance of Kshs. 111,794,952 resulting in a negative working capital of Kshs. 100,138,775 as at 30 June, 2024. The Company has disclosed this state in note 54 to the financial statements. Even though, the Management of the Company has explained that it implemented a cost recovery tariff within the financial year under review, to increase revenue and improve the going concern status, the precarious financial position is yet an indication of the existence of a material uncertainty which may cast a significant doubt on the Company's ability to continue as a going concern and to meet its obligations as and when they fall due.

In the circumstances, the going concern of the Company is in doubt.

Management Response

Some of our operational areas were taken over by the neighboring Water Service Provider, Murang'a Water & Sanitation Company Limited (MUWASCO), including a dam and a fully equipped treatment facility with a capacity of 8,000 m³/day. This takeover has negatively impacted our revenue generation. The company had made substantial investments in distribution lines within the affected area under credit terms.

However, the outstanding liabilities and staff wage bill associated with the taken-over area have not yet been transferred to MUWASCO.

Additionally, the balance of current liabilities includes an administrative fee of Ksh. 20,699,784 owed to Tana Water Works Development Agency. It is important to note that these charges accumulated despite Tana Water Works Development Agency not delivering the expected infrastructure developments. Consequently, our water company proceeded with the necessary capital investments on behalf of Tana Water Works Development Agency. Given these circumstances, we are exploring ways to address this issue.

To address these challenges, the company has implemented a cost-recovery tariff, which has contributed to improved revenue performance and is expected to further enhance financial stability over time. Furthermore, the company will initiate discussions to reclaim its operational area or establish appropriate compensation mechanisms to mitigate financial losses and safeguard its operational territory and revenue sources.

Committee Observations

The Committee observed that the water company operated with a negative working capital of Kshs. 100,138,775 during the financial year under review, casting doubt on the company's ability to meet its obligations as and when they fall due.

Committee Recommendations

The Committee recommends that—

- i. the Governor of Murang'a County should take keen interest in the management and operations of the water company in line with Article 179 (4) of the Constitution;**
- ii. The Accounting Officer should prepare and submit quarterly reports to the County Treasury in regard to the financial and non-financial status of the water company in line with section 166 of the Public Finance Management Act, Cap.412A, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;**
- iii. the County Executive Committee Member in charge of water should take full responsibility for monitoring the financial performance of the county corporation in line with section 184 of the Public Finance Management Act, 2012 and regularly report to the Governor through the County Executive Committee in line with Article 179 (6) of the Constitution;**
- iv. the County Treasury should undertake annual reporting on County Corporation including an assessment of the commercial viability of the company in line with the standards set by the Water Services Regulatory Board under section 77(2) of the Water Act, 2016; and**

- v. **the Accounting Officer should, within 60 days of the adoption of this report, put in place strategic and innovative measures for recovery and to boost the financial health of the water company for self-sustainability. Additionally, the management reviews and regularizes the company's existing assets and have updated assets register that reflect the current financial position. Further, management to determine and ascertain their commercial viability as required by the Public Sector Accounting Standards Board (PSASB).**

2. Long Outstanding Trade Receivables

The statement of financial position reflects trade and other receivables balance of Kshs. 79,445,847 net of provision for bad and doubtful receivables amounts of Kshs. 7,248,209 which, as disclosed in Note 29 to the financial statements includes trade receivables balance of Kshs.65,351,081, which had been outstanding for more than 180 days without being collected.

In the circumstances, the accuracy and recoverability of trade and other receivables balance of Kshs.79, 445,847 could not be confirmed.

Management Response

The total outstanding trade receivables consists of accumulated debts owed by the County and National Government amount to K,sh 19,611,801. In addition, Ksh 16,913,916 included in the outstanding trade receivables relates to customers transferred to Muranga Water and Sanitation Company. The transfer occurred without a formal agreement on how customer receivables would be collected and offset between the two companies. The Company Will Collaborate with relevant stakeholders to mediate and establish a formal payment plan for the outstanding receivables.

The Company has put in place various measures to collect long outstanding customer debts e.g part payment plan, sending sms payment reminders, sending demand letters, frequent field visits to our customers, disconnecting long overdue accounts, sensitising customers on prompt bill payment for smooth service delivery and implementation of debt management policy.

Committee Observations

The Committee observed that the company's trade and other receivables balance included an amount of Kshs 65,351,081 which remained outstanding for more than 180 days.

Committee Recommendations

The Committee recommends that—

- i. the water company undertakes debtor's circularization to confirm the authenticity of the receivables and provide a status update on the same to the Senate within sixty (60) days of the adoption of this report;
- ii. the Accounting Officer should, within 60 days of the adoption of this report, submit a debtors' schedule to the Auditor-General for verification;
- iii. the Accounting Officer should within 60 days of the adoption of this report, submit an approved copy of the Debt Management Policy to the Auditor general for verification. The Auditor-General to verify the policy and submit a status update on the same in the subsequent audit cycle;
- iv. the Accounting Officer should, within 60 days of the adoption of this report, put in place recovery measures for the outstanding amount with clear timelines. The Auditor-General should review the implementation of the measures put in place provide a status update on the matter in the subsequent audit cycle; and
- v. The Accounting Officer to undertake a detailed analysis of its long outstanding trade receivables and with the Board's approval, write off the irrecoverable debts in line with the Section 130 (2) (d) of the Public Finance Management (County Governments) Regulations, 2015.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Pursuant to Article 229 (6) of the Constitution, based on the audit procedures performed by the Auditor General, the following matters formed the basis for conclusion that public resources were not applied lawfully and in an effective way –

1. High level of Non-Revenue Water (NRW)

During the financial year under review, the Company had a total water production of 4,649,498 cubic meters (CM). Out of this volume, 2,775,351 CM was registered and billed to consumer meters. The remaining balance of 1,874,147 cubic meters (CM) or 40.3% was lost water. This is water that was produced but not translated to sales. This volume exceeds the set maximum allowable water loss of 25% as per the service provision agreement with Tana Water Services Board Schedule E, Sector Benchmarks. Therefore, the non- allowable water loss was 15.3%. The significant level of non-revenue water may negatively impact the Company's profitability and its ability to keep as a going concern.

In the circumstances, the high level of NRW may negatively impact on the company's profitability and ability to sustain delivery to the public.

Management Response

The company is fully committed to reducing Non-Revenue Water (NRW) to sector standards of less than 25%, the Company has progressively improved on the NRW reduction as evidenced by the current status of 40.3% as at June 2024 from 45% as of June 2023. To achieve this, we are actively addressing the following key challenges:

i. Dilapidated Infrastructure

We are implementing a strategic infrastructure renewal program to aged pipeline network, including:

- Completed Projects: Sabasaba Town Rehabilitation Project (Ksh 18M, WSTF funded).
- Ongoing Projects: Muranga South Water Supply Intensification Project (Ksh 1.2B, AWWDA funded) and Kandara Bulk Rehabilitation Project (AWWDA funded).
- Proposed Projects: Ksh 150M AOD project for Kabati-Kenol line rehabilitation and extension.

ii. Metering Challenges and Aging Meters

To improve metering accuracy and efficiency, we are:

- Deploying 2,500 high-accuracy Class D meters from the Makutano project (AWWDA).
- Procuring over 10,000 consumer meters through CLSG II to replace aging and damaged meters.
- Implementing a new tariff structure to meter all flat-rate connections.
- Conducting regular meter testing, calibration, and external calibration.

iii. Water Theft

We are taking decisive action against water theft:

- Imposed surcharges totaling FY 2023/24. Ksh 1,704,675.
- Pursuing legal action against non-compliant consumers, including arrests and court cases.
- Collaborating with water police to target areas with high water theft rates.
- Implementing an incentive policy to reward staff for reporting and resolving water theft cases.
- Conducting community outreach programs, Barazas and Clinics to educate the public about tariffs and penalties.

iv. Bursts and Leakages

We are prioritizing rapid response and preventive measures

- Utilizing a CRM app to efficiently report and assign repair tasks.
- Providing adequate resources to the O&M team.
- Implementing a compensation mechanism to incentivize timely repairs, even during offhours.
- Gradually replacing low-quality pipes prone to frequent bursts and leaks.

v. Policy Framework

- We are adhering to the industry best practices and regulatory standards.
- Implementing a comprehensive metering policy.
- Adhering to WASPA guidelines and OIML 20113 standards for meter specifications, pipe classes, fittings, and repair methods.
- Leveraging WASREB NRW reduction planning templates and policy.
- Adhering to MOWSI NRW management standards (Volumes 1 and 2)

Committee Observations

The Committee observed that the company's Non-Revenue water was at 40.3% which was 15.3% above the sector benchmark of 25% as set out in WASREB guidelines. However, the water company has made some efforts to reduce the NRW arising from commercial and physical losses.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should put in place comprehensive measures to mitigate on the Non-Revenue Water, that is, both physical and commercial losses. The measures to include replacement of old age dilapidated infrastructure, installation of smart meters for accurate billing and the application of Geographical Information System (GIS) to receive real-time data for the detection of bursts and leakages among other measures. The Auditor-General to review the implementation of the measures put in place to mitigate the Non-Revenue Water and provide a status update on the matter in the subsequent audit cycle;**
- ii. given the impact of Non-Revenue Water on the water company's cashflows, the Accounting Officer should ensure that a provision for Non-Revenue Water is included in the financial statements. Further, explanatory notes should be provided to detail the contributions of both commercial and physical loss factors to the overall Non-Revenue Water; and**

- iii. **the County Government to collaborate with the Ethics and Anti-Corruption Commission to ensure pre-emptive measures are put place to reduce cases of theft and illegal connections.**

2. Personnel Costs in Excess of the Recommended Threshold

The statement of profit or loss and other comprehensive income reflects staff cost of Kshs.125,445,624 representing approximately 44% of the total expenditure of Kshs. 285,350,281 for the year ended 30 June, 2024. However, as previously reported, this ratio is higher than the recommended limit of 35% for large companies where the water service provider has been categorized as recommended by Section 3.9(10) of Water Services Regulatory Board (WASREB) Corporate Governance Guidelines.

In the circumstances, the excess personnel costs may negatively impact on the Company's profitability and sustainability of services if measures are not put in place to contain the cost within the acceptable levels

Management Response

Certain areas under our jurisdiction have been taken over by the neighboring Water Service Provider, Murang'a Water & Sanitation Company Limited (MUWASCO), without a proper handover process. Despite the encroachment, Murang'a Water & Sanitation Company Limited (MUWASCO) has not assumed responsibility for the staff in the affected areas. Consequently, Murang'a South Water & Sanitation Company Limited (MUSWASCO) continues to bear the wage costs for these employees, while the corresponding revenue is being recognized and collected by MUWASCO. This encroachment has significantly impacted MUSWASCO's financial performance, creating challenges in addressing the resulting financial imbalance and further worsening the personnel cost as a percentage of total expenditure status. The Company is committed to ensure this compliance is progressively met.

Committee Observations

The Committee observed that the water company spent Kshs. Kshs.125,445,624 (44% of the total expenditure) on staff costs contrary to section 25 (1)(a) and (b) of the Public Finance Management (County Government) Regulations, 2015 which limits the personnel expenditure to 35% of total operating expenditure.

Committee Recommendations

The Committee recommends that—

- i. **the Company adheres with the provisions of regulation 25(1) of the Public Finance management (County Government) Regulations, 2015**

- which limits the wage bill to thirty-five percent (35%) of the total revenue and establish a lean staff complement; and
- ii. the Auditor-General to provide a status update on the matter during the subsequent audit cycle to ascertain whether the measures enumerated have addressed the concern.

3. Non-compliance with the Law on Ethnic Composition

The statement of profit or loss and other comprehensive income for the year ended 30 June, 2024 reflects staff costs balance of Kshs 125,445,624 as disclosed in Note 11 to the financial statements. Examination and analysis of personnel records revealed that the Company's total number of employees was 174 out of which 166 or 95 % of the total number were members from dominant ethnic community in the county. This was contrary to the requirements of Section 7(2) of the National Cohesion and Integration Act, 2008 which states that, no public establishment shall have more than one third of its staff from the same ethnic community.

In the circumstances, Management was in breach of the law.

Management Response

The company is located in a rural set-up where most applications for vacant positions come from the local community. A significant proportion of our staff comprises lower-cadre roles, such as plumbers and operations and maintenance technicians, making it challenging to attract applicants from other communities for these positions. However, the company is committed to promoting diversity and inclusion within our workforce and will strive to achieve progressive improvement to ensure compliance with Section 7(1) and (2) of the National Cohesion and Integration Act, 2008.

Committee Observations

The Committee observed that 95% of the total employees comprised of staff from one dominant ethnic community thus there was no ethnic diversity among the company employees.

Committee Recommendations

The committee recommends that—

- i. The Board and the accounting officer makes deliberate efforts to progressively comply with section 65 of the County Governments Act, 2012 which provides that at least thirty percent 30% of the vacant posts at entry level be filled by candidates who are not from the dominant ethnic community; and

- ii. **The Board and the accounting officer to make deliberate efforts progressively in the endeavor to comply with Section 7 (1) and (2) of the National Cohesion and Integrity Act, 2008, which requires that public establishments shall seek to represent the diversity of the people of Kenya in employment of staff.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Pursuant to section 7(1) of the Public Audit Act, based on procedures performed by the Auditor General, the following matter formed the basis for conclusion that internal controls, risk management and overall governance were not effective –

Non implementation of Audit recommendations

The Company was called upon for discussions to consider the Auditor General Reports on the financial statement for the three (3) Financial Years running up to 2020/2021 by the County Public Investments and Special fund Committee via a letter dated 19th July 2023 Ref: SEN/DGAC/CPICSF/2023/148.

Audit examination of the invitation letter further revealed the committee requested to submit written responses, including supporting documentation to the specific issues raised in the said reports of the Auditor General to respective auditors from the Office of the Auditor General. In addition, Appendix I on the Progress on follow up of Auditors Recommendations reflects unresolved issues as raised in the prior year certified audited report that have not been fully implemented.

In the circumstances, repeated findings from previous audits signals lack of corrective action and Management commitment in the implementation of audit recommendations.

Management Response

No response provided by the Management.

Committee Observations

The Committee observed that the water company had unresolved prior year matters demonstrating the management's lack of action to implement corrective measures.

Committee Recommendations

The Committee recommends that—

- i. **the Accounting Officer should resolve any issues resulting from an audit that remains outstanding as required by section 149(2)(l) of the Public Finance Management Act, Cap. 412A, failure to which the provisions of**

- section 199 of the Public Finance Management Act on penalties for offences may apply; and**
- ii. the Auditor-General provides a status update on the progress made on the matter in the subsequent audit cycle upon review of the progress report.**

CHAPTER THIRTEEN

REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR MURANG'A WATER AND SANITATION COMPANY LIMITED FOR THE FINANCIAL YEAR 2023/2024

The Governor of Murang'a County, Hon. (Dr) Irungu Kang'ata, CBS, appeared before the Committee on Monday, 17th March, 2025 to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for the Murang'a Water and Sanitation Company Limited (MUWASCO) for the Financial Year 2023/2024. The Governor was accompanied by the following officers—

1. Prof. Kiarie Mwaura – CECM Finance
2. Mary Magochi- CECM Water
3. Eng. Daniel Ng'ang'a – Managing Director (MUWASCO)

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered a **Qualified Opinion** on the financial statements of the Murang'a Water and Sanitation Company Limited for the financial year on the following basis—

1. Long Outstanding Trade Receivable Accounts

The statement of financial position and as disclosed in Note 18 to the financial statements reflects Kshs.148,399,434 in respect to trade and other receivables which includes Kshs.122,091,732 in respect to trade receivables comprising of Kshs.96,133,241 owed by Murang'a County government and Kshs.25,958,491 in respect to other customers whose water accounts have been terminated or remained dormant for a period over six months. The Management did not explain measures put in place including legal action to enforce collection of the outstanding debt. In addition, the Kshs.96,133,241 owed by Murang'a County government includes an amount of Kshs.12,294,340 in respect to the defunct Municipal Council of Murang'a which date back to the year 2013 and whose recoverability is in doubt.

In the circumstances, the recoverability of receivables balance of Kshs.148,399,434 could not be confirmed.

Management response

Efforts has been made to collect the outstanding amount. During the last meeting with the County Government and Senate it was agreed that the County Government will come up with the debt repayment plan to clear the outstanding debts and they have committed to settle the debt in instalments. The company has also instituted measures

to recover debts from individual customers including having payment plans, making constant demand letters as well as disconnecting the overdue accounts. The implemented debt collection policy will go a long way to ensure the debts are collected.

Committee Observations

The Committee observed that—

- i. the company's trade and other receivables balance included Kshs.96,133,241 owed by Murang'a County government and Kshs.25,958,491 owed by customers whose water accounts had been terminated or remained dormant for a period over six months respectively; and
- ii. the company's trade and other receivables balance included an amount of Kshs.12,294,340 which remained outstanding since 2013.

Committee Recommendations

The Committee recommends that—

- i. the water company undertakes debtor's circularization to confirm the authenticity of the receivables and provide a status update on the same to the Senate within sixty (60) days of the adoption of this report;
- ii. the Accounting Officer should, within 60 days of the adoption of this report, submit a debtors' schedule to the Auditor-General for verification;
- iii. the Accounting Officer should within 60 days of the adoption of this report, submit an approved copy of the Debt Management Policy to the Auditor general for verification. The Auditor-General to verify the policy and submit a status update on the same in the subsequent audit cycle;
- iv. the Accounting Officer should, within 60 days of the adoption of this report, put in place recovery measures for the outstanding amount with clear timelines. The Auditor-General should review the implementation of the measures put in place provide a status update on the matter in the subsequent audit cycle; and
- v. The Accounting Officer to undertake a detailed analysis of its long outstanding trade receivables and with the Board's approval, write off the irrecoverable debts in line with the Section 130 (2) (d) of the Public Finance Management (County Governments) Regulations, 2015.

2. Failure to Account for Inventory of Water

The statement of financial position and as disclosed in Note 20 to the financial statements reflects a balance of Kshs.12,179,786 in respect of Inventories. However,

the amount does not include the value of the volume of water held in the company's distribution infrastructure as at the end of the financial year.

In the circumstances, the accuracy of inventories balance of Kshs.12,179,786 could not be confirmed.

Management Response

All water produced is supplied and we have no surplus water stored in our reservoirs at any given time. Currently the water demand is higher than the supply. The water in distribution lines flow in continuous process and closing the water at any given time will disrupt the service. It's not practically possible to reliably measure the volume in water distribution line while flow is continuous.

Committee Observations

The committee observed that the value of the volume of water held was not disclosed in the financial statements as the end of the financial year.

Committee recommendations

The Committee recommends that the Accounting Officer ensures the volume of water held in the company's distribution infrastructure is captured as part of the inventories within the financial statements at the closure of the financial year.

3. Long Outstanding Trade Payables

The statement of financial position reflects trade and other payables balance of Kshs.166,113,645, as disclosed in Note 24 to the financial statements. However, the balance includes Kshs.67,155,536 in respect to accrued bills which further includes levies totaling to Kshs.49,458,717 owed to Tana Water Service Board (TWSB) dating back to February 2017. In addition, an amount of Kshs.31,111,740 owed to other suppliers has been outstanding for over 90 days.

In the circumstances, the accuracy and recoverability of the payables totaling Kshs.166,113,645 could not be confirmed.

Management Response

The company has been operating with non-cost recovery tariffs which affected the liquidity of the company making it dependent on Government subsidies for its operations and supplier credits. Efforts were made to ensure that the company has cost recovery tariffs which were approved by the Water Services Regulatory Board and gazetted on 23rd May 2014; however, the tariffs were not implemented immediately due to political interference. The same tariffs have expired and the new one approved

by WASREB is yet to be gazetted hence the challenges of settling the outstanding debts. Currently the County Government is in process of reviewing the water companies' boundaries so that a new tariff can be considered by WASREB.

It's worth noting that in the balance of current liabilities the company had accrued bills of Ksh 50 million owed to TWSB and since the company had made capital investment on behalf of TWSB valued Ksh 45 million, the management is pursuing the same to be converted to equity capital. The amount is not accruing further as the current Water Act of 2016 does not require the payment of administration fees.

Committee Observations

The Committee observed that the company's trade and other payables balance included an amount of Kshs.31,111,740 owed to suppliers which had been outstanding for over 90 days and Kshs.49,458,717 owed to Tana Water Service Board (TWSB) which remained outstanding since February 2017.

Committee Recommendations

The Committee recommends that—

- i. within 60 days of the adoption of this report, the Governor of Murang'a County should engage the relevant suppliers and Tana Water Service Board (TWSB) to agree on a repayment plan for the outstanding payables amounting to Kshs.31,111,740 and Kshs.49,458,717 and file a report on the same with the Auditor-General for verification. The Auditor-General to provide a status update on the matter in the subsequent audit cycle; and**
- ii. the County Executive Committee Member in charge of water should continuously monitor the financial performance of the water company in line with section 184 of the Public Finance Management Act, 2012 and report on the same to the County Executive Committee, making recommendations on how the water company can improve its performance.**

Emphasis of Matter

Budgetary Control and performance

The statement of comparison of budget and actual amounts reflects final revenue budget and actual revenue on comparable basis of Kshs.337,972,901 and Kshs.301,133,386 respectively resulting to a shortfall of Kshs.36,839,515 or 11% of the budget. Further, the Company's statement of comparison of budget and actual amounts for the year ended 30 June, 2024 reflects Kshs.337,972,901 in respect to approved revenue budget against budgeted expenditure of Kshs.296,070,975 resulting in a surplus budget of Kshs.41,901,926. This is contrary to Regulation 31(c) of the Public Finance

Management (County Governments) Regulations, 2015 which states that budget revenue and expenditure appropriations shall be balanced.

Management Response

Unlike National Government and County Government entities, water companies are required to operate as commercially viable entities. The water companies do not receive appropriations from treasury and are supposed to run their operations through user fees from the customers. Water Act 2016 in section 116 (2) recognizes that the provisions of subsection (1) (g) (Where a company can receive funds from Water Sector Trust Fund) shall only apply to water service providers, counties and registered community schemes, that can afford the repayment of the funds advanced, and profits thereof used to finance water services and water resources management projects for the underserved areas and urban poor. Section 14(2) of water services regulations 2021 confirms that a water service provider can have excess of revenue over expenditure at the end of the financial year which shall not be paid to County Government but shall be retained by water service provider to be used for the improvement of water services within the area of supply.

It's worth noting that the expected tariffs which were basis of the budget have not been approved for them to be implemented.

Committee Observations

The Committee observed that—

- i. The company had a revenue shortfall of Kshs. 36,839,515 (11% of the budget) in the year under review; and
- ii. The management of the company failed to prepare a balanced budget during the financial year under review.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should ensure strict compliance with section 149(2)(h) and (i) of the Public Finance Management Act, Cap. 412A and the standards prescribed by the Public Sector Accounting Standard Board under IPSAS 24 on the presentation of budget information in the financial statements for an entity that prepares their financial statements under the accrual basis of accounting, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply;
- ii. the Accounting Officer should comply with regulation 42(1)(b) of the Public Finance Management (County Government) Regulations, 2015

- on exerting budgetary control measures, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply;
- iii. the Accounting Officer should ensure strict adherence to regulation 31(c) of the Public Finance Management (County Governments) Regulations, 2015 which states that budgeted revenue and expenditure appropriation shall be balanced, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Pursuant to Article 229 (6) of the Constitution, based on the audit procedures performed by the Auditor General, the following matters formed the basis for conclusion that public resources were not applied lawfully and in an effective way –

1. Non-Adherence to the Law on Staff Ethnic Diversity

An analysis of the staff ethnicity from the records provided revealed that 94% of the one hundred and seventy (170) employees of the company were from the same ethnic community. This is contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which states that no public establishment shall have more than one third of its staff from the same ethnic community.

In the circumstances, Management was in breach of the law

Management Response

The company was started when the National Cohesion and Integration Act was not in operation and the composition of employee was 100% from the dominant community in Murang'a. However, as management we have endeavored to comply with the National Cohesion and Integration Act of 2008 progressively and currently, we have employees in the company who are members of the other communities at 5% and we intend to improve this over time.

Committee Observations

The Committee observed that 94% of the total employees comprised of staff from one dominant ethnic community thus there was no ethnic diversity among the company employees.

Committee Recommendations

The committee recommends that—

- i. the Board and the accounting officer makes deliberate efforts to progressively comply with section 65 of the County Governments Act, 2012 which provides that at least thirty percent 30% of the vacant posts at entry level be filled by candidates who are not from the dominant ethnic community; and
- ii. the Board and the accounting officer to make deliberate efforts progressively in the endeavor to comply with Section 7 (1) and (2) of the National Cohesion and Integrity Act, 2008, which requires that public establishments shall seek to represent the diversity of the people of Kenya in employment of staff.

2. Non-Adherence to one-third Basic Salary Rule

Analysis of the company's payroll revealed that an average of 50 employees per month were drawing net salary of less than one third of their basic .This was contrary to Section 19(3) of the Employment Act, 2007 which requires that the total amount of all deductions which may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds of the basic pay contrary to section 19 (3) of employment act, 2007.

In the circumstances, Management was in breach of the law

Management Response

Review of PAYE rates in the year 2020 and 2021 affected the current earnings of employees. There are those employees who took loans in the year 2020 and the loans were not fully paid up to now and when the PAYE rates were reviewed upwards in the year 2021 their earnings went down to below one third rule. Further introduction of housing levy, enhanced NSSF contributions and SHA has worsened the situation. Currently all loans are approved by the Human Resource office to ensure the third rule is adhered to.

Committee Observations

The Committee observed that an average of 50 employees per month were drawing net salary of less than one third of their basic salary contrary to section 19(3) of the Employment Act, 2007.

Committee Recommendations

The Committee recommends that the Company adheres with the provisions of to Section 19(3) of the Employment Act, Cap.226 which stipulates that the total amount of all deductions which may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds of the basic pay, failure

to which the provisions of section 87 of the Employment Act on penalties for offences shall apply.

3. High Wage bill

The statement of profit and loss and other comprehensive income reflects Kshs. 161,344,810 in respect to compensation of employees which represents 52% of operations and maintenance costs of Kshs.312,218,125. During the year, Murang'a Water and Sanitation Company Limited was categorized as a large company and therefore staff costs ought not to exceed 35% of operations and maintenance costs. This is contrary to Paragraph

3.9(9) of Water Service Regulatory Board guidelines, 2024 which states that when fixing remuneration of staff, the total expenditure for each financial year must not exceed the benchmarks set for the services sector nationally, so that personnel costs as share of operations and maintenance cost shall be contained within the set parameters.

In the circumstances, Management was in breach of the law

Management Response

We comply with WASREB regulations on operational sustainability which is measured with the number of staffs per 1,000 connections. For large and very large water companies the set ratio for staffs per 1,000 connections is between 5-8 staffs and with our company being categorized as large the staff per 1,000 connections should not exceed 8 and we are currently at 6 staff per 1,000 connections. During the year under review the operation and maintenance expenditure were not optimal due to use of non-cost recovery tariffs hence the revenues collected could not optimally cater for the budgeted expenditures and this resulted to reduced cash flows hence the scale down of operational expenses.

The personnel cost as a share of operation and maintenance measures the economic efficiency as it measures how the personnel costs are proportionate to the overall operation and maintenance costs. It is affected by other factors as human resource guidelines and the collective bargaining agreements.

The management is committed to ensure the personnel costs are maintained within the industrial set benchmark.

Committee Observations

The Committee observed that the company's personnel costs represented 52% of the company's annual expenditure, exceeding the 35% ratio recommended by Water Services Regulatory Board (WASREB).

Committee Recommendations

The Committee recommends that the Company adheres with the provisions of regulation 25(1) of the Public Finance management (County Government) Regulations, 2015 which limits the wage bill to thirty-five percent (35%) of the total revenue and establish a lean staff complement, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.

4. High Non-Revenue Water Levels

The statement of profit or loss and other comprehensive income reflects Kshs. 294,944,305 in respect to operating revenue, which includes Kshs.207,801,250 from water sales as disclosed in Note 6 to the financial statements. Review of the records revealed that the company produced 330,683 cubic meters (m3) of water and only 211,637 Cubic meters (m3) of water was billed to customers. The balance of 119,046 cubic meters (m3) or approximately 36% of the total volume of water produced, with estimated monetary value of Kshs Kshs.116,888,387 represented non-revenue water (NRW). The NRW is therefore 11% over and above the allowable water loss of 25% as per the Water Service Regulatory Board guidelines.

In the circumstances, the high volume of NRW will negatively impact on the Company's profitability and its long-term sustainability.

Management Response

The Company NRW had been reduced to 25% until March 2024 when the company operations were extended to new area of Maragua where it has increased to 36%. Based on the international benchmark as well as WASREB guidelines 25% of non-revenue water is allowable for loss due to various factors. The increase of NRW has been occasioned by dilapidated old infrastructure in Maragua town and its environs. To bring down the NRW, a complete overhaul of current system will be required.

This calls for massive investment which is beyond the company affordability. The estimated monetary value is not realistic as it has not factored the allowable losses as well as using selling price rather than production costs.

As management we are putting every effort to ensure the NRW is reduced to acceptable levels and this includes but not limited to: -

- i. Sourcing for funds to demarcate district metered areas (DMAs)
- ii. Establishing daily and monthly water demand.
- iii. Developing NRW Strategies and policies.
- iv. Metering of water produced and night flow measurements to control pressures.
- v. Benchmarking with Peer Companies to adopt best practices.
- vi. Establishment of NRW team section and timely burst repair.

- vii. Continuous meter testing where there is doubt concerning their accuracy.
- viii. Internal as well as external trainings on methods to curb NRW.
- ix. Patrolling for water mains and sub mains and carrying out leak detection.
- x. Partnering with communities to curb water theft and surveillance of customer homestead to ensure all water consumed is metered.

Committee Observations

The Committee observed that the company's Non-Revenue water was at 36% which was 11% above the sector benchmark of 25% as set out in WASREB guidelines. However, the water company has made some efforts to reduce the NRW arising from commercial and physical losses; and

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should put in place comprehensive measures to mitigate on the Non-Revenue Water, that is, both physical and commercial losses. The measures to include replacement of old age dilapidated infrastructure, installation of smart meters for accurate billing and the application of Geographical Information System (GIS) to receive real-time data for the detection of bursts and leakages among other measures. The Auditor-General to review the implementation of the measures put in place to mitigate the Non-Revenue Water and provide a status update on the matter in the subsequent audit cycle;
- ii. given the impact of Non-Revenue Water on the water company's cashflows, the Accounting Officer should ensure that a provision for Non-Revenue Water is included in the financial statements. Further, explanatory notes should be provided to detail the contributions of both commercial and physical loss factors to the overall Non-Revenue Water; and
- iii. the County Government to collaborate with the Ethics and Anti-Corruption Commission to ensure pre-emptive measures are put place to reduce cases of theft and illegal connections.

CHAPTER FOURTEEN

REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR TANA WATER AND SANITATION COMPANY LIMITED FOR THE FINANCIAL YEAR 2023/2024

The Governor of Tana River County, Hon. Major (Rtd) Dhadho Godhana, appeared before the Committee on Monday, 24th March, 2025 to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for Tana Water and Sanitation Company Limited (TAWASCO) for the Financial Year 2023/2024. The Governor was accompanied by the following officers—

1. Brenda Mokaya – CECM-Finance
2. William Jillo – Managing Director TAWASCO
3. Thomas Gikonyo – Senior Accountant

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered a **Qualified Opinion** on the financial statements of the Tana Water and Sanitation Company Limited for the financial year on the following basis—

1. Inaccuracies in the Annual Report and Financial Statements

Review of the financial statements revealed that the report of the Managing Director on page xiii disclose that a total of 1,837,389 cubic meters of water was produced in the year while the company records indicate that 1,038,065 cubic meters of water was produced resulting to a variance of 799,324 cubic meters in respect of water produced. The report in addition disclose that total expenditure incurred in the year 2022-2023 was Kshs.46,188,784 which is inconsistent with the total expenditure in the prior year audited financial statements of Kshs.50,920,405.

In the circumstances, the accuracy of performance information could not be confirmed.

Management Response

The management responded as follows—

There were errors on the Financial Statement submitted on 28th November, 2024 but were amended and submitted in the responses for the draft Report on 4th December, 2024. The amended report discloses a total of 1,038,065 cubic meters of water produced and total expenditure in the prior year as Ksh. 50,920,405.

Committee Observations

The committee observed that the management submitted amended financial statements which mitigated the query.

Committee Recommendations

Noting the mitigation measures taken, the Committee recommends that the query be marked as resolved.

2. Inaccurate Statement of Financial Position

The statement of financial position reflects total current assets balance of Kshs 79,345,935 which when recalculated gives a balance of Ksh. 65,579,232 resulting to unexplained variance of Ksh 13,766,703. In addition, the statement reflects total current liabilities balance of Ksh. 70,739,983 which when recalculated gives a balance of Kshs 60,682,723, resulting to unexplained variance of Ksh 10,057,260.

The recalculated total asset balance is Ksh. 72,283,340 while the recalculated total equity and liabilities balance is Kshs. 75,992,783 resulting to unexplained variance of Ksh. 3,709,443 rendering the statement not to balance.

In the circumstances, the accuracy of the statement of financial position could not be confirmed.

Management Response

The management stated as follows—

There were errors on the Financial Statement submitted on 28 November, 2024 but were amended and submitted in the responses for the draft Report on 4 December, 2024. The total current asset balance is Ksh 65,579,232 and the total asset balance is Ksh 72,282,340. The statement of financial position on page 2 of the financial statements were attached for AOG verification.

Committee Observations

The committee observed that the management submitted amended financial statements which mitigated the query.

Committee Recommendations

Noting the mitigation measures taken, the Committee recommends that the query be marked as resolved.

3. Inaccurate, Unsupported and Long Outstanding Trade and Other Payables Balance

The statement of financial position reflects trade and other payables balance of Kshs.46,309,909. However, the corresponding Note 25 to the financial statements reflects a balance of Kshs.10,057,260 resulting to unreconciled variance of Kshs.36,252,649 while the aging analysis of trade and other payables reflects a balance

of Kshs.7,487,082 resulting to unexplained variance with the Note balance of Kshs.2,570,178.

In addition, the balance includes a balance of Kshs.694,644 owed to five (5) suppliers that were not supported with Local service orders/Local purchase orders, invoices, goods delivery notes while a balance of Ksh. 1,252,244 have been outstanding for periods of between one (1) to over three (3) years.

In the circumstances, the accuracy and validity of trade and other payables balance of Kshs.46,309,909 could not be confirmed.

Management Responses

The management stated as follows—

There were errors on the Financial Statement submitted on 28th November, 2024 but were amended and submitted in the responses for the draft Report on 4th December, 2024.

The trade and other payables balance is 10,057,260. See statement of financial position on page 2 and corresponding Note 25 on page 34 of the financial statements attached on the OAG report.

Committee Observations

The committee observed that—

- i. payables amounting to Kshs. 1,252,244 remained outstanding for periods of between one (1) to over three (3) years;
- ii. the management failed to provide Local service orders/Local purchase orders, invoices, goods delivery notes to support payables amounting to Kshs.694,644; and
- iii. the variances of Kshs.36,252,649 and Kshs.2,570,178 were errors which were since corrected.

Committee Recommendations

The Committee recommends that—

- i. within sixty (60) days of the adoption of this report, the Governor of Tana River County should engage the relevant entities to agree on a repayment plan for the payables amounting to Kshs. 1,252,244 and file a report on the same with the Auditor-General for verification. The Auditor-General to provide a status update on the matter in the subsequent audit cycle; and
- ii. the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their

investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle.

4. Inaccurate Refundable Deposit and Prepayments Balance

The statement of financial position reflects refundable deposits and prepayments balance of Kshs.606,111. However, the corresponding Note 26 to the financial statement reflects a balance of Kshs.46,309,909 resulting to unreconciled variance of Kshs.45,703,798. In addition, the company had not opened a separate bank account for deposits as required.

In the circumstances, the accuracy and existence of refundable deposits and prepayments balance of Kshs.606,111 could not be confirmed.

Management Responses

There were errors on the Financial Statement submitted on 28th November, 2024 but were amended and submitted in the responses for the draft Report on 4th December, 2024. The refundable deposits and prepayments balance is 46,309,909. The statement of financial position on page 2 and corresponding Note 26 on page 35 of the financial statements was attached for the committee verification.

Committee Observations

The committee observed that—

- i. the company did not have a separate account for customer deposits during period under review; and
- ii. there was no approval of the Board and County Assembly on utilization of the refundable customer deposits.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should, within 60 days of the adoption of this report, submit to the Committee and the Auditor-General a repayment plan with clear timelines for the repayment of the customer deposits;
- ii. the Board of Directors should put in place a Customer Deposits Management Policy to guide how the water company can access, utilize and refund the money within specified timelines. Further, the Accounting Officer should ensure that there is full disclosure to the water company's customers on the utilization of the deposits;
- iii. the Accounting Officer should ensure that all customer deposits are deposited in a fixed/call account whose access to the management is limited and where the accrued interests can be used to offset the bank charges.

Management to submit evidence of the same to the Auditor-General within 60 days of the adoption of this report for verification; and

- iv. **the Accounting Officer ensures that the company strictly adheres to the provisions of section 142 of the Public Finance Management Act, Cap.412A on borrowing by County Government entities, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.**

5. Unsupported and Long Outstanding Trade and Other Receivables Balance

The statement of financial position reflects trade and receivable balance of Kshs.55,066,814 as disclosed in Note 18 to the financial statements. Included in the balance is Kshs.55,459,934 which has been outstanding for over one hundred and twenty (120) days. However, management did not provide a detailed debtors ledger/ageing report to support the balances reported in the financial statements.

In the circumstances, the accuracy and recoverability of trade and other receivables balance of Kshs.55,066,814 could not be confirmed.

Management Response

The management provided a detailed list of debtors and aging analysis for the year ending 30, June 2024.

Committee Observations

The Committee observed that—

- i. the company did not have a debt management policy in place during the period under review;
- ii. the company's trade and other receivables balance included an amount of Kshs.55,459,934 which remained outstanding for more than 120 days;
- iii. the company has not demonstrated clear efforts to recover the outstanding debts; and
- iv. whereas the detailed debtors ledger/ageing report to support the trade and receivables balance of Kshs. 55,459,934 was provided and verified by the Auditor-General, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act.

Committee Recommendations

The Committee recommends that—

- i. the water company undertakes debtor's circularization to confirm the authenticity of the receivables and provide a status update on the same to the Senate within sixty (60) days of the adoption of this report;

- ii. the Accounting Officer should, within 60 days of the adoption of this report, submit a debtors' schedule to the Auditor-General for verification;
- iii. the Accounting Officer should within 60 days of the adoption of this report, submit an approved copy of the Debt Management Policy to the Auditor general for verification. The Auditor-General to verify the policy and submit a status update on the same in the subsequent audit cycle;
- iv. the Accounting Officer should, within 60 days of the adoption of this report, put in place recovery measures for the outstanding amount with clear timelines. The Auditor-General should review the implementation of the measures put in place provide a status update on the matter in the subsequent audit cycle;
- v. The Accounting Officer to undertake a detailed analysis of its long outstanding trade receivables and with the Board's approval, write off the irrecoverable debts in line with the Section 130 (2) (d) of the Public Finance Management (County Governments) Regulations, 2015; and
- vi. the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle.

6. Unsupported Inventory Balance

The statement of financial position reflects inventory balance of Ksh. 125,900 as disclosed in Note 17 to the financial statements. However, the balance was not supported by inventory stock take report.

In the circumstances, the accuracy of inventory balance of Kshs.125,900 could not be confirmed.

Management Response

The management stated as follows—

The inventory stock take report file had been misplaced during the audit process but has been attached hereto. The inventory was taken on 30th June, 2024 by the supplies chain management officer and accounts assistant.

Committee Observations

The Committee observed that the inventory stock take report, in support of an inventory balance of Ksh. 125,900, was unclear and submitted beyond the timelines stipulated in the Public Audit Act, Cap. 412B, constituting an offense under Section 62(2) of the Act.

Committee Recommendations

The Committee recommends that the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle.

7. Inaccurate Taxation Balance

The statement of financial position reflects taxation balance of Ksh. 13,766,703. However, the corresponding Note 27 to the financial statements reflects a balance of Kshs.606,111 resulting to unexplained variance of Ksh. 13,160,592.

In the circumstances, the accuracy of taxation balance of Kshs.13,766,703 could not be confirmed.

Management Response

The management stated as follows—

There were errors on the Financial Statement submitted on 28th November, 2024 but were amended and submitted in the responses for the draft Report on 4th December, 2024. The taxation balance is Ksh. 606,111. The statement of financial position on page 2 and corresponding Note 27 on page 36 of the financial statements attached on the OAG report.

Committee Observations

The committee observed that the management submitted amended financial statements which mitigated the query.

Committee Recommendations

Noting the mitigation measures taken, the Committee recommends that the query be marked as resolved.

8. Unsupported Adjustment to Share Capital Balance

Included in the statement of changes in Net Assets is share capital balance as at July, 2023 of Kshs.5,000,000 and a closing balance Kshs.100,000 as at 30 June 2024. However, the statement of changes in net assets does not disclose the adjustment made to share capital balance in the year.

In the circumstances, the accuracy of the share capital balance of Ksh.100,000 could not be confirmed.

Management Response

The share capital was erroneously reported as Ksh.5,000,000 in the previous years but the correct value is Ksh100,000 according to the Memorandum of association.

The Memorandum of Association was provided for the Committee verification.

Committee Observations

The Committee observed that the management failed to address the error in the share capital balance.

Committee Recommendations

The committee recommends that the Governor, through the Board, takes administrative action against the Managing Director for failure to address the error and provide evidence of action taken to the Senate within thirty (30) days of the adoption of this report.

10. Inaccuracies in the Cashflows Statement

The statement of cashflows reflects is net cash used in operating activities of Kshs 8,618,619. However, Note 28 to the financial statements reflects net cashflow used in operating activities of Ksh. 12,931,214 resulting to unreconciled variance of Ksh. 4,312,595.

In the circumstances, the accuracy of the cash used in operating activities could not be confirmed.

Management Response

The typo errors were amended and submitted in the responses for the draft Report and there are no variances in the statement of cashflows. The Statement of cash flows on page 6 and corresponding Note 28 on page 36 of the financial statements were provided for the committee verification.

Committee Observations

The committee observed that the management submitted amended financial statements which mitigated the query.

Committee Recommendations

Noting the mitigation measures taken, the Committee recommends that the query be marked as resolved.

Emphasis of Matter**1. Budget Control and Performance**

The statement of comparison of budget and actual amounts reflects budgeted revenue budget and actual on comparable amount of Kshs.86,000,000 and Kshs.57,567,192

respectively resulting in under collection of Kshs.28,432,808 or 30% of the budget. The Company spent an amount of Kshs.75,941,045 against actual receipts of Kshs.57,567,192 resulting to an over-expenditure of Kshs. 18,373,823 or 31% of the actual receipts.

The underperformance may have negatively impacted on the planned activities of the company which affected service delivery to the public.

Management Response

The management stated as follows,

The company had experienced floods, in the year under review, affecting some of the water supplies especially the Madogo Water Supply. This affected revenue flows. Additionally, the company lacks a debt recovery policy making it difficult to recover debts. However, in the current FY, the company has budgeted for development of the policy.

The over-expenditure is due to the balance brought forward from previous period.

Committee Observations

The committee observed that—

- i. the water company had a revenue shortfall of Kshs.28,432,808 or 30% of the budget during the financial year under review; and
- ii. the water company had an over-expenditure of Kshs. 18,373,823 or 31% of the actual receipts during the financial year under review.

Committee Recommendations

The Committee recommends that the Accounting Officer should comply with regulation 42(1)(b) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Pursuant to Article 229 (6) of the Constitution, based on the audit procedures performed by the Auditor General, the following matters formed the basis for conclusion that public resources were not applied lawfully and in an effective way –

1. Non-Revenue Water

Review of records revealed that the Company produced a total of 1,038,065 cubic meters of water but only 362,512 cubic meters of water was billed to customers. The balance of 675,553 cubic meters or 65% of the total volume of water produced was lost.

The non-revenue water was 40 percentage points above the allowable 25%. Had the 675,553 cubic meters of Non-Revenue Water been billed to customers, the company could have earned revenue amounting to Kshs.23,644,355 using the companies average selling price of Kshs.35 Per cubic meter.

In the circumstance, Management was in breach of the law.

Management Response

TAWASCO operates under a license and tariff issued by WASREB. During tariff negotiation with WASREB, the regulator noted the many challenges faced by TAWASCO, and had set a blue print and clear road map for TAWASCO to gradually reduce its non - revenue water.

From our current tariff on "item 3(i) -- Service Conditions attached to this tariff" the target set for TAWASCO by WASREB on Non-Revenue Water was as follows:

Financial Year	Set NRW target (%)	Achieved NRW (%)	Remarks
2023/2024	70	65	Exceeded the set target
2024/2025	65		
2025/2026	62		

Committee Observations

The Committee observed that the company's Non-Revenue water was at 65% which was 40% above the sector benchmark of 25% as set out in WASREB guidelines. However, the water company has made some efforts to reduce the NRW arising from commercial and physical losses.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should put in place comprehensive measures to mitigate on the Non-Revenue Water, that is, both physical and commercial losses. The measures to include replacement of old age dilapidated infrastructure, installation of smart meters for accurate billing and the application of Geographical Information System (GIS) to receive real-time data for the detection of bursts and leakages among other measures. The Auditor-General to review the implementation of the measures put in place to mitigate the Non-Revenue Water and provide a status update on the matter in the subsequent audit cycle;**
- ii. given the impact of Non-Revenue Water on the water company's cashflows, the Accounting Officer should ensure that a provision for Non-Revenue Water is included in the financial statements. Further, explanatory notes**

- should be provided to detail the contributions of both commercial and physical loss factors to the overall Non-Revenue Water; and
- iii. the County Government to collaborate with the Ethics and Anti-Corruption Commission to ensure pre-emptive measures are put place to reduce cases of theft and illegal connections.

2. Un-remitted NSSF Contributions

Disclosed in Note 25 to the financial statement is trade and other payables balance of Kshs.10,057,260 which included Kshs.1,396,276 relating unremitted National Social Security Fund deductions. Failure to remit the deductions was contrary to section 27(1) of the NSSF Act, 2013 which states that if any contribution for which a contributing employer is required to pay to the Fund is not paid within one month after the end of the month in which the last day of the contribution period to which it falls, a sum equal to five per cent of the amount of that contribution shall be added to the contribution for each month or part of a month that the amount due remains unpaid, and any such additional amount shall be recoverable at the same time and in the same manner as the contribution to which it is added.

In the circumstance, Management was in breach of the law.

Management Response

The company was experiencing financial challenges in the FY 2022/23 because its systems especially in the Madogo Water Scheme had been affected by floods. However, the company has developed a payment plan, also shared with NSSF, to pay the debt.

Committee Observations

The Committee observed that the company failed to remit deductions amounting to Kshs.1,396,276 to NSSF contrary to section 27(1) of the NSSF Act, 2013. However, the company developed a payment plan to clear the outstanding balance.

Committee Recommendations

The committee recommends that—

- i. the Auditor-General to monitor the company's compliance to the payment plan and provide a status update on the same to the Senate during the subsequent audit cycle; and
- ii. the Accounting Officer adheres to regulation 22(2)(a) of the Public Finance Management (County Government) Regulations, 2015, which provide that the accounting officer to comply with any tax, levy, duty, pension, commitments and audit commitments as may be provided by legislation.

3. Non-Compliance with the Law on Settlement of Pending Bills

Included in the statement of financial position is trade and other payables balance of Kshs.10,057,260 as at 30 June, 2024 which in turn includes an amount of Ksh. 1,917,209 owed to suppliers which has remained outstanding for over two years. Failure to settle the debts was contrary to Section 41(2) of the Public Finance Management (Government) Regulations, 2015 which require that debt service payments to be a first charge.

In the circumstance, Management was in breach of the law

Management Response

The company was experiencing financial challenges in the FY 2022/23 because its systems especially in the Madogo Water Scheme had been affected by floods. However, the company has developed a payment plan to pay all pending bills.

Committee Observations

The committee observed that the company's payables balance included an amount of Ksh. 1,917,209 owed to suppliers which has remained outstanding for over two years.

Committee Recommendations

The committee recommends that—

- i. within 60 days of the adoption of this report, the Governor of Tana River County should engage the relevant suppliers to agree on a repayment plan for the outstanding payables amounting to Kshs. 1,917,209 and file a report on the same with the Auditor-General for verification. The Auditor-General to provide a status update on the matter in the subsequent audit cycle; and
- ii. the County Executive Committee Member in charge of water should continuously monitor the financial performance of the water company in line with section 184 of the Public Finance Management Act, 2012 and report on the same to the County Executive Committee, making recommendations on how the water company can improve its performance.

4. Lack of Approval Budget and Procurement Plan

The statement of comparison of budget and actual amounts reflects total revenue and total expenditure budget of Kshs.86,000,000 and Kshs.76,383,395 respectively. However, management did not provide evidence of approval of the budget by the executive member for Finance and the county assembly as required by 149(2)(j) of the Public Finance Management Act, 2012. In addition, the company did not have in place

an annual procurement plan as required by Section 53 (2) of the Public Procurement and Asset Disposal Act, 2015.

In the circumstance, Management was in breach of the law.

Management Response

The management stated as follows—

During the year under review, TAWASCO's budget was approved by the board as indicated in the Board Meeting held on 3rd July, 2023. The same budget was also shared with the CECM Finance & Economic Planning on 3 July 2023.

Committee Observations

The committee observed that—

- i. the management failed to provide evidence that the budget (Kshs. 86,000,000 revenue and Kshs. 76,383,395 expenditure) was approved by the County Executive Committee Member (CECM) for Finance and the County Assembly, as required by section 149(2)(j) of the Public Finance Management Act, Cap.412A; and
- ii. the company did not have an annual procurement plan in place during the financial year under review, contrary to Section 53 (2) of the Public Procurement and Asset Disposal Act, 2015.

Committee Recommendations

The committee recommends that—

- i. the Accounting Officer ensures strict compliance to the provisions of section 149(2)(j) with regards to submission of estimates to the CECM-Water, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply; and
- ii. the Accounting Officer ensures that the water company strictly adheres to the provisions of section 53(2) of the Public Procurement and Asset Disposal Act, Cap.412C with regards to preparation of an annual procurement plan, failure to which the provisions of section 177 of the Procurement and Asset Disposal Act on penalties for offences shall apply.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Pursuant to section 7(1) of the Public Audit Act, based on procedures performed by the Auditor General, the following matter formed the basis for conclusion that internal controls, risk management and overall governance were not effective –

1. Inactive Customer Accounts

Review of the customer register of connections revealed that the company had a total of 7,322 connections. However, a comparison of the register with revenue billing records indicates that a total of two thousand one hundred and twenty (2,120) customers. However, Management did not provide satisfactory explanations as to why the accounts remained in active in the year. In addition, they did not carry out reconciliations of customers billing against revenue collections in the year under review.

In the circumstances, the effectiveness of internal controls on management of revenue collections could not be confirmed.

Management Responses

The management stated as follows—

The table below shows the analysis of customers per zone, in the period under review.

Scheme	Total no. of customers in the register	No of inactive Customers
Bura Water Scheme	486	143
Garsen Water Scheme	1864	984
Hola Water Scheme	2517	389
Madogo Water Scheme	1570	146
Ngao Water Scheme	885	458
Grand Total	7322	2120

TAWASCO practices billing on active connections only. Any customer disconnected from supply is not billed in subsequent months. Most of the customers listed as not billed were either:

- i. Disconnected from supply.
- ii. New customers installed into the system after the year in review - i.e. they were installed after 30th June, 2024.
- iii. Pending applications and hence not active on site.

Committee Observations

The committee observed that the explanation given by the management on the 2120 inactive accounts was no satisfactory.

Committee Recommendations

The committee recommends that the Ethics and Anti-Corruption Commission (EACC) conducts investigations into the regularity of the inactive accounts in Tana Water and Sanitation Company Limited to ascertain all customers connected are billed and payments made to the water company and provide a

status update on the matter to the Senate within sixty (60) days of the adoption of this report.

2. Lack of Audit Committee and Functional Internal Audit

It was noted that the company did not have an internal Audit Unit and the Board had not established an audit committee as required by the corporate governance guidelines for the Water Services Sector 2018 clause 3.7 (2) stipulates that following committees are mandatory; (a) Audit Committee, (b) Technical Services Committee and (c) Finance Human Resource and Administration Committee.

In the circumstances, it was not possible to confirm existence of effective governance structure in the Company.

Management Response

The management stated that the company has formed all the committees as indicated in a board meeting held on 22nd October 2024. Copy of the minutes of the meeting was attached for the committee verification. Currently, the company uses the County Governments internal audit department.

Committee Observations

The committee observed that the company operated without an Audit Committee and Functional Internal Audit Unit in place during the financial year under review.

Committee Recommendations

The Committee recommends that the County Executive Committee Member (CECM) - Finance ensures that the water company puts in place all internal control systems such as the Internal Audit Committee as provided under section 155 (5) of the Public Finance Management Act, 2012, and a Risk Management Policy as provided under section 158 (1) of Public Finance Management (County Governments) Regulations, 2015 among others to guide the internal operations of the water company. Further, the managements to submit evidence of the same to the Auditor General for verification.

3. Lack of IT Policy and Disaster Recovery Plan

The company does not have an IT Policy, Data Recovery Plan (DRP) and IT security policy which are vital ineffective and efficient management of the entity's IT resources. Further, the company does not have an IT steering committee, which is important in performing the oversight function and formulation of policies to ensure that IT department functions are properly in place to assist in the achievement of company's objectives in an efficient, economic and effective manner.

In the circumstances, the company may be able to recover information in the event of loss.

Management Response

The management stated that the company has no IT Policy and Disaster Recovery Plan, however, in the current FY, the plan has been budgeted for.

Committee Observations

The committee observed that the water company operated without an IT policy and Disaster recovery plan in place during the financial year under review.

Committee Recommendations

The Committee recommends that the County Executive Committee Member (CECM) - Finance ensures that the water company puts in place all internal control systems such as the IT Policy and Disaster Recovery Plan, as provided under section 158 of the Public Finance Management (County Government) regulations, Cap. 412A among others to guide the internal operations of the company. Further, the County Executive Committee Member (CECM) - Finance to submit evidence of the same to the Auditor General for verification.

4. Lack of Risk Management Policy and Strategy

As reported in the previous year, the company did not have a risk management policy, strategies, and risk register to mitigate against risk. It was, therefore, not clear how the management managed risk exposures. Also, there was no evidence that the three mandatory committees, Audit Committee, Technical Services Committee and Finance Human Resource and Administration Committee held any meeting during the year under review.

Management Response

The management stated that the company is in the process of developing a risk management policy which is expected to be in place by June 2025. The draft policy was shared with the Water Services Regulatory Board and awaiting their response. A copy of the draft Risk Management Policy was attached for the committee verification.

Committee Observations

The committee observed that the company operated without a risk management policy in place during the financial year under review.

Committee Recommendations

The Committee recommends that the County Executive Committee Member (CECM) - Finance ensures that the water company puts in place all internal control systems systems such as the Risk Management Strategy as provided under regulation 63 of the Public Finance Management (County Government) regulations, among others, to guide the internal operations of the water company. Further, the County Executive Committee Member (CECM) - Finance to submit evidence of the same to the Auditor General for verification.

CHAPTER FIFTEEN

REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR TAVEVO WATER AND SEWERAGE COMPANY LIMITED FOR THE FINANCIAL YEAR 2023/2024

The Governor of Taita Taveta County, Hon. Dr. Andrew Mwadime, appeared before the Committee on Monday, 10th March, 2025 to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for the Tavevo Water and Sewerage Company Limited for the Financial Year 2023/2024. The Governor was accompanied by the following officers—

- | | | |
|--------------------------|---|--|
| 1. CPA. Mwaro Elijah | - | CECM-Finance |
| 2. Mr. Benson Mwangoi | - | MD-Tavevo Water and Sewerage Company Limited |
| 3. Mr. Mwang'ombe Mwakio | - | County Attorney |

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered an **Adverse Opinion** on the financial statements of the Tavevo Water and Sewerage Company Limited for the financial year on the following basis—

1. Material uncertainty to going concern

The statement of financial position reflects current assets balance of Kshs.653,458,192 and current liabilities of Kshs.985,039,193 resulting into negative working capital of Kshs.331,581,001 representing a current ratio of 0.66. The increasing negative working capital and current ratio of less than one (1) is an indication that the Company may not meet its obligations as and when they fall due.

As previously reported, the condition indicates the existence of a material uncertainty, which may cast doubt on the Company's ability to continue as a going concern and that the Company's existence is dependent on continued support from the County Government of Taita Taveta and creditors. Management did not disclose the measures being taken to mitigate this condition. In the circumstances, the Company's ability to continue as a going concern could not be confirmed.

Management response

The management has taken the listed measures below to confirm that the company is a going concern—

- i. Recently concluded reconciliation of CWWDA, who is the main creditor, accounts will remove up to Kshs. 270million from the books which is currently appearing as current liability affecting negatively the company's capital.
- ii. Most of the company Assets were never handed over to the company nor the County Government from the Coast Water Works Development agency during the transition period and so do not appear in our books to enhance our balance sheet.
- iii. The company which was incorporated to serve urban area was later mandated to takeover the supply to the whole county including Rural areas after devolution. The company so was handed over and inherited unsustainable projects initially run by the community which have progressively eaten into the revenues collected elsewhere. Such projects include diesel fueled pumping systems, boreholes, high maintenance costs old and dilapidated systems. Main proposed remedies for such projects require huge investments to make them sustainable such as solarization. If the County Assembly will be gracious enough to consider setting aside finances to fund such projects.
- iv. The company has seen improvement in the O&M Cost coverage 76% in FY 2022/2023 to 78% in the year 2023/2024. This is a steady improvement which we intend to sustain and make the company sustainable.
- v. To ensure growth in revenues, we have also employed a number of non-revenue water reduction strategies as seen further below in this response.
- vi. Collections of receivables is another angle we wish to employ to increase collection on top of the amounts we bill every month. This will be achieved by employing the collection solutions provided through the E.R.P system.

Committee Observations

The Committee observed that the water company operated with a negative working capital of Kshs.331,581,001 during the financial year under review, casting doubt on the Company's ability to continue as a going concern.

Committee Recommendations

The Committee recommends that—

- i. the Governor of Taita Taveta County should take keen interest in the management and operations of the water company in line with Article 179 (4) of the Constitution;
- ii. the Accounting Officer should prepare and submit quarterly reports to the County Treasury in regard to the financial and non-financial status of the water company in line with section 166 of the Public Finance Management Act, Cap.412A, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;

- iii. the County Executive Committee Member in charge of water should take full responsibility for monitoring the financial performance of the county corporation in line with section 184 of the Public Finance Management Act, Cap.412A and regularly report to the Governor through the County Executive Committee in line with Article 179 (6) of the Constitution;
- iv. the County Treasury should undertake annual reporting on County Corporation including an assessment of the commercial viability of the company in line with the standards set by the Water Services Regulatory Board under section 77(2) of the Water Act, Cap.372, failure to which the provisions of section 147 of the Water Act on penalties for offences shall apply; and
- v. the Accounting Officer should, within 60 days of the adoption of this report, put in place strategic and innovative measures for recovery and to boost the financial health of the water company for self-sustainability. Additionally, the management reviews and regularizes the company's existing assets and have updated assets register that reflect the current financial position. Further, management to determine and ascertain their commercial viability as required by the Public Sector Accounting Standards Board (PSASB).

2. Unsupported Cash and bank balances

The statement of financial position and Note 20 to the financial statements reflect bank and cash balances of Kshs. 196,275,617. The bank balances of four out of the fifteen (15) bank accounts held by the Company were amended in the revised financial statements as indicated below:

No.	Bank Name	Revised Kshs.	Original Kshs.	Adjustment Kshs.
1	COOP-WSTF	48,555,905	34,488,111	14,067,794
2	KCB WSTF WILD LIFE	1,662.286	75,409	1,586.877
3	KCB WSDP	93.719,549	92.858.692	860,857
4	KCB EXPENDITURE	7,332	(30,654)	37,986

However, revised bank reconciliation statements to reflect the changes in the bank balances from Kshs.79,717,950 to Kshs. 96,275,617 were not provided. Further, as previously reported, an amount of Kshs.3,040,246 in respect of Posta Pay had not been supported with details of account, bank reconciliations and certificate of balance.

In the circumstances, the accuracy and completeness of the bank balances totaling Kshs.196,275,617 could not be confirmed.

Management response

- i. Management adopted bank balances as advised by the Auditor general during audit process. Reconciliations were properly done.
- ii. Management on Posta pay has taken a step in filling a case against Postal corporation of Kenya for delayed remittance of funds collected on behalf of Tavevo.

Committee Observations

The Committee observed that—

- i. whereas the revised bank reconciliation statements were provided and verified by the Auditor-General, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act.
- ii. The management failed to submit account details, bank reconciliations and a certificate of balance for an amount totaling to Kshs. 3,040,246 owed by Postal Corporation of Kenya. The water company took legal action against Postal Corporation of Kenya to recover the outstanding amount.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle; and
- ii. the Auditor-General monitors the progress of the court case against Postal Corporation of Kenya and provide a status update of the same to the Senate during the subsequent audit cycle.

3. Presentation and inaccuracies of the financial statements

3.1 Water Sale

The statement of profit or loss and other comprehensive income and Note 6 to the financial statements reflect operating revenue of Kshs.377,355,010, which includes water sales of Kshs.374,236,350. Review of the monthly billing reports generated from the Tavevo Pick pay system for the period under review indicates that the total water bill amounted to Kshs.372,647,955, resulting in an unexplained variance of Kshs1,588,495.

In the circumstances, the accuracy and completeness of the water sales of Kshs.374,236,350 could not be confirmed.

Management response

Management redid the financials as per figures presented by the commercial department during the audit. However, we realized the computation for water sale as presented during the audit was Kshs. 374,236,350 and not Kshs. 372,647,955 as highlighted in the management response.

Committee Observations

The Committee observed that whereas the July and August 2023 billing summary to support the variance of Kshs1,588,495 were provided and verified by the Auditor-General, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act

Committee Recommendations

The Committee recommends that the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle.

3.2 WASREB Levy

The statement of profit or loss and other comprehensive income and Note 10 to the financial statements reflects general and operations expenses amounting to Kshs.509,093,936. Included in this amount is WASREB Levy amounting to Kshs.14,969,454. However, re-computation of the WASREB levy based on the water bills as stipulated by WASREB License Guidelines 8.0, contained under Gazette Notice 12188 of 23 November, 2018 results to Kshs.14,905,904, being 4% of Kshs.372,647,595 as reflected in the Pick Pay system report for the financial year under review, resulting to an unexplained variance of Kshs.63,550.

In the circumstances, the accuracy and completeness of the WASREB Levy amounting to Kshs. 14,969,454 could not be confirmed.

Management response

The WASREB levy is charged at 4% of water sale. As per supported Water sale of Kshs. 374,236,350 above the correct levy for the period is Kshs. 14,969,454.

Committee Observations

The Committee observed that there was an error during re-computation of the WASREB levy which resulted in the variance of Kshs.63,550.

Committee Recommendations

The Committee recommends that the query be marked as resolved.

3.3 Inventories

The statement of financial position and Note 17 to the financial statements reflects inventories balances of Kshs. 111,968,352 (2023: Kshs.75,875,861) for the year under review. However, there was no policy guiding the valuation of inventory and the prior year audited financial statements reflected a balance of Kshs.122,431,321. The resultant variance of Kshs.46,555,460 was not reconciled or explained.

In the circumstances, the accuracy and completeness of the inventory's balances of Kshs.111,968,352 could not be confirmed.

Management response

During the prior year balance was reported as Kshs. 122,431,321 under which a disclosure was made that during the same period included in the inventory report were assets totaling to Kshs. 46,555,460 note 17 of the audited statements 2022/2023.

These assets were already reported in the Property plant and equipment schedule under different categories (note 15 of the audited statements for the year 2022/2023). During the year under review the report provided by procurement

Disclosed consumable inventories at Kshs. 111,968,352 as reported in note 17 of the financial statements 2023-2024.

Additionally, management has procured an enterprise resource planning system which monitors and manages stock and inventory in real time.

Committee Observations

The Committee observed that whereas the management clarified that the variance came about as a result of the utilization of the International Accounting Standards (IAS 2) to value its inventories, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act.

Committee Recommendations

The Committee recommends that the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle.

4. Undisclosed Donated assets

The statement of financial position and Note 15 to the financial statements reflects Kshs.917,346,760 as property, plant and equipment which include motor vehicles Nil balance. During physical verification of the Company's assets, it was established that the Company is in use of ten (10) motor vehicles and fourteen (14) motor-cycles donated by Coast Water Development Agency. However, the assets were not recognized in the financial statements and the details on the donations such as dates, values, conditions and hand over report were not provided for audit review.

In the circumstances, the accuracy, completeness and ownership of motor vehicle balance of Kshs.63,393, 107 could not be confirmed.

Management response

- i. Management agrees with the observation however these vehicles and motorcycles are still under the ownership of the Coast water works development agency. The said assets were never handed over to Tavevo in terms of ownership and are dully captured/reported in the books of Coast water works development agency.
- ii. Furthermore, all the assets are also over 5 years old which means they also have outlived their respective useful life in accounting terms and need to be returned to Coast water works for disposal.

Committee Observations

The Committee observed that the transfer of ownership for motor vehicles and motorcycles donated to the water company by the Coast Water Works Development Agency was incomplete, which is why the assets were not included in the company's financial statements during the financial year under review.

Committee Recommendations

The Committee recommends that—

- i. **The Governor engages Coast Water Works Development Agency (CWWDA) to secure full ownership of the queried property, plant and equipment in favour of the Tavevo Water and Sewerage Company Limited and provide status update to the Senate within 60 days of adoption of this report;**
- ii. **The Accounting Officer ensures that the water company maintains an up-to-date asset register in the format prescribed by the Public Sector Accounting Standards Board (PSASB) and the company to carry out a valuation of all its assets and submit the same to the Office of the Auditor-General within 60 days from the adoption of this report;**

- iii. the Governor engages the Intergovernmental Relations Technical Committee (IGRTC) to ensure that the process of transfer of all assets and liabilities are completed in a timely manner; and
- iv. The Auditor-General to undertake physical verification of all assets of the water company and provide a status report to the Committee within 60 days from the adoption of this report.

5. Misclassification of grants income

The statement of profit or loss and other comprehensive income and Note 7 to the financial statements reflect total income of Kshs.547,153,600, which include grants income of Kshs.151, 793,875. However, under the disclosure Note 7, Management did not provide detailed analysis of the grant income as prescribed by the Public Sector Accounting Standard Board reporting template.

In the circumstances, the accuracy and completeness of the grant income totaling to Kshs. 151,793,875 could not be confirmed.

Management response

Management under note 7 disclosure of the source of funds has been clearly stated as per below extract from the financial statements clearly stating the sources of the funds and respective amounts received during the period under review.

	2023-2024	2022-2023 Restated
	Kshs	Kshs
Water Sanitation Development Project (I.D.A) Funding Through County Government	148,006,875	168,755,313
Water Sector Trust Fund- U.B.S.U.P	3,300,000	-
Water Sector Trust Fund- Kishenyi Kishushe W.R.U.A	487,000	-
Total	151,793,875	168,755,313

Committee Observations

The Committee observed that whereas the detailed analysis of the grant income was provided and verified by the Auditor-General, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act.

Committee Recommendations

The Committee recommends that the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle.

6. Unsupported lease fees obligations

The statement of financial position and Note 26 to the financial statement reflects lease fees obligation to Coast Water Works Development Agency (CWWDA) amounting to Kshs.129,397,816. However, the fees amount was not supported with lease agreement between the Agency and the Company.

In the circumstances, the accuracy and completeness of the lease fees obligations of Kshs.129,397,816 could not be confirmed.

Management response

- i. Management agrees with the observation and has been pursuing legal standing for the same over the years from coast water works development agency. The lease had been levied by Coast water works development agency alongside the bulk water fees invoice. The lease fees billing has since stopped as at 30th June 2021.
- ii. Further to the above Management has never made any payment relating to lease fees.

Committee Observations

The Committee observed that the management failed to submit for audit review, a lease agreement between the water company and Coast Water Works Development Agency (CWWDA) to support lease fees amounting to Kshs.129,397,816 owed to the Agency.

Committee Recommendations

The Committee recommends that the Accounting Officer engages the Coast Water Works Development Agency to get clarification on the matter of the lease fees and

provide a status update on the same to the Senate within sixty (60) days of the adoption of this report.

7. Irregular legal costs

The statement of profit or loss and other comprehensive income and Note 10 to the financial statements reflects general and operations expenses amounting to Kshs.509,093,936, which include legal costs of Kshs.5,324,214. An amount of Kshs.366,658 was paid to a supplier through a legal firm due to breach of contract by the Company. Further, the Company paid Kshs. 1,052,775 on matters of breach of employment contracts. However, these costs could have been avoided had the Company not violated the contract terms.

In addition, the Company paid the Company Secretary legal fees of Kshs. 1,280,000. However, the appointment letter was not provided for audit review.

In the circumstances, the accuracy and completeness of the legal fees amounting to Kshs.2,699,433 could not be confirmed.

Management response

Management agrees with this observation. At the time the company did not have a substantive Legal and board affairs officer who could advise the company on such matters.

Presently an officer was appointed and any upcoming legal matters are resolved amicably through the Legal and board affairs officer. Going forward legal costs will be the extremely the bear minimum.

Committee Observations

The Committee observed that—

- i. The water company incurred expenses amounting to Kshs.366,658 and Kshs. 1,052,775 due to contract breaches; and
- ii. The management failed to submit the company secretary's appointment letter for audit verification.

Committee Recommendations

The Committee recommends that the Governor, through the County Executive Committee Member (CECM) – Finance, ensures the expenses amounting to Kshs.366,658 and Kshs. 1,052,775 due to contract breaches are recovered from the Managing Director/ Accounting Officer and provides evidence of action taken within sixty (60) days of the adoption of this report. Failure to take action, the Governor and the CECM-Finance shall be held liable for the same.

8. Non-revenue water

The statement of profit or loss and other comprehensive income and Note 6 to the financial statements reflects operating revenue of Kshs.377,355,010. During the year under review the Company produced 6,155,771 cubic meters of water, out of which only 3,084,302 cubic meters was billed to customers. The balance of 3,071,469 cubic meters or approximately 50% of the total volume produced represents Non-Revenue Water (NRW), which is 25% above the allowable loss of 25% was not billed. Further the nonrevenue water reported of 50% is an increase by 8% from the 42% reported in the previous financial year. The NRW of 3,071,469 cubic meters have resulted in loss of sales estimated at Kshs.386,226,670 at the average rate of Kshs.134 per m3. The increase is an indication of Management laxity in prevention and reduction of the non-revenue water.

In the circumstances, the significant level for non-revenue water had a negative impact on the Company's profitability and could affect sustainability of its operations.

Management response

The Management has noted the upsurge in NRW level and put in place a Companywide NRW Management Strategy to address the causes of the High Level of Unaccounted for Water (UFW). Further, to that, the company is undertaking the following interventions to address NRW:

1. Water and Sanitation Development Project (W.S.DP PROJECT)

The company together with the Taita Taveta County Department of Water, Environment, Sanitation, Natural Resources and Climate Change through the National Ministry of Water & Sanitation and Irrigation has received financing from the World Bank and G.O.K to finance the WSDP project. The primary objective of the project is to improve water supply and sanitation services in select coastal and north-eastern counties where Tavevo is part. This would be achieved through investment in water supply and sanitation infrastructure and strengthening the institutional capacity of water service providers (WSPs) in management of non-revenue water, billing and revenue collection. On this regard, investments planned in development of water infrastructure includes replacement, augmentation and extension of pipelines, installation of services lines and re-installation of consumer water connections. To a great extent the project will help in reduction of UFW, result to more connection and better revenue collections.

2. Mobile Meter Reading

This is a system where meters are read manually and readings are entered into a smartphone on site and uploaded into a billing database automatically. The database runs checks to identify anomalies that would suggest erroneous readings.

The smartphone is used to photograph the meter when it is read which enables anomalies to be resolved without further field visits but also provides a means to check that the stamp has been actually read (via time stamp and location).

This system provides a basis to monitor meter readers performance and actual water consumption.

3. Effective Customer Metering

The Company has ensured 100% metering and this strategy involves meter servicing and testing programs for customer meters which informs and support meter replacement. With such practice, faulty and stalled meters are replaced effectively.

4. Pressure Management

Pressure management is a means of reducing physical losses and to a lesser extent burst and customer wastage. The company is implementing pressure reduction by shutting down supply during the off-peak hours (night) when water pressures are high thereby reducing the frequency of burst and leaks.

5. Effective NRW Reporting

This strategy entails reporting at low levels (DMA level) which provides greater confidence in the top-level assessment of UFW. Key Performance indicators (KPIs) provides means to confirm each month that NRW is under control and identify remedial actions required.

6. Adoption of GIS

The Company is using Geographical Information System (G.I.S) which is a powerful tool for managing NRW through:

- Assisting in DMA design
- Identifying potential illegal connections
- Leakage reporting
- Plotting failures and identifying hotspots to inform mains replacement programs.

7. Establishment of DMAs

The Company is in the process of reviving 12 DMAs which will provide an effective means of monitoring and controlling physical and commercial losses.

8. Proactive UFW Team - Sample deployment letters.

The Company has established an effective UFW team which;

- Proactively investigates disconnected accounts that do not request reconnection (on the basis that they probably get water somewhere else).
- Regular patrolling of the water distribution network.
- Independent reviewing major consumers such as car washes by reference to remote mapping or visual inspection.

- Reviewing metering anomalies so that meter tampering is quickly identified.
- Reconciling DMA flows by comparing the monthly water balance with leakage assessment.
- Providing appropriate incentives to customers and staff to identify illegal connections.

9. Effective Customer Engagement

The Company is engaging effectively with customers and stakeholders through educating them on the benefits of aspects such as reporting illegal water use and leakages, need to pay for water and water conservation.

The company is using platforms such as Barraza's, local radio and newspapers, website bulk SMS, social media along with local administration units to enlighten customers on the benefits of reporting on illegal water use, bursts and leakages and payment of bills.

Committee Observations

The Committee observed that the company's Non-Revenue water (NRW) was at 50% which was 25% above the sector benchmark of 25% as set out in WASREB guidelines. The water company put into place some measures to mitigate the NRW levels, however, the NRW increased by 8% from the previous financial year (2022/23), an indication that the measures are ineffective.

Committee Recommendations

The Committee recommends that—

- i. **the Accounting Officer should put in place comprehensive measures to mitigate on the Non-Revenue Water, that is, both physical and commercial losses. The measures to include replacement of old age dilapidated infrastructure, installation of smart meters for accurate billing and the application of Geographical Information System (GIS) to receive real-time data for the detection of bursts and leakages among other measures. The Auditor-General to review the implementation of the measures put in place to mitigate the Non-Revenue Water and provide a status update on the matter in the subsequent audit cycle;**
- ii. **given the impact of Non-Revenue Water on the water company's cashflows, the Accounting Officer should ensure that a provision for Non-Revenue Water is included in the financial statements. Further, explanatory notes should be provided to detail the contributions of both commercial and physical loss factors to the overall Non-Revenue Water; and**
- iii. **the County Government to collaborate with the Ethics and Anti-Corruption Commission to ensure pre-emptive measures are put place to reduce cases of theft and illegal connections.**

9. Use of estimated billing

The statement of profit or loss and other comprehensive income and Note 6 to the financial statements reflects operating revenue of Kshs.377,355,010. Analysis of billing reports obtained from Tavevo Pick pay billing system from the month of September, 2023 to June, 2024 revealed that during the financial year ended 30 June, 2024, water sales amounting to Kshs.36,925,955 (or 10%) of total water sales reported were calculated using estimated meter readings rather than actual meter readings. Further, the estimated water bills for the month of July and August, 2023 were not provided for audit.

In the circumstances, the accuracy and completeness of operating revenue amounting to Kshs.377,355,010 could not be confirmed.

Management response

- i. The company has put measures in place to have customers billed on actual consumption by digitizing meter reading process,
- ii. Currently whenever meter readers are unable to get the actual readings, customers are encouraged to do self-meter reading through the company application readily available on Play store and apple store. Some reasons for unveiled readings include;
 - a) Inaccessible meter points/gates locked
 - b) Non-functional meters
 - c) Glass dirty
- iii. The company has also put in place a meter management unit which tracks down all the estimated accounts on a monthly basis, servicing them and recommending for replacement of the unserviceable meters. further measures have been put in place to have the unserviceable meters replaced through monthly purchase of new meters in tranches. This has reduced disputes associated with water bills, in circumstances where we are not able to get the actual consumption as mentioned above.

Committee Observations

The Committee observed that the water sales amounting to Kshs.36,925,955 (10% of total water sales) were calculated using estimated meter readings rather than actual meter readings due to various reasons including faulty meters and inaccessibility of meters.

Committee Recommendations

The Committee recommends that within sixty (60) days of the adoption of this report, the Accounting Officer should ensure replacement of all faulty water

meters to ensure accurate billing. The Auditor-General to provide a status update on the same to the Senate during the subsequent audit cycle.

10. Unsupported fuel oil and lubricants

The statement of profit or loss and other comprehensive income and Note 10 to the financial statements, reflects general and operations expenses of Kshs.509,093,936, which include fuel, oils and lubricants expenses of Kshs.19,913,159. Review of the fuel register maintained revealed that fuel worth of Kshs.4,716,378 was drawn without detailed orders.

In the circumstances, the accuracy, completeness and regularity of fuel, oils and lubricants expenses of Kshs.4,716,378 could not be confirmed.

Management response

All fuel merchants disburse fuel based on a valid fuel order issued by ourselves. Any disbursement of fuel without a valid fuel order cannot be paid by the company.

It is our opinion that all fuel disbursement is based on valid fuel orders.

Committee Observations

The Committee observed that the management failed to provide detailed orders to support fuel expenses worth Kshs.4,716,378 for audit verification.

Committee Recommendations

The Committee recommends that the EACC conducts investigations on the fuel expenses amounting to Kshs.4,716,378 to ascertain if there was loss of public funds with a view to holding accountable those found culpable and provide a status update to the Senate on actions taken within sixty (60) days of the adoption of this report.

11. Undisclosed payable on unsettled terminal dues

The statement of financial position and Note 27 to the financial statement reflects trade and other payables amounting to Kshs.943,899,142. During the period under review, fifty-two (52) contracted employees exited the Company at the end of their contracts. To settle their terminal dues amounting to Kshs. 25,376,368, Management, guided by the County Labor Office agreed on a payment plan over a twenty-five (25) months period, commencing in April, 2024. However, Management did not provide a status report on the implementation of the payment plan, balance outstanding as at 30 June, 2024 and how the balance was disclosed in the financial statements presented for audit.

In the circumstances, the accuracy and completeness of trade and other payables balance of Kshs.943,899,142 could not be confirmed.

Management response

Management begs to differ on this observation. Every month accruals are made for gratuity and pension as per staff contract terms in Tavevo books of accounts. Over time of employment every employee is provided for. In this instant under Non-Current liabilities note 25 is Service gratuity reported at **Kshs. 68,185,999.**

This figure is cumulative gratuity for all staff that are still serving under renewed contracts and those that have left. Every financial year total accrued gratuity is reported under the staff costs in the income statement note 9 as well as cumulatively in the balance sheet gratuity payable note 25.

As payments are made for the former staff, they are paid against the cumulative gratuity balance.

The management provided the Committee with the gratuity payable ledger showing outgoing transactions of total paid gratuity during the year for the former staff **Kshs. 2,755,001** as at 30th June 2024 highlighted.

Committee Observations

The Committee observed that—

- i. the management failed to provide for audit verification, a status report on the implementation of the payment plan for terminal dues amounting to Kshs. 25,376,368, the outstanding balance and how the balance was disclosed in the financial statements; and
- ii. the terminal dues ledger that was later availed for audit verification did not contain details of the 52 staff and the outstanding balances.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer ensures that the water company strictly adheres to the payment plan for terminal dues amounting to Kshs. 25,376,368; and
- ii. the Auditor-General to provide a status update on the matter during the subsequent audit cycle, indicating the number of staff, how much each has been paid so far and the outstanding balance.

12. Undisclosed Provision for doubtful receivables

The statement of financial position and Note 18 to the financial statements reflect net trade and other receivables balance of Kshs.341,364,633 which include provision for bad and doubtful receivable of Kshs. Nil. However, it was not explained why the

Company has not provided for bad and doubtful debts contrary to IAS 1 which require an entity to disclose its material accounting policies.

In the circumstances, the accuracy, completeness and adequacy of provision for bad and doubtful receivables could not be confirmed.

Management response

The management agrees with this observation that no bad debts provision was made in the year under review.

A general provision percentage for doubtful debts will be considered by the board of directors for the current financial period.

In the longer term, management plans to engage the services of debt collectors. Out of this exercise, we anticipate that a proper analysis of our account receivables will be made to inform our decision on specific provision for doubtful debts and possible write-offs.

Committee Observations

The Committee observed that although the company had a net trade and other receivables balance of Kshs. 341,364,633, its financial statements did not account for a provision for bad and doubtful debts.

Committee Recommendations

The Committee recommends that—

- i. the water company undertakes debtor's circularization to confirm the authenticity of the receivables and provide a status update on the same to the Senate within sixty (60) days of the adoption of this report;**
- ii. the Accounting Officer should, within 60 days of the adoption of this report, submit a debtors' schedule to the Auditor-General for verification;**
- iii. the Accounting Officer should within 60 days of the adoption of this report, submit an approved copy of the Debt Management Policy to the Auditor general for verification. The Auditor-General to verify the policy and submit a status update on the same in the subsequent audit cycle;**
- iv. the Accounting Officer should, within 60 days of the adoption of this report, put in place recovery measures for the outstanding amount with clear timelines. The Auditor-General should review the implementation of the measures put in place provide a status update on the matter in the subsequent audit cycle; and**
- v. The Accounting Officer to undertake a detailed analysis of its long outstanding trade receivables and with the Board's approval, write off the irrecoverable debts in line with the Section 130 (2) (d) of the Public Finance Management (County Governments) Regulations, 2015.**

13. Presentation of the financial statements

The financial statements for the year ended 30 June, 2024 had the following anomalies on presentation;

- i. The statement of profit or loss and other comprehensive income, the statement of financial position and statement of cashflows had been prepared without presenting the previous year 2022-2023 comparative balances. The previous balances are indicated as restated but the restatement was not explained or supported. This is contrary to the prescribed format by Public Sector Accounting Standards Board (PSASB).
- ii. The statement of financial position and Note 15 to the financial statements reflects Kshs.917,346,760 as property, plant and equipment (PPE). However, the PPE movement schedule in Note 15 is not presented on comparative basis between the previous and the current financial years. This is contrary to the prescribed format by Public Sector Accounting Standards Board (PSASB).
- iii. The statement of cashflow presented was prepared using the indirect method instead of the direct method prescribed by the Public Sector Accounting Standard Board.
- iv. The statement of cashflow reflect prior year adjustment of Kshs.2,981 ,077 (2023: Kshs.75,836,861) which was not supported.
- v. Management has not provided the reconciliation of the operating profit/(loss) of Kshs.(166,557,613) to the cash generated from (used in) operations of Kshs. 103.567,088.

In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

Management response

Management agrees with this finding and shall provide a reconciliation of the direct and indirect method of cashflows in its report.

Committee Observations

The Committee observed that—

- i. the financial statements of the company were not prepared in compliance with the format prescribed by Public Sector Accounting Standard Board (PSASB) during the period under review;
- ii. the management failed to provide reconciliations and supporting documents for a prior year adjustment made in the statement of cashflow for audit verification.

Committee Recommendations

The Committee recommends that—

- i. the County Executive Committee Member responsible for finance ensures compliance with section 105(1)(d) and (g) of the Public Finance Management Act, Cap. 412A with respect to enforcement of compliance by county entities with all applicable norms or standards regarding accounting practices as prescribed by the Accounting Standards Board, failure to which the penalties under section 199 of the Act shall apply;
- ii. the Accounting Officer to take appropriate administrative action on responsible officers within the Accounts and Finance department who fail to keep complete financial records in accordance with section 156(1) of the Public Finance Management Act, Cap.412A and in line with their terms and conditions of appointment or employment, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;
- iii. the Accounting Officer should enhance the capacity of in-post officers preparing financial statements to comply with the Public Sector Accounting Standards and should further invest in technology to enhance efficiency and improve the accuracy of financial statements; and
- iv. the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle.

Emphasis of Matter

Budget control and performance

The statement of comparison of budget and actual amounts reflects final revenue budget and actual amounts on comparable basis of Kshs. 1,084,143,607 and Kshs.547,153,600 respectively, resulting in revenue shortfall of Kshs.536,990,007, or 50% of the budget. Similarly, the Company expended Kshs. 1,061,944,663 against an approved budget of Kshs. 1,777,235,693, resulting in an under absorption of Kshs.715,291,030, or 40% of the budgeted amount. The revenue shortfall and under expenditure affected the planned activities and may have impacted negatively on service delivery to the public. My opinion is not modified in respect of this matter.

Management response

Management wishes to state that in the reporting template as provided with the financial statements there is Kshs. 351,321,904 capital and development grants reported under the statement of changes in equity with this figure the revenue shortfall comes down from **Kshs. 536,990,007 to Kshs. 185,668,103** or 17%. This shortfall is attributed to

grants that maybe planned for but not fulfilled during the period under review. These are mostly outside the control of management.

Committee Observations

The Committee observed that—

- i. the water company had a revenue shortfall of Kshs.536,990,007, or 50% of its budget during the financial year under review.
- ii. The water company failed to absorb Kshs.715,291,030, or 40% of its budget during the financial year under review.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should comply with regulation 42(1)(b) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply; and
- ii. the Board of Directors should institute proper and realistic budget planning as well as measures to enhance its own generated revenue, such as review of tariffs, connection of more customers and automation to address revenue leakages. The Auditor-General to confirm the effectiveness of the mitigating measures put in the water company and report in the subsequent audit cycle.

Other matter

Prior Year Audit Issues

In the audit report of the previous financial year, several issues were raised under the Reports on; Financial Statements, Lawfulness and Effectiveness in Use of Public Resources and Effectiveness of Internal Controls, Risk Management and Governance which remained unresolved as 30 June, 2024. Management indicated the status of the issues as having been resolved but did not provide the evidence to support that position.

Management Response

The management provide a response.

Committee Observations

The Committee observed that the management of the water company did not take action in resolving the queries raised in the report of the Auditor-General for the financial year 2022/2023.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should resolve any issues resulting from an audit that remains outstanding as required by section 149(2)(l) of the Public Finance Management Act, Cap. 412A, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences may apply; and
- ii. the Auditor-General provides a status update on the progress made on the matter in the subsequent audit cycle upon review of the progress report.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Pursuant to Article 229 (6) of the Constitution, based on the audit procedures performed by the Auditor General, the following matters formed the basis for conclusion that public resources were not applied lawfully and in an effective way –

1. Unsupported procurement

The statement of financial position and Note 15 to the financial statements reflects property, plant and equipment balance of Kshs.917,346,760. Included in this balance is Kshs.63,393,107 in respect of Water Meters which in turn includes additions of Kshs.23,081,720. The Company procured 2,000 cold water meters with stop corks for Kshs.22,627,580 and the items delivered on diverse dates. However, the standard procurement documents including approved procurement plan and budget, requisition, item specifications, tender evaluation report and professional opinion were not provided for audit.

In the circumstances, the regularity of the procurement of meters worth Kshs.22,627,580 could not be confirmed.

Management response

The management could not furnish the office of the auditor general with records of the procurement because original documents relating to this procurement were sent to the Ethics and Anti-Corruption Commission in their investigation. As at the time of audit, the documents had not been returned to us.

Management states that the above-mentioned documents were handed over to the E.A.C.C upon their request for the same. The management provided the Committee with the following documents;

1. Request for information letter by EACC
2. Forwarding letter to EACC showing inventory of documents received by E.A.C.C.

Committee Observations

The Committee observed that the management failed to provide supporting documents for the procurement 2,000 cold water meters with stop corks amounting to Kshs.22,627,580 for audit verification as the documents were handed over to EACC for investigation.

Committee Recommendations

The Committee recommends that the Ethics and Anti-Corruption Commission (EACC) to provide a status update on the matter to the Senate within thirty (30) days of the adoption of this report.

2. Regularity of human resource management practices

The statement of profit or loss & other comprehensive income and Note 15 to the financial statements reflects staff costs of Kshs.128,319,021. However, the following anomalies were observed:

2.1 Lack of approved scheme of service

The Company appointed sixty-one (61) officers over the period under audit review. However, the Company did not have in place an approved scheme of service defining job descriptions and qualifications for the various job levels. This is contrary to Clause 2.7 of the Company Human Resource Policy and Procedures Manual, 2023 stating that the Company shall develop schemes of service (appointment and career progression guidelines) for its employees which shall be approved by the Board and the schemes of service provide clear job descriptions and specifications/qualifications for all job levels for the various careers and professions in the Company.

In the circumstances, Management was in breach of the law.

Management Response

Management agrees with the observation and is working on a draft to be tabled before the board of directors for discussion and approval.

Committee Observations

The Committee observed that the water company operated without an approved scheme of service in place during the financial year under review contrary to Clause 2.7 of the Company Human Resource Policy and Procedures Manual, 2023.

Committee Recommendations

The Committee recommends that within sixty (60) days of the adoption of this report, the Accounting Officer and the Board of Directors of the company ensure that a scheme of service is developed and approved to provide clear job descriptions and specifications/qualifications for all job levels for the various careers and professions in the Company in line with Clause 2.7 of the Company Human Resource Policy and Procedures Manual, 2023 within sixty (60) days of the adoption of this report. The Auditor-General to provide a status update on the same to the Senate during the subsequent audit cycle.

2.2 Lack of affirmative action persons

The Company engaged one hundred and ten (110) officers on contracts, with fifty-six (56), fifty (50) and four (4) officers on one-year, three-year and five-year contracts respectively. However, none of the staff engaged on contract terms were persons living with disabilities, contrary to Section 13 of the Persons with Disabilities Act, 2003 which requires that employers reserve at least 5% of their employment positions for people with disabilities.

In the circumstances, Management was in breach of the law.

Management Response

Management agrees with this observation and shall actively pursue recruitment of persons with disability for non-technical roles in the future.

Committee Observations

The Committee observed that the company engaged 110 officers on contract, none of who were persons living with disabilities, contrary to section 13 of the Persons with Disabilities Act, Cap.133.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer ensures strict compliance with the provisions of section 13 of the Persons with Disabilities Act, Cap.133 with regards to the reservation of five per cent of all casual, emergency and contractual positions in employment in the public and private sectors for persons with disabilities failure to which the provisions of section 48 of the Act on offences for penalties shall apply; and

- ii. **the Auditor-General to monitor the implementation of the above recommendation and provide a status update on the same to the Senate during the subsequent audit cycle.**

2.3 Lack of ethnic diversity

The Company had six officers in Senior Management positions, out of whom five, or 83%, were from a dominant ethnic community, and two hundred and one (201), or 89% of the Company's two hundred and twenty-five (225) non-managerial staff were from the same ethnic community contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which provides that no public establishment shall have more than one third of its staff from the same ethnic community.

In the circumstances, Management was in breach of the law.

Management Response

The management agrees with this finding and is actively pursuing ethnic diversity in its current recruitment.

Appointment letter for Legal and Board Affairs officer and copy of ID.

Committee Observations

The Committee observed that the company had 89% of staff and 83% of officers in Senior Management positions who were from one dominant ethnic community.

Committee Recommendations

The Committee recommends that—

- i. **The Board and the accounting officer makes deliberate efforts to progressively comply with section 65 of the County Governments Act, 2012 which provides that at least thirty percent 30% of the vacant posts at entry level be filled by candidates who are not from the dominant ethnic community; and**
- ii. **The Board and the accounting officer to make deliberate efforts progressively in the endeavor to comply with Section 7 (1) and (2) of the National Cohesion and Integrity Act, 2008, which requires that public establishments shall seek to represent the diversity of the people of Kenya in employment of staff.**

2.4 Staff over establishment

Review of human resource records show that the Company had 19,306 active connections as at 30 June, 2024, against two hundred forty-three (243) members of staff.

Clause 2.8 of the Company Human Resource Policy and Procedures Manual, 2023, provide that in determining the staff establishment, the Company shall be guided by the WASREB sector benchmarks on staff productivity, measured in terms of number of staff per 1,000 connection and Section 3.0 of the Company Approved Tariff Structure for the period 2023/2024 to 2025/2026 that sets the number of staff per 1,000 connections at twelve (12). The Company's establishment was therefore above the guided number of two hundred thirty-two (232) by WASREB, the Company Manual and the approved tariff by an excess of eleven (11) officers.

In the circumstances, Management was in breach of the law.

Management Response

Management agrees with this observation. However, our area of service is quite vast and with limited resources to enable staff mobility, necessitate additional staff to be able to adequately respond to our customers' needs.

In the longer term, we are aggressively pursuing addition of new customers so as to be able to be within the advisory of WASREB.

Committee Observations

The Committee observed that the company's staff establishment exceeded the recommended benchmarks set by WASREB and the company's manual.

Committee Recommendations

The Committee recommends that the Governor, through the County Executive Committee Member (CECM) – Water ensures strict compliance with the WASREB guidelines and the company's manual on staff establishment.

2.5 Irregular payment of salaries and allowances to officers on secondment

- (a) The Board of Directors on 8 September, 2022, renewed the contract of a Technical Manager, Job Group T 12, for a period of five years, effective from 15 January, 2023.

The officer was then seconded to the County Government of Taita Taveta on 12 April, 2024 as a Director, Water and Sanitation. However, the details on the duration of the secondment and the board approval for secondment of the employee engaged on contract terms to the county government was not provided. Further, the officer drew salaries and allowances amounting to Kshs.389,835, for the months of April, May and June, 2024 from the Company despite offering his services to the County Government of Taita Taveta. This was contrary to Clause B.33(6) of the Human Resource Policies and Procedures Manual for the Public Service, May, 2016 that states that officers on secondment will be paid their salaries and other allowances by the organizations in which they are deployed.

- (b) The Company engaged a business development, commercial services and ICT manager on 3 February 2020 for a three-year contract, which was further reviewed to five years one on 18 February 2022 and set to lapse on 3 February 2025. On 22 December 2022, the officer was seconded to the Taita Taveta County Government. However, the Company paid the officer an amount of Kshs. 1,023,323 over the seven months period, from December 2023 to June 2024, on secondment to the County Government.

In the circumstances, Management was in breach of the law.

Management Response

Management agrees with the observation and will advise the Board of directors accordingly.

Committee Observations

The Committee observed that—

- i. the company made payments of Kshs.389,835 and Kshs. 1,023,323 to officers who had been seconded to County Government contrary to Clause B.33(6) of the Human Resource Policies and Procedures Manual for the Public Service, May, 2016 which states that officers on secondment will be paid their salaries and other allowances by the organizations in which they are deployed; and
- ii. the management failed to provide the details on the duration of the secondment and the board approval for secondment of an employee engaged on contract terms to the county government for audit review.

Committee Recommendations

The Committee recommends that the Accounting Officer ensures that the amounts of Kshs. 389,835 and Kshs. 1,023,323, paid to the seconded officers, are recovered within sixty (60) days of the adoption of this report and provide evidence of the same to the Auditor-General for verification. The Auditor-General to provide a status update on the matter in the subsequent audit cycle.

2.6 Irregular recruitment and appointment of staff

During the period under review, Management appointed various officers to positions of Financial Accountant, Internal Audit Assistant Legal and Board Affairs Officer for three years contracts and ICT Manager for five-year contract. However, the shortlisting report, interview score sheets, detailed interview reports, recommendation of the Staff Advisory Committee and Board ratification of the appointments were not provided for audit. The positions could not be traced in the Company's Career Progression Guidelines and hence the source of the minimum qualifications adopted for the recruitment exercise could not be confirmed. Further, review of the personal files of the appointed officers

and the vacancy as advertised revealed that two officers, Financial Accountant and Internal Audit Assistant, appointed on three-years contracts with effect from 20 May, 2024, did not possess the minimum requirements. The former did not possess CPA(K) qualification while the latter did not possess minimum CPA Part II qualification which were mandatory requirements as per the vacancy advertisement dated 5 January, 2024. No justification was provided for appointing applicants who did not possess the minimum qualifications despite the shortlisting provided confirming that other applicants possessed the minimum qualifications.

In the circumstances, the regularity of the appointments could not be confirmed.

Management Response

Management agrees with the observation and will advise the Board of directors accordingly.

Committee Observations

The Committee observed that—

- i. the management failed to provide a shortlisting report, interview score sheets, detailed interview reports, recommendation of the Staff Advisory Committee and Board ratification of the appointments, for audit verification; and
- ii. the Financial Accountant and Internal Audit Assistant of the company were appointed despite not meeting the minimum qualification requirements.

Committee Recommendations

The Committee recommends that the Governor through the County Executive Committee Member (CECM) - Water ensures that the Board of Directors of Tavevo Water and Sewerage Company Limited undertakes a comprehensive staff rationalization within the company so as to ensure every cadre within the establishment is occupied by officers who possess the requisite qualifications and provide a status update to the Senate within sixty (60) days of the adoption of this report.

2.7 Unsupported conversion of staff

During the period under review, Management appointed fifty-six (56) officers to one-year contracts effective from 8 January, 2024 to 7 January, 2025. Information provided indicated that the officers were casuals but the board resolved to convert the terms of engagement to one-year contract terms. However, the Board minutes approving the conversion, the recommendations by the Staff Advisory Committee, results of suitability/appraisal tests of the casuals, approved human resources plan and indent were not provided.

In the circumstances, the regularity of the conversion of terms of engagement could not be confirmed.

Management Response

Management converted the staff terms of employment on advice of the board of directors. The management provided the following documents to the Committee for review;

- 1) Board extract on conversion of terms of employment
- 2) HR board committee recommendation to the board

Committee Observations

The Committee observed that—

- i. whereas the Board minutes approving the conversion of the staff was provided and verified by the Auditor-General, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act; and
- ii. the management failed to provide the recommendations by the Staff Advisory Committee, results of suitability/appraisal tests of the casuals, approved human resources plan and indent for audit review.

Committee Recommendations

The Committee recommends that the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Pursuant to section 7(1) of the Public Audit Act, based on procedures performed by the Auditor General, the following matter formed the basis for conclusion that internal controls, risk management and overall governance were not effective –

Weak IT Internal Controls

Review of the Company's IT internal controls environment and discussion with ICT Management through questionnaire revealed that the Company does not have Approved policies on information technologies security including disaster recovery plan and IT continuity plan. In addition, the Company does not have IT strategic or Steering Committee which could result in non-implementation of IT governance.

In the circumstances, the effectiveness of internal controls and risk management could not be confirmed.

Management Response

The management did not provide a response.

Committee Observations

The Committee observed that the company operated without an approved disaster recovery plan and IT continuity plan, IT strategic or Steering Committee in place during the financial year under review.

Committee Recommendations

The Committee recommends that the County Executive Committee Member (CECM) - Finance ensures that the water company puts in place all internal control systems such as the Internal Audit Committee as provided under section 155 (5) of the Public Finance Management Act, 2012, and a Risk Management Policy as provided under section 158 (1) of Public Finance Management (County Governments) Regulations, 2015 among others to guide the internal operations of the water company. Further, the managements to submit evidence of the same to the Auditor General for verification.

CHAPTER SIXTEEN

REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR WOTE WATER AND SEWERAGE COMPANY LIMITED FOR THE FINANCIAL YEAR 2023/2024

The Governor of Makueni County, Hon. Mutula Kilonzo Junior, CBS, appeared before the Committee on Monday, 17th March, 2025 to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for the Wote Water and Sewerage Company Limited (WOWASCO) for the Financial Year 2023/2024. He was accompanied by—

1. Damaris M. Kavoi – CECM- Finance
2. Justus Kuti – Managing Director (WOWASCO)
3. David Maingi – Finance Manager (WOWASCO)

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered a **qualified opinion** on the financial statements of the Wote water and sewerage company for the period under review on the following basis—

1. Unconfirmed Customer Deposits Balance

The Statement of Financial Position reflects customer deposit balance of Kshs 5,673,850 as disclosed in Note 25 to the financial statement. However, the reconciled cashbook balance reflected Kshs 2,000,372 in respect to customer's deposits resulting in unexplained variance of Kshs. 3,673,478, Customer's deposits are refundable on demand to customers who may wish to terminate their service contracts and have no outstanding bills. Although Management indicated that the money was utilized to finance its operations, management did not provide any strategy on how they will meet their obligation in the event customers demand for their deposits.

In the circumstance, the accuracy and completeness of customer deposits of Kshs 5,673,850 could not be confirmed.

Management Response

The customer deposits amount was borrowed and spent during a period of financial difficulty for the company. However, the management remains committed to repaying the borrowed deposit through a bank standing order, currently set at Kshs 100,000 per month.

The customer deposit variance of Kshs 3,673,478 also includes funds held by the bank as security for the WASREB performance bond of Kshs. 814,232.5 which was a prerequisite for obtaining an operating license.

Committee Observations

The Committee observed that there was an unexplained variance of Kshs. 3,673,478 in the cash book balance and also that the water company had utilized customer deposits did not provide any strategy on how they will meet their obligation in the event customers demand for their deposits.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should, within 60 days of the adoption of this report, submit to the Committee and the Auditor-General a repayment plan with clear timelines for the repayment of the customer deposits;
- ii. the Board of Directors should put in place a Customer Deposits Management Policy to guide how the water company can access, utilize and refund the money within specified timelines. Further, the Accounting Officer should ensure that there is full disclosure to the water company's customers on the utilization of the deposits;
- iii. the Accounting Officer should ensure that all customer deposits are deposited in a fixed/call account whose access to the management is limited and where the accrued interests can be used to offset the bank charges. Management to submit evidence of the same to the Auditor-General within 60 days of the adoption of this report for verification; and
- iv. the Accounting Officer ensures that the company strictly adheres to the provisions of section 142 of the Public Finance Management Act, Cap.412A on borrowing by County Government entities, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.

2. Unconfirmed Receipts in the Bank

The statement of Financial Position and as disclosed in Note 21 to the Financial Statements reflect bank and cash balances of Kshs 9,698,846. However, included in the revenue account reconciliation statement are receipts in the bank not recorded in the cashbook of Kshs 371,650.

The amounts relate to periods dating back to May 2022, which Management is yet to establish the source of the money for updating of its cash records.

In the circumstance, the accuracy and completeness of bank and cash balances of Kshs 9,698,846 could not be confirmed.

Management Response

The amount of Kshs 371,650 relates to payments for water account made directly to company's bank account through RTGS/EFT by departments and other customers which had not specified the water account paid for as per attached schedule

The Management has made a follow up with the customers to identify the water accounts specifically paid for. A reconciliation has been submitted to the auditor for verification.

Committee Observations

The Committee observed that in the revenue account reconciliation statement are receipts in the bank not recorded in the cashbook of Kshs 371,650.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer to take appropriate administrative action on responsible officers within the Accounts and Finance department who fail to keep complete financial records in accordance with section 156(1) of the Public Finance Management Act, Cap.412A and in line with their terms and conditions of appointment or employment, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;**
- ii. the Accounting Officer should comply with section 149(2)(b) of the Public Finance Management Act, Cap.412A and section 47(2) of Public Audit Act, Cap.412B in the preparation and management of financial and accounting records, failure to which the provisions of section 62 of the Public Audit Act, Cap.412B and section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;**
- iii. the National Treasury should enhance awareness and training on changes made to the accounting standards to all public officers handling financial matters in Counties;**
- iv. the Accounting Officer should strengthen internal audit controls and ensure proper record keeping in line with section 155 of the Public Finance Management Act, Cap.412A and submit a quarterly report to the County Treasury and the Controller of Budget in accordance with section 168(3) of the Public Finance Management Act, Cap.412A, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;**
- v. the Accounting Officer should enhance the capacity of in-post officers preparing financial statements to comply with the Public Sector Accounting Standards and should further invest in technology to enhance efficiency and improve the accuracy of financial statements; and**

- vi. the Accounting Officer ensures that prior year adjustments are carried out in the company's financial statements of the subsequent year to correct the errors in order to reflect the true financial position of the company.

Emphasis of Matter

3. Budgetary Control and Performance

The Statement of Comparison of Budget and Actual Amounts reflects final receipts budget and actual on comparable basis of Kshs 49,300,000 and Kshs 39,424,623 respectively resulting in an underfunding of Kshs 9,875,377 or approximately 20% of the budget.

The under-funding may affect the planned activities and may impact negatively on service delivery to the public.

Management Response

The receipts generated by the company are highly dependent on continuous supply of water to its customers. During the period, the company experienced major breakdowns of the pumping stations reducing significantly the water supply during the time. Further, some of the company's water networks in two of our major zones that is Westlands and Kasarani, were also damaged by road networks affecting the water supply to our customers. The company is working towards reducing the lead time between breakdowns and replacement of the pumping stations. Further, the company has developed various strategies to enhance revenue.

Committee Observations

The Committee observed that an underfunding of Kshs 9,875,377 or approximately 20% of the budget during the financial year under review.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should comply with regulation 42(1)(b) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply; and
- ii. the Board of Directors should institute proper and realistic budget planning as well as measures to enhance its own generated revenue, such as review of tariffs, connection of more customers and automation to address revenue leakages. The Auditor-General to confirm the effectiveness of the mitigating measures put in the water company and report in the subsequent audit cycle.

4. Long Outstanding Trade and other payables

The Statement of Financial Position reflects trade and other payables balance of Kshs 31,663,440 and as disclosed in Note 26 to the Financial Statements. However, review of the supporting schedules and as reflected in the ageing analysis revealed that payables amounting to Kshs 15,936,646 or approximately 50% have been outstanding for more than three (3) years. Although Management indicated that the payables have been long outstanding due to financial constraints caused by the inability to breakeven, no mechanisms or strategies have been put in place to clear the payables.

The company is exposed to litigation and the risk of incurring penalties and interest for late payments.

Management Response

The long outstanding debt comprised majorly of charges and penalties charged by regulatory bodies that has remained outstanding for a long time due to low financial inflows. Specifically, during the year under review outstanding amount for TANATHI was Kshs 7,513,228, WASREB Kshs 9,156,901 and WRA Kshs 1,751,950. However, the management has reached out to Tanathi Water Works Development Agency for a waiver of lease fee arrears for consideration

Further, the management completed the tariff application process and submitted the requisite documents to WASREB for approval. The proposed tariff is estimated at an average of Kshs 185 per cubic meter as compared to the current tariff of Kshs 120 per cubic meter. Approval of the tariff is expected to increase the company revenue by at least 50% at the current water supply capacity. An increase in the Company's revenue will subsequently enable the company to break even and settle the long outstanding payables together with the current obligation as and when they fall due.

Committee Observations

The Committee observed that the query remains unresolved as the company had long outstanding trade and other payables amounting to Kshs 15,936,646 which remained outstanding for over three years.

Committee Recommendations

The Committee recommends that the Accounting Officer engages all entities owed and formulate a repayment plan for payables amounting to Kshs. 15,936,646 and file a report on the same with the Auditor-General for verification. Auditor-General to provide a status update on the matter in the subsequent audit cycle.

Other Matter

1. Unresolved Prior Year Matters

In the audit report of the previous year, several paragraphs were raised. However, Management has not resolved all the prior year matters as prescribed in the reporting requirements set by the Public Sector Accounting Standards Board. Management has not provided any explanation for the delay in resolving the issues.

Management Response

The Management has resolved two of the prior year audit issues being failure to file annual returns and Non-compliance with one third deduction rule as shown in the CR12 and a payroll abstract respectively.

Other issues have remained unresolved and have subsequently appeared as the current audit issues. See attached summary of the prior year follow up of the audit recommendations as appearing in Note 20 to the Financial Statements

The company has profiled all the prior year matters and its engaging the relevant stakeholders to bring them to a close.

Committee Observations

The Committee observed that the query remains unresolved as the management of the water company did not take action in resolving the queries raised in the report of the Auditor-General for the financial year 2022/2023.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should resolve any issues resulting from an audit that remains outstanding as required by section 149(2)(l) of the Public Finance Management Act, Cap. 412A, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences may apply; and**
- ii. the Auditor-General provides a status update on the progress made on the matter in the subsequent audit cycle upon review of the progress report.**

2. Material Uncertainty Related to Going Concern

The Statement of Profit or Loss and Other Comprehensive Income reflects loss before taxation of Kshs 7,475,843 (Deficit of Kshs 7,935,543 for 2022/2023). Thus, the financial performance increased marginally by Kshs 458,700 during the period under review. In addition, the Statement of Financial Position reflects current liabilities totaling Kshs 31,663,440 against current assets of Kshs 18,741,057 resulting in a

negative working capital of Kshs 12,922,383 which may be an indication of the company's inability to settle its obligations as and when they fall due.

Management has in the annual report highlighted the following challenges which may affect the Company's future probability;

- i. Limited and seasonal nature of water sources, and frequent pipeline bursts occasioned by dilapidated water distribution infrastructures which may have contributed greatly to decrease of water production infrastructures by 85,631M3 (From 427,615M3 in 2022/2023 to 341,631M3 in 2023/2024 translating to loss of revenues by approximately Kshs 10,318,080.
- ii. Frequent machine/pumps breakdown and burnt electrical parts contributing to high losses in the company.
- iii. High operational costs due to use of booster stations to improve on water distribution systems.

In the circumstances, due to the deficit and the negative working capital, the ability of the company to continue to sustain its services is dependent on continued support from the County Government and other stakeholders.

Management Response

The company has formally submitted an application to the Water Services Regulatory Board (WASREB) requesting approval for a cost recovery tariff.

The Company in conjunction with TANATHI Water Works and Development Agency have invited bids for construction of water supply project to enhance water supply.

The company is working together with the county government in enhancing its sources through development of new sources, increasing storage capacity

Additionally, company has been adopting new technologies in pipeline networks.

Committee Observations

The Committee observed that the water company operated with a negative working capital of Kshs 12,922,383 during the financial year under review, casting doubt on the Company's ability to continue as a going concern.

Committee Recommendations

The Committee recommends that—

- i. **The Governor of Makueni County should take keen interest in the management and operations of the water company in line with Article 179 (4) of the Constitution;**

- ii. The Accounting Officer should prepare and submit quarterly reports to the County Treasury in regard to the financial and non-financial status of the water company in line with section 166 of the Public Finance Management Act, Cap.412A, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;
- iii. the County Executive Committee Member in charge of water should take full responsibility for monitoring the financial performance of the county corporation in line with section 184 of the Public Finance Management Act, Cap.412A and regularly report to the Governor through the County Executive Committee in line with Article 179 (6) of the Constitution;
- iv. the County Treasury should undertake annual reporting on County Corporation including an assessment of the commercial viability of the company in line with the standards set by the Water Services Regulatory Board under section 77(2) of the Water Act, Cap.372, failure to which the provisions of section 147 of the Water Act on penalties for offences shall apply; and
- v. the Accounting Officer should, within 60 days of the adoption of this report, put in place strategic and innovative measures for recovery and to boost the financial health of the water company for self-sustainability. Additionally, the management reviews and regularizes the company's existing assets and have updated assets register that reflect the current financial position. Further, management to determine and ascertain their commercial viability as required by the Public Sector Accounting Standards Board (PSASB).

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Pursuant to Article 229 (6) of the Constitution, based on the audit procedures performed by the Auditor General, the following matters formed the basis for conclusion that public resources were not applied lawfully and in an effective way –

1. Lack of a strategic plan

During the year under review, the company operated without a strategic plan. This is contrary to Regulations 30(2) of the Public Finance Management (County Governments) Regulations, 2015, which requires all budget proposals to be supported by the County Government entity' strategic plan, it is not clear when the strategic plan will be in place.

In the circumstance, the Management was in breach of the law.

Management Response

The management is currently in the process of developing its strategic plan to guide the organization's operations, growth, and service delivery over the coming years.

Committee Observations

The Committee observed that the water company had not have an approved strategic plan. This is contrary to section 149 (2) (g) of the public finance management Act, 2012.

Committee Recommendations

The Committee recommends that the water company develops and implements a strategic plan within 60 days of the adoption of this report and submit the same to the Auditor-General for verification.

2. Excessive Non-Revenue Water

Review of the company records revealed that water production was 341, 631M3 during the year under review, out of which only 228,878M3 was billed to customers. The balance of 112,752.40 M3 or approximately 33% of total production represents Non-Revenue Water (NRW) valued at Kshs 13,532,292.80. This contravenes the water Services Regulatory guidelines which require water service providers to ensure that commercial losses in respect to water produced do not exceed 25% of total production. Although management attributed the high level of non-revenue water (NRW) to frequent pipe bursts due to dilapidated distribution network, vandalism of water supply infrastructure, illegal water connections, inefficient production and consumer water meters, no measures have been put in place to address the issues.

In the circumstances, the effectiveness of the company's water production, profitability and sustainability of services to the residents of Makueni could not be confirmed.

Management Response

The Water Company is collaboratively working with TANATHI Water Works Development Agency to reduce Non-Revenue Water which will subsequently increase revenue collections.

-solarization of Kamunyolo pumping station reducing the electricity cost by 50%.

Further, there will be installation of 13 master meters which will increase accuracy of measuring the water production

-Supply of Motorbikes will enhance efficiency in monitoring the water flow and distribution.

In addition, the company has also engaged a security firm to foster security of the water networks and reduce cases of vandalism.

Committee Observations

The Committee observed that the Non-Revenue Water was 33% way above the sector benchmark of 25% prescribed by the Water Services Regulatory Board (WASREB) guidelines.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should put in place comprehensive measures to mitigate on the Non-Revenue Water, that is, both physical and commercial losses. The measures to include replacement of old age dilapidated infrastructure, installation of smart meters for accurate billing and the application of Geographical Information System (GIS) to receive real-time data for the detection of bursts and leakages among other measures. The Auditor-General to review the implementation of the measures put in place to mitigate the Non-Revenue Water and provide a status update on the matter in the subsequent audit cycle;**
- ii. given the impact of Non-Revenue Water on the water company's cashflows, the Accounting Officer should ensure that a provision for Non-Revenue Water is included in the financial statements. Further, explanatory notes should be provided to detail the contributions of both commercial and physical loss factors to the overall Non-Revenue Water; and**
- iii. the Governor of Makueni County to collaborate with the Ethics and Anti-Corruption Commission to ensure pre-emptive measures are put place to reduce cases of theft and illegal connections.**

3. Non-compliance with Law on Ethnic Composition

During the year under review, the total number of employees of the company was thirty-seven (37) out of which thirty-six (36) or approximately 97% of the total number were members of the dominant ethnic community in the County.

This is contrary to section 65(e) of the County Government Act, 2012 which requires that in selecting candidates for appointment, the County Government Act, 2012 which requires that in selecting candidates for appointment, the County Public Service Board shall consider the need to ensure at least thirty percent of the vacant posts at the entry level are filled by candidates who are not from the dominant ethnic community in the County.

In the circumstances, Management was in breach of the Law.

Management Response

In recruiting its staff, the company places advert to potential applicants via media of wide coverage indicating that it's an equal opportunity employer and encourages the Persons with Disability to apply.

Committee Observations

The Committee observed that the query remains unresolved as 13 of the total employees comprised of staff from one dominant ethnic community thus there was no ethnic diversity among the company employees.

Committee Recommendations

The Committee recommends that—

- i. The Board and the accounting officer makes deliberate efforts to progressively comply with section 65 of the County Governments Act, 2012 which provides that at least thirty percent 30% of the vacant posts at entry level be filled by candidates who are not from the dominant ethnic community; and
- ii. The Board and the accounting officer to make deliberate efforts progressively in the endeavor to comply with Section 7 (1) and (2) of the National Cohesion and Integrity Act, 2008, which requires that public establishments shall seek to represent the diversity of the people of Kenya in employment of staff.

4. Non-compliance with the Law on Fiscal Responsibility-Wage Bill

The statement of profit of loss and other comprehensive income and as disclosed in Note 9 to the financial statements reflect staff costs of Kshs 20,961, 339 which represents approximately 53% of the total revenue of Kshs 39,424,623. This is contrary to the provisions of Regulation 25 (1) (a) and (b) of the Public Finance Management (County Governments) Regulations, 2015, which requires, (a) the County Executive Committee Member with the approval of County Assembly to set out a limit of County Government expenditure on wages and benefits for its public officers which shall not exceed thirty-five percent (35%) of the County Government's total revenue.

In the circumstance, Management was in breach of the Law.

Management Response

The Management is collaboratively working with TANATHI Water Works Development Agency to reduce Non-Revenue Water which will subsequently increase revenue collections

In addition, the Company has proposed and applied for a tariff estimated at Kshs 185 per cubic meter as compared to the current tariff of Kshs 120 per cubic meter. The tariff will increase revenue collections by the company and hence lower staff cost to revenue ratio.

Committee Observations

The Committee observed that the water company spent of Kshs 20,961, 339 (53% of the total revenue) on personnel expenses contrary to Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015.

Committee Recommendations

The Committee recommends that the Company adheres with the provisions of regulation 25(1) of the Public Finance management (County Government) Regulations, 2015 which limits the wage bill to thirty-five percent (35%) of the total revenue and establish a lean staff complement, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.

REPORT OF EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Pursuant to section 7(1) (a) of the Public Audit Act, based on the audit procedures performed by the Auditor-General, the internal control, risk management and governance were not effective—

1. Lack of internal Audit and an Audit committee

Review of overall internal control of the Company revealed that Management has not established an internal audit function and an Audit Committee of the Board. This is contrary to Regulation 167 (1) and 168 (a) of Public Finance Management (County governments) Regulations, 2015 which requires that each County Government entity establishes an audit committee, whose duty shall be to support the Accounting Officers with regard to their responsibilities for issues of risk, control and governance and associated assurance.

In the circumstances, the Company did not benefit from the assurance and advisory services from the internal audit function as well as oversight from the Audit Committee.

Management Response

The Company has previously relied on the County internal audit functions as well as the audit committee for the County Executive

However, the Company is in the process of recruiting a Board of Directors who will oversee the placement of the relevant committees and internal audit functions in place.

Committee Observations

The Committee observed that the water company operated without an internal audit function in place during the financial year under review.

Committee Recommendations

The Committee recommends that the County Executive Committee Member (CECM) - Finance ensures that the water company puts in place all internal control systems such as the Internal Audit Committee as provided under section 155 (5) of the Public Finance Management Act, 2012, and a Risk Management Policy as provided under section 158 (1) of Public Finance Management (County Governments) Regulations, 2015 among others to guide the internal operations of the water company. Further, the managements to submit evidence of the same to the Auditor General for verification.

2. Lack of approved Information Technology Security Policy

Review of the Company's information systems revealed that the company did not have an IT policy for governance and Management of its ICT resources. In addition, there was no ICT steering committee in place to assist in the development of ICT policy framework to enable the company to realize long-term ICT strategic goals. Lack of an approved IT policy may result in an unclear direction regarding maintenance of information security across the organization and safeguarding the Company's ICT assets. Further, without a sound and approved framework, users do not have any rules and procedures to follow in order to minimize risk of errors, fraud and the loss of data confidentially, integrity and availability.

In the circumstance, the effectiveness of the IT control measures put in place could not be committed.

Management Response

The Water Company does not have an approved ICT policy for governance and management of its ICT resource but utilizes the County ICT policy to support its operations.

The management is working towards embracing technology in service delivery and developing a policy to drive this agenda. In the current year's budget (2024/25) the company has set aside for ICT development.

Committee Observations

The Committee observed that the water company did not have an ICT steering committee in place to assist in development of ICT policy framework to enable the company realize long term ICT strategic goals.

Committee Recommendations

The Committee recommends that the County Executive Committee Member (CECM) - Finance ensures that the water company puts in place all internal control systems such as the ICT policy as provided under section 155 (5) of the Public Finance Management Act, 2012 among others to guide the internal operations of all the water companies. Further, the management to submit evidence of the same to the Auditor-General for verification.

3. Non- compliance with Guidelines on Board Operations

The statement of profit or loss and other comprehensive income and as disclosed in Note 11 to the finance statement reflect Board expenses amounting to Kshs 345,256. However, review of Board minutes and attendance register revealed that the Board held three virtual meetings on 4 September 2023, 6 October 2023 and 2 November 2023 out of which only minutes of one meeting were signed. This is contrary to Section 8 (1) of the State Corporations Act 2015 which states that the Board of every state corporation shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting. In addition, the Company lacked an annual board work plan, board charter and there was no Board evaluation done during the year.

In the circumstances, the effectiveness of governance measures put in place could not be confirmed.

Management Response

The Management will ensure that the incoming Board of Directors (BOD) complies with Section 8 (1) of the State Corporations Act 2015 on meeting requirements. Further, the Company Management has developed a draft annual work plan for presentation in the next board meeting as shown in Appendix 13.

Committee Observations

The Committee observed that the Board held three virtual meetings on 4 September 2023, 6 October 2023 and 2 November 2023 out of which only minutes of one meeting were signed.

Committee Recommendations

The Committee recommends that the water company adheres to Section 8 (1) of the State Corporations Act 2015, failure to which failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.

4. Irregular Recruitment of a Board Member

During the year under review, a Director of the Board representing the business and manufacturing community was recruited. However, review of the recruitment process revealed that there was no dully filled Makueni County job application form and there was no evidence of clearance from the criminal investigation Department, Higher Education Loans Board, Kenya Revenue Authority, Ethic and Anti- Corruption Commission and Credit Reference Bureau. In addition, the appointment was not supported with a Gazette notice and the nomination letter by the business and manufacturing community was not provided for audit review. This is contrary to Mwongozo, code of Governance for state corporation on appointment of Board of Directors' which stipulates that each Board member shall be formally appointed through a Gazette notice and an appointment letter. Although management has indicated that they are in consultation with the County Government Makueni, no measures have been put in place to ensure adherence requirements.

In the circumstance, the effectiveness of the recruitment process of the Board member could not be confirmed.

Management Response

Recruitment of water companies is done independent of County Public Service Board and thus no form was required to be filled by the recruited board member. The Board member's recruitment is guided by WASREB Corporate Governance Standards, 2024. The company is registered under the Company's Act, 2015 which requires for ratification of Board Directors by shareholders and filling of returns with the registrar and not as guided by Mwongozo. Gazettement of directors in water companies is not a requirement as per WASREB.

The clearance from the criminal investigation Department, Higher Education Loans Board, Kenya Revenue Authority, Ethic and Anti-Corruption Commission and Credit Reference Bureau for the recruited director have since been provided.

Committee Observations

The Committee observed that there was no dully filled Makueni County job application form and there was no evidence of clearance from the criminal investigation Department, Higher Education Loans Board, Kenya Revenue Authority, Ethic and Anti- Corruption Commission and Credit Reference Bureau.

Committee Recommendations

The Committee recommends that the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for

their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle.

ANNEXTURES