

KENYA NATIONAL ASSEMBLY

PUBLIC INVESTMENTS COMMITTEE

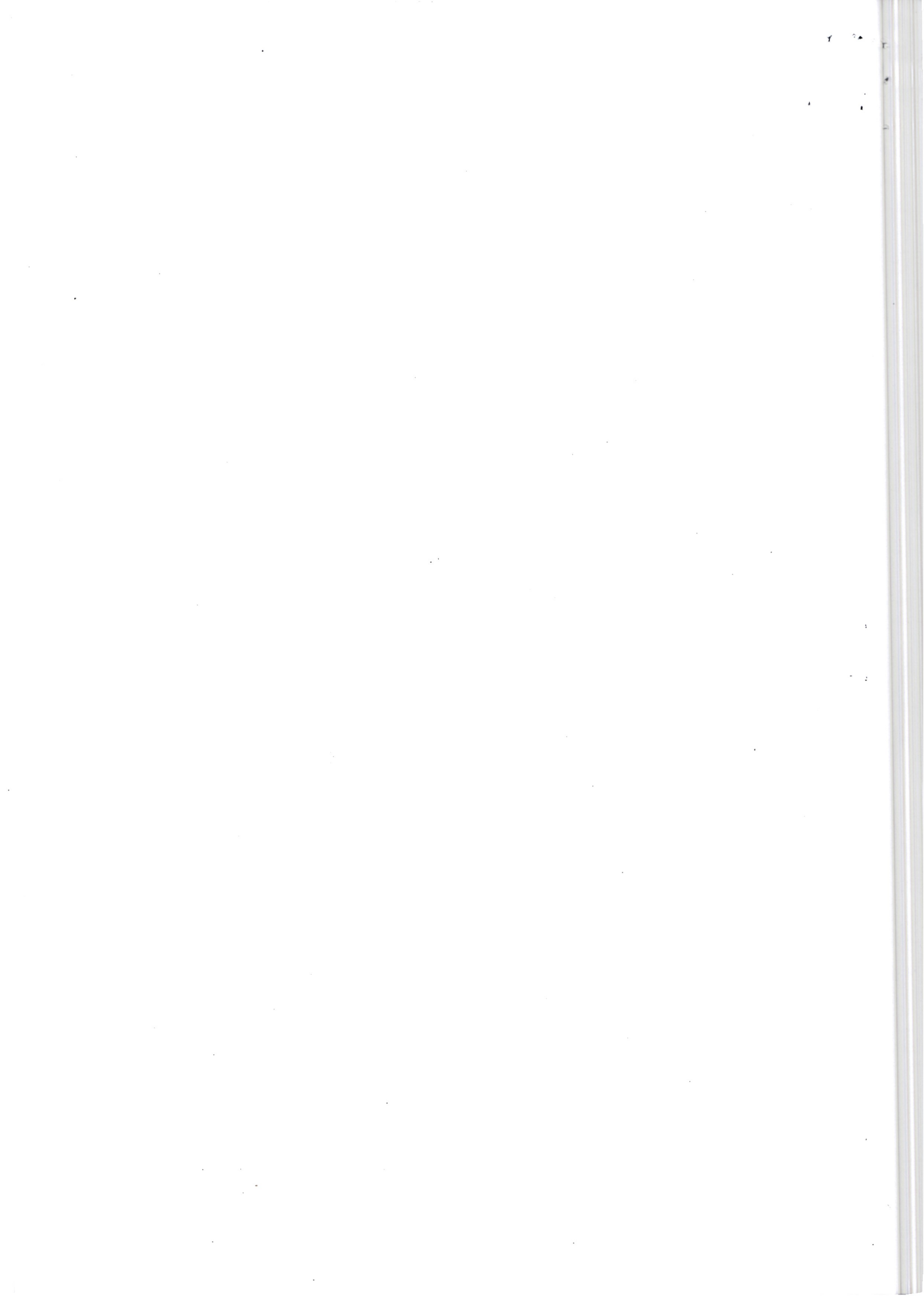
ADOPTION LIST: THE REPORT OF THE PUBLIC INVESTMENTS COMMITTEE
ON ITS CONSIDERATION OF THE SPECIAL AUDIT REPORT ON THE LAKE
TURKANA WIND POWER PROJECT



	NAME	SIGNATURE
1.	The Hon. Abdullswamad Shariff Nassir, MP (<i>Chairman</i>)	
2.	The Hon. Ahmed Abdisalan Ibrahim, MP (<i>Vice-Chairman</i>)	
3.	The Hon. Tom Joseph Kajwang, MP	
4.	The Hon. Kandie Kipyegon Joshua, M.P	
5.	The Hon. Raphael Bitta Sauti Wanjala, MP	
6.	The Hon. Teddy Mwambire, MP	
7.	The Hon. Esther Muthoni Passaris, MP	
8.	The Hon. Mary Wamaua Njoroge, MP	
9.	The Hon. Rahab Mukami Wachira, MP	
10.	The Hon. Rashid Kassim Amin, MP	
11.	The Hon. Thuku Zachary Kwenya, M.P	
12.	The Hon. Omar Mohamed Maalim Hassan, MP	
13.	The Hon. Mathias Nyamabe Robi, MP	
14.	The Hon. Mishi Mboko, MP	
15.	The Hon. James Kamau Githua Wamacukuru, M.P	
16.	The Hon. Julius Kibiwott Melly, MP	
17.	The Hon. Babu Owino Paul Ongili, MP	
18.	The Hon. Paul Kahindi Katana, MP	
19.	The Hon. Mohamed Hire Garane, M.P.	



Committee Minutes



MINUTES OF THE 111TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD ON WEDNESDAY 8TH DECEMBER, 2021 IN THE COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS AT 10.30 A.M.

PRESENT

1. The Hon. Abdullswamad Sharrif Nassir, MP (Chairman)
2. The Hon. Rashid Kassim Amin, MP
3. The Hon. Esther Muthoni Passaris, MP
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ABSENT WITH APOLOGY

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11. The Hon. James Kamau Githua Wamacukuru, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|------------------------|---|-------------------------|
| 1. Mr. Evans Oanda | - | Senior Clerk Assistant |
| 2. Mr. Mohamed Boru | - | Second Clerk Assistant |
| 3. Ms. Euridice Nzioka | - | Audio Recording Officer |
| 4. Mr. Cyrille Mutali | - | Fiscal Analyst |
| 5. Mr. Moses Musembi | - | Sergeant-at-Arms |
| 6. Mr. Abdimalik Ahmed | - | Intern |

IN ATTENDANCE

- | | | |
|--------------------------|---|------------------------|
| 1. Mr. Fredrick Odhiambo | - | Deputy Auditor General |
| 2. Mr. Andrew Kintu | - | Deputy Director, Audit |
| 3. Mr. Dickson Ocharo | - | Manager, Audit |
| 4. Mr. Henry Manegene | - | Manager, Audit |

MIN/PIC/2021/755: PRELIMINARIES

At the early development stage of the project, and as Kenya did not have an existing wind atlas, there was no reliable information available regarding the wind regime in the wider geographical area around the identified potential wind farm location. There were, most certainly, general expectations that the winds were more than adequate to successfully build and operate a wind farm but in order to ensure an accurate/exact reflection of the prevailing wind regime and the subsequent business case, it was necessary to go through a wind measurement campaign with a reputable wind measurement company or institute.

LTWP appointed one of the world's most renowned wind energy institutes, DEWI (Deutsche Windenergie Institut), to run its wind measurement study. DEWI assisted Lake Turkana Wind Power in setting up 9 met masts (in 2007/2008). LTWP collected wind data throughout which resulted in a refined and bankable understanding of the prevailing annual wind conditions on the designated project site.

Bearing in mind that substantial amount of risk capital was going to be expended on wind data acquisition and analysis to ascertain the areas suitability and viability for wind power development, GOK did not object to the study being done by LTWP. If the studies had indicated an inadequacy of wind resource, the project proposers would have taken the loss in terms of money and time spent and government would not have compensated them for this effort.

MIN/PIC/2021/759: WHETHER THE GOK HAD ENTERED INTO A CONTRACT WITH LTWP TO UNDERTAKE TESTS ON VIABILITY OF A WIND POWER PROJECT IN LAKE TURKANA

GOK had not entered into a contract with LTWP to undertake tests on the project's viability or, for that matter, any other project development related activity.

All development related work was undertaken at the sole risk and cost of LTWP and its shareholders. The onus was on LTWP and its shareholders to carry out the relevant supply side investigations in order to demonstrate to GOK (and other stakeholders) that it was viable to develop a large-scale wind farm facility on the proposed site.

MIN/PIC/2021/760: CONTENTS OF NEEDS ANALYSIS REPORT FOR THE PROJECT AND ITS VIABILITY WITH REGARD TO INCREASE OF KENYA'S POWER GENERATION

The needs analysis with respect to the Project (from a demand perspective) was undertaken by the GOK (with input from the Ministry of Energy and the Energy Regulatory Commission (now Energy Petroleum Regulatory Authority)) as well as by Kenya Power and Lighting Company PLC (KPLC). It is this information which informed the findings and planning strategy of GOK which is provided for in the Least Cost Power Development Plan 2011 - 2031. In addition to the aforesaid, we would highlight the following:

- iv. The Least Cost Power Development Plan (LCPDD) recognized wind power generation in Marsabit to be competitive with other sources of power electricity generation. The plan also recognizes potential future hydro sites will not be competitive for hydropower generation and therefore recognized the need for accelerated wind power development;
- v. The LTWP Project also provides various ancillary services e.g. injecting reactive power (capacitive and inductive) into the Kenyan Grid. This enhances the network's voltage control capability and brings increased stability to the Grid. These services are provided by the Project at no additional cost to KPLC.

(d) In terms of financial viability LTWP, with a tariff of Euro cents 7.52 for the twenty-year PPA term was at the time of the proposal competitive and comparable to the KENGEN geothermal energy power generation projects which were and still are subsidized by the government through provision of funds for geothermal drilling and exploration costs. The ability of KenGen to obtain concessional financing thus lowers the financing costs, which helps them to achieve lower tariffs. Furthermore, development of an additional wind power capacity in Marsabit which has a very big unexploited wind power potential, would command a lower tariff because the substation infrastructure is already in place together with a 220/400kV double circuit line for its evacuation and the dynamic reactive power compensators (DRPCs) at the LTWP sub-station which offers grid stability to the national grid. This line has a capacity to evacuate up to 900MW. LTWP has also displaced fuel surcharges which is approximated at about to EUR 100 Million per annum.

(e) Therefore, LTWP project was properly developed, within the LCPDP, and remains one of Kenya's least cost power projects, to date. It was a strategic investment, in line with Kenya's policy on exploiting the potential of our natural resources and remains a critical asset in the energy sector.

MIN/PIC/2021/761: CIRCUMSTANCES UNDER WHICH LTWP WAS INVOLVED IN PART OF THE PROCUREMENT PROCESSES SUCH AS INVITATION TO TENDER (SUPPOSEDLY ON BEHALF OF KPLC OF KPLC FOR LOT 3), AND 400KV TRANSMISSION LINE FROM LOIYANGALANI1 AND THE CONSTRUCTION OF THE TRANSMISSION LINE (LOT 3).

LTWP has always undertaken the development of the LTWP Project on an open and transparent basis and with the aim of including and accommodating the views of all stakeholders.

The LTWP Project involved the construction of a power generation facility. The obligation to develop the high voltage transmission interconnection infrastructure required to offtake power from the any power generation facility would ordinarily be a public sector obligation. However, based on extensive discussions with GOK, it was

However, given that successful implementation of the Transmission Works was intrinsically linked to the bankability of the generation project, LTWP expressed its willingness to provide support to KETRACO (given it was newly incorporated and did not initially have the requisite capacity or bandwidth), as and when required by KETRACO, in order to assist KETRACO with the implementation of the Transmission Works. To this end, KETRACO and LTWP entered into a co-ordination and interface agreement largely focused on resettlement and land acquisition issues, so as to ensure that as far as commercially possible, LTWP could ensure that KETRACO was complying with its contractual obligations under the contracts relating to the Transmission Works and was able to deliver the relevant rights of way / wayleaves to KETRACO's contractor so as to ensure the timely completion of the Transmission Works.

Notwithstanding the good faith support offered by LTWP, it was KETRACO (and by extension GOK (through the Ministry of Energy and the National Treasury)) who undertook the review of, and approved, all contracts entered into by KETRACO in connection with the Transmission Works (including analyzing the risks allocated to and assumed by KETRACO under these contracts). As we understand it, the approval process included procuring the requisite KETRACO board approvals as well as clearance through all GOK internal approval processes (as a result of budgetary support being required to make contractual payments). KETRACO is the entity which had to satisfy itself as to the satisfaction of conditions precedent required for the issuance of the full notice to proceed under the relevant construction contracts.

LTWP was not in any way responsible for contract management of the construction contracts for the Transmission Works. The Committee should note that the completed Transmission Works are owned by KETRACO and are managed by KETRACO and KPLC with no involvement from LTWP. In accordance with the provisions of the Kenyan Grid Code, LTWP has entered into a grid connection agreement with KETRACO pursuant to which it has the right to evacuate power from the LTWP Plant through the Transmission Works.

MIN/PIC/2021/762: WHY LTWP FAILED TO INSTALL A FUNCTIONAL METERING SYSTEM FOR PURPOSES OF MEASURING TOTAL PRODUCTION UNITS AND DETERMINING ACCURATELY THE PRODUCTION AND PURPORTED ENERGY CHARGES. FURTHER, LACK OF INSTALLING THE SCADA TO CONFIRM QUANTITY OF POWER GENERATED BY THE TURBINE.

The Metering System for the delivery point to KPLC (identified as Delivery Point B in the PPA), connected at 220kV voltage level, consisting of the Main Metering equipment and Back-up Metering equipment, that can meter both the exported power and the imported power between LTWP and KPLC, were installed and ready for power evacuation by 26th September 2016. The other delivery point referred to in the PPA

the date - 27th January 2017 until the TI was Operational - in this case, 10th September 2018.

Following a series of meetings, LTWP, GOK and KPLC reached an agreement in which:

1. LTWP agreed to write-off any GOK TI Delay DGE from 27th January 2017 - 15th May 2017 (an amount of EUR 17.72 Million);
2. For the period 15th May 2017 - 31st May 2018, the GOK TI Delay DGE amounted to EUR 127M;
3. Although LTWP was entitled to the EUR 127M, the GOK could not pay the full amount and requested a payment structure with LTWP that was mutually beneficial.

To record the above-mentioned agreement, the Parties entered into the Second Variation Agreement whereby:

1. LTWP agreed to the start date of GOK TI Delay DGE Payments to be 15th May 2017 instead of 27th January 2017 (in this case LTWP gave GOK a discount of EUR 17.72 Million);
2. With respect to GOK TI Delay DGE for the period 15th May 2017 to 31st May 2018 (“Initial TI Delay DGE Period”), GOK agreed to pay LTWP a lumpsum of EUR 46,000,000 (Euro Forty-Six Million) before 31st August 2017, which was to cover debt obligation to Lenders;
3. To compensate for the difference between the lumpsum payment of EURO 46,000,000 and the actual GOK Initial TI Delay DGE for the period from 15th May 2017 to 31st May 2018 (i.e. EUR 127M), LTWP agreed to receive a tariff increase of EURO 0.00845 per kWh (“DGE Recovery Period Tariff”), which was to be paid by KPLC /GOK during the period from 1st June, 2018 to 31st May 2024 (“DGE Recovery Period”); and
4. Any TI Delay beyond 1st June 2018 would result in LTWP being paid GOK TI Delay DGE in the normal manner.
5. From June 1st until the TI Operation Date, the table below sets out the additional TI Delay DGEs which were incurred and paid by GOK (as per the analysis done by LTWP):

GOK TI Delay DGE Invoice Number	GOK TI Delay DGE Period	Amount Invoiced excl. VAT
100010	Jun-18	€ 11,784,768
100011	Jul-18	€ 12,177,593
100012	Aug-18	€ 12,177,593
100013	1 Sep to 23 Sep 2018	€ 9,057,049
	Total	€ 45,197,003

activity. All development related work was undertaken by LTWP and its shareholders.

5. With respect to the transmission works comprising the construction of 428km transmission line from Loiyangali to Suswa, an ad hoc steering committee was created which comprised of members of the Kenya Electricity Transmission Company (KETRACO), KPLC and GOK and LTWP. It was through this steering committee that the procurement process for a contractor to build the Transmission Line was to be implemented (including tender evaluation).
6. Following the issuance of the relevant request for proposals and subsequent evaluation of bids, but before any contractual award was made by LTWP, the Government of Spain made available certain concessional financing and grants to GOK to be utilized by GOK in the financing for that portion of the Transmission Works comprising the circa 428km transmission line from Loiyangali to Suswa.
7. Following bilateral discussions between GOK and the Spanish Government, LTWP were subsequently informed by GOK that the no part of the Transmission Works would be carried out on a concessional basis by LTWP but would be undertaken solely by the public sector as one of the first legacy projects to be implemented by KETRACO (which at the time was newly created following the unbundling of the energy sector). At this point, LTWP ceased to be involved in the further evaluation of any technical or financial bids for the Transmission Works. LTWP were informed by GOK that financing of the Transmission Works would be provided through concession loans and grants from the Spanish Government and budgetary allocations to be made by GOK.
8. In accordance with the terms of the PPA and the GOK Letter of Support (issued by the GOK on 28th February 2013), LTWP was entitled to GOK TI Delay DGE Payments from the date - 27th January 2017 until the TI was Operational - in this case, 10th September 2018.
9. To record the above-mentioned agreement, the Parties entered into the Second Variation Agreement whereby LTWP agreed to the start date of GOK TI Delay DGE Payments to be 15th May 2017 instead of 27th January 2017 (in this case LTWP gave GOK a discount of EUR 17.72 Million);
10. With respect to GOK TI Delay DGE for the period 15th May 2017 to 31st May 2018 ("Initial TI Delay DGE Period"), GOK agreed to pay LTWP a lumpsum of EUR 46,000,000 (Euro Forty-Six Million) before 31st August 2017, which was to cover debt obligation to Lenders;
11. To compensate for the difference between the lumpsum payment of EURO 46,000,000 and the actual GOK Initial TI Delay DGE for the period from 15th May 2017 to 31st May 2018 (i.e. EUR 127M), LTWP agreed to receive a tariff increase of EURO 0.00845 per kWh ("DGE Recovery Period Tariff"), which was

MINUTES OF THE 113TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD ON THURSDAY 9TH DECEMBER, 2021 IN THE COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS AT 10.30 A.M.

PRESENT

1. The Hon. Abdullswamad Sharrif Nassir, MP (Chairman)
2. The Hon. Rashid Kassim Amin, MP
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IN ATTENDANCE

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- | | | |
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| 1. Mr. Evans Oanda | - | Senior Clerk Assistant |
| 2. Mr. Mohamed Boru | - | Second Clerk Assistant |
| 3. Ms. Marlene Ayiro | - | Legal Counsel |
| 4. Ms. Euridice Nzioka | - | Audio Recording Officer |
| 5. Mr. Cyrille Mutali | - | Fiscal Analyst |
| 6. Mr. Moses Musembi | - | Sergeant-at-Arms |
| 7. Mr. Abdimalik Ahmed | - | Intern |
| 8. Ms. Brenda Wekesa | - | Intern |

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| 4. Mr. Henry Manegene | - | Manager, Audit |

situation resulted in importation by GOK of up to 230 MW of auto diesel fired emergency power to stabilize supply against rising demand.

(b) In 2008, the 300MW Lake Turkana Wind Power Plant (LTWP) was identified as a key flagship project of the Kenya Vision 2030 under the Energy Sector as one of the many power generations identified to address the above concerns. Other projects conceptualized at the same period included; KenGen Olkaria I&IV (280 MW), Orpower 4 (52 MW), and KenGen Ngong Wind (20 MW). These projects were meant to

- i. Enhance Kenya's power generation capacity
- ii. Diversify energy mix in the country at least cost, by tapping geothermal energy, wind, solar and biomass resources;
- iii. Mitigate the high cost of electricity to consumers by reducing or totally eliminating expensive thermal power generation in Kenya's electricity supply matrix; and
- iv. Provision of reliable, environmentally, secure and cost-effective complementary electricity supply sources to hydropower generation which is sharply impacted adversely by droughts.

(c) Wind power generation complements hydropower generation and is therefore critical in the energy mix for the following reasons:

- i. It enables reduction of water utilization at hydropower stations to meet average power demand, thus saving significant amount of water for use to generate electricity to meet morning and evening peak power demand, instead of using relatively more expensive thermal power plants to meet peak demand.
- ii. Under dry hydrology (dry season) wind speeds rise substantially, thus boosting load factors of wind power plants and by extension helps to conserve the little available water in the reservoirs for use during peak power demand hours while at the same time mitigating the demand for increased thermal power generation. This benefit has already been realized by the country since the LTWP Project became operational resulting in savings of over KES 31 billion as a result of the country being able to rely on the power generating by the LTWP Project as opposed having to dispatch thermal plants whilst at the same time allowing for the preservation hydro resources.
- iii. Given high wind regime speeds registered in Marsabit, the average load factor of LTWP is even better than for many hydro power plants;
- iv. The Least Cost Power Development Plan (LCPDD) recognized wind power generation in Marsabit to be competitive with other sources of power electricity generation. The plan also recognizes potential future hydro sites will not be

The Ministry of Energy to submit a needs analysis report on the energy needs of the country at the time of conceptualizing the LTWP project.

- i. Justifications of the Terms and Conditions of the Power Purchase Agreement and whether this was validated by the Attorney-General.

MIN/PIC/2021/776: WHY THE POWER PURCHASE AGREEMENT (PPA) WAS EXECUTED WHILE AWARE THAT THERE WAS NO SUBSTATION AT LOIYANGALANI AND NO TRANSMISSION LINE TO LINK THE LTWP PROJECT WITH THE NATIONAL GRID AT THE SUBSTATION IN SUSWAT?

Ordinarily transmission lines and power stations are constructed concurrently unless a power station is to be constructed in an area adequately served by existing transmission line.

The twenty-six (26) months line construction period included in the PPA was negotiated on the basis of the eighteen months that LTWP had put in the tender as one of the conditions for bidders for the line construction to be pre-qualified.

Therefore, the wind power plant and the line had to be completed at the same time in order to avoid having costly idle power generation capacity. In addition, there was the need to keep the validity of the tender prices of various components of the wind farm contract and subcontracts.

Committee Observations

The Committee made the following observations:

1. The decision by the Ministry of Energy to delink LTWP Ltd. from the construction of the transmission line and award it to a third party - M/s Isolux - on the ground that the Spanish Government was financing Isolux was responsible for the delay in construction and also payments for the DGE.
2. It was further irregular for M/S Isolux to be awarded a contract when it was not the least evaluated bidder.

Committee Resolution

The Ministry of Energy to provide correspondences with the Spanish Govt relating to financing of the project the Isolux.

MIN/PIC/2021/777: THE JUSTIFICATION FOR GRANTING LTWP LTD, A PRIVATE ENTITY, THE EXCLUSIVE RIGHTS TO SURVEY THE PROJECT AREA AND WIND RESOURCES AND FURTHER INVITE TENDERS ON BEHALF OF KENYA POWER.

Renewable energy resources assessment is one of the key stages in renewable energy resources development. Before a decision is made to develop the resource, an

It should also be noted that all major power generation projects undertaken by IPP developers floated open tenders for transmission line construction on behalf of KPLC. The construction costs were to be reimbursed to IPPs through consumer tariff increases as part of the total project implementation costs.

To ensure that their construction was costs effective and at least cost, KPLC participated in the development of the tender documents and evaluation of bids for the award of contracts. With the creation of KETRACO by GOK this process became a joint responsibility for both KPLC and KETRACO, due to the inclusion of power evacuation terms in PPAs.

Committee Observations

The Committee made the following observations:

1. There was lack of clarity on the details of the lease granted to LTWP for the project. The Principal Secretary indicated that the lease was granted in 2005 while the LTWP averred that it was granted in 2009. Further there was no document to support these assertions.
2. The justification that LTWP had made substantial investments and has to recoup its finances as a ground for granting LTWP Ltd. exclusive rights to survey the project area cannot be sustained as there was no analysis done on potential risk

Committee Resolutions

1. The Ministry to confirm the exact date of the lease granted for the LTWP project.
2. The Minsitry to provide analysis and correspondence with LTWP on the potential risk it could suffer had it not been granted exclusive rights for survey of the peoject area.

MIN/PIC/2021/778: WHETHER THE MINISTRY OF ENERGY CONDUCTED A COMPETITIVE BIDDING PROCESS IN THE IDENTIFICATION OF LTWP LTD AS PER THE REQUIREMENTS OF SECTIONS 2 (B) AND 74 OF THE REPEALED PUBLIC PROCUREMENT AND DISPOSAL ACT, 2005 AND SECTION 3 (2) OF THE PUBLIC PROCUREMENT AND DISPOSAL (PUBLIC PRIVATE PARTNERSHIPS) REGULATIONS, 2009.

There are several procurement methods that are used to procure power generation projects in the Country. These are:

- a) Competitive Bidding and Public Private Partnerships (PPPs); Taken either through a competitive bidding process guided by the applicable Laws (Public Procurement and Disposal Act, 2005 and Regulations, 2006 (Repealed), the

due to competing government priorities. It should be noted however that the government had prioritized geothermal resource assessment that culminated in creation of GDC and thus detailed wind resource assessment development was yet to be undertaken at that time.

It then follows that Sections 2 (b) and 74 of the repealed Public Procurement and Disposal Act, 2005 and Section 3 (2) of the Public Procurement and Disposal (Public Private Partnerships) Regulations, 2009 were not applicable herein.

Committee Observation

There was no competitive procurement done but there was an indication that the PPOA approved the Ministry of Energy's request to directly engage the M/s Isolux.

Committee Resolution

Ministry of Energy to provide the approval from the PPOA.

MIN/PIC/2021/780: WHAT INFORMED INCLUSION OF A CLAUSE FOR GOVERNMENT OF KENYA TRANSMISSION INTERCONNECTOR (TI) DELAY DEEMED GENERATED ENERGY (DGE) CLAIMS IN THE POWER PURCHASE AGREEMENT

Important to note Deemed Energy Generated (DEG) arises where the power plant is available to generate but unable to deliver to the Offtaker's system electrical energy in the following Events:

- a) a Power System Interruption;
- b) a stoppage or curtailment of the Plant arising out of a specific dispatch instruction
- c) a breach by the Buyer of its obligations under the PPA; or
- d) Unavailability of the grid other than during maintenance

This is a common industry practice worldwide especially for the variable renewable power plants (Solar and Wind) to improve the bankability of these projects given the intermittent nature of the resource.

Therefore, a decision having been made for development of the transmission line by the Government through KETRACO, the developer's financiers requested for a security underwriting in the event of a delay in the completion and commissioning of the construction of the 428Km, 400kV line; this was in form of payment for deemed generated energy. This was to have a bankable project and to ensure that the Financier's debt service requirements were met by the LTWP.

The request for risk underwriting was made on the basis of the fact that the developer no longer had any control over the construction of the line including

Having ascertained that the project area had a huge potential for power generation and the generation tariff was lower than the maximum set in the Feed-In-Tariff Policy, the Ministry decided to support the project.

The Sovereign guarantee was not given; instead, a Government Letter of Support (GLoS) was given to the project lenders. Issuance of this type of letter had been done to all IPPs previously. These IPPs included Tsavo Power, OrPower 4, Rabai Power, Thika Power, Gulf Power and Triumph Power.

The Letter of Support (LoS) covered political risks including but not limited to acts of war, foreign invasion, insurrection, change in law and/or change in tax, riots civil disturbances, failure by GoK to meet its obligations under the LoS and Force Majeure affecting KPLC. Under the LoS the government is also required to pay claims by LTWP for GoK TI Delay DGE and GoK TI Interruption DGE.

MIN/PIC/2021/782: THE BASIS OF THE THREE AMENDMENTS TO THE PPA DATED (I) 29TH SEPTEMBER, 2011 (AMEND THE FACT THAT THE TRANSMISSION INTERCONNECTOR WAS NOW TO BE DEVELOPED AND OWNED BY KETRACO AND NOT LTWP LTD), (II) 14TH SEPTEMBER, 2012 AND (II) 13TH MAY, 2013. FURTHER, PROVIDE RATIONALE OF TWO ADDITIONAL VARIATIONS OF 31ST JULY, 2014 AND 19TH SEPTEMBER, 2017.

LTWP entered into a PPA with KPLC on 29th January 2010. The PPA was amended through agreements dated 29th September 2011, 14th September 2012 and 13th May 2013 to address various issues as tabulated below:

Summary of PPA Variations:

Item	Variation	Justification for Variation	Correspondences
1	Dated 29 th September 2011	<p>Change in security package being provided to LTWP by KPLC and GOK</p> <p>Recognition that the Transmission Interconnector (TI) is being developed, owned and operated by KETRACO.</p> <p>To increase the energy charge rate and review the energy threshold, set out in the original PPA, in view of the increase in total costs for the project since the execution of the original PPA.</p>	Instrument of Approval issued on 2 nd September 2011

Committee Observations

The instruments of approval were not attached in the response: The Principal Secretary to provide them to the Committee and all the correspondences including financial implications of all the variations.

MIN/PIC/2021/783: THE REASONS BEHIND THE WORLD BANK'S WITHDRAWAL OF ITS INTENT TO PROVIDE PARTIAL RISK GUARANTEE (PRG) SUPPORT OF THE PROJECT.

The Government position was at variance with the World Bank's views and therefore progressed with the project considering its socio-economic impact to the country.

ii. The Ministry of Energy and other key stakeholders of the project were convinced that the project was viable and as a result proceeded to engage African Development Bank (AfDB) for the issuance of a Partial Risk Guarantee (PRG) instrument for the project. The AfDB was convinced of the bankability of the project and went ahead to not only issue the Partial Risk Guarantee (PRG) but also a senior loan to the project.

iii. The reasons for World Bank's withdrawal from the project are contained in a letter dated 6th October 2012 that was addressed to the Permanent Secretary, Ministry of Finance and copied to the Permanent Secretary, Ministry of Energy among others. The following are details of the World Bank concerns and the reasons why the Ministry did not agree with them:

a) **The large size of the plant could impact on the reliability of systems supply and advised that the power plant should be developed gradually in smaller lots of (50-100MW).**

The project would not have made any financial and technical sense to wheel 50-100MW of power over a distance of 428km through a 400kV line. Power losses would be very high and the consumer tariff would also be high.

The Ministry has been vindicated as injection into the national grid of the entire 300 megawatt of wind power daily by LTWP has not had any negative impact on the power system stability and reliability. If anything, it has helped to substantially reduce the amount of Heavy Fuel Oil (HFO) used daily to fire Medium Speed Diesel (MSD) power plants in the Nairobi Metropolitan. These Medium Speed Diesel (MSD) Power Plants have a combined capacity of 300MW of firm power.

b) **The take or pay obligations in the PPA exposed KPLC to unacceptable high financial risk.**

Take or pay clause is well established and widely used clauses in Power Purchase Agreement (PPAs) across the world. Kenya is considered the most successful in

- a) LTWP agreed to write-off any GOK TI Delay DGE from 27th January 2017 - 15th May 2017 (an amount of EUR 17.72 Million);
- b) For the period 15th May 2017 - 31st May 2018, the GOK TI Delay DGE amounted to EUR 127M;
- c) Although LTWP was entitled to the EUR 127M, the GOK could not pay the full amount and requested a payment structure with LTWP that was mutually beneficial.

To record the above-mentioned agreement, the Parties entered into the Second Variation Agreement whereby:

- a) LTWP agreed to the start date of GOK TI Delay DGE Payments to be 15th May 2017 instead of 27th January 2017 (in this case LTWP gave GOK a discount of EUR 17.72 Million);
- b) With respect to GOK TI Delay DGE for the period 15th May 2017 to 31st May 2018 (“Initial TI Delay DGE Period”), GOK agreed to pay LTWP a lumpsum of EURO 46,000,000 (Euro Forty-Six Million) before 31st August 2017, which was to cover debt obligation to Lenders;
- c) To compensate for the difference between the lumpsum payment of EURO 46,000,000 and the actual GOK Initial TI Delay DGE for the period from 15th May 2017 to 31st May 2018 (i.e. EUR 127M), LTWP agreed to receive a tariff increase of EURO 0.00845 per kWh (“DGE Recovery Period Tariff”), which was to be paid by KPLC /GOK during the period from 1st June, 2018 to 31st May 2024 (“DGE Recovery Period”); and
- d) Any TI Delay beyond 1st June 2018 would result in LTWP being paid GOK TI Delay DGE in the normal manner.
- e) In view of the foregoing, during the period between 15th May 2017 upto the time the TI Operation occurred (in this case 10th September 2018), the following amounts which were due and payable to LTWP, were transferred to KPLC by Ministry of Energy for onward remission to LTWP - being GOK TI Delay DGE Payments as per the PPA.

Table 1: Amounts Transferred from MOE to KPLC

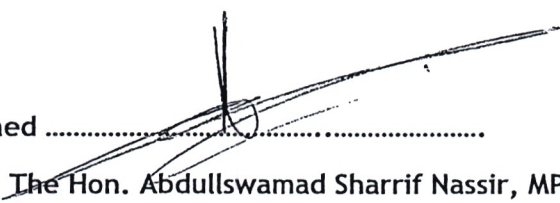
<i>Financial Year</i>	<i>Date</i>	<i>Amount Paid (Kshs)</i>
2017/2018	6th Sept 2017	5,658,690,000
2017/2018	June 2018	1,160,000,000
2018/2019	12th Sept 2018	1,422,972,444

No other business arose.

MIN/PIC/2021/787: ADJOURNMENT

The meeting was adjourned at two minutes past two O'clock.

Signed


The Hon. Abdullswamad Sharrif Nassir, MP
(Chairperson)

Date..... 24/05/2022

MINUTES OF THE 114TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD ON THURSDAY 9TH DECEMBER, 2021 IN THE COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS AT 2.00 P.M.

PRESENT

1. The Hon. Abdullswamad Sharrif Nassir, MP (Chairman)
2. The Hon. Rashid Kassim Amin, MP
3. The Hon. Esther Muthoni Passaris, MP
4. The Hon. Omar Mohamed Maalim Hassan, MP.
5. The Hon. Mohamed Hire Garane, M.P
6. The Hon. Julius Kibiwott Melly, MP
7. The Hon. Thuku Zachary Kwenya, M.P
8. The Hon. Teddy Mwambire, MP
9. The Hon. Babu Owino Paul Ongili, MP

ABSENT WITH APOLOGY

1. The Hon. Ahmed Abdisalan Ibrahim, MP (Vice chairman)
2. The Hon. Paul Kahindi Katana, MP
3. The Hon. Tom Joseph Kajwang, MP
4. The Hon. Raphael Bitta Sauti Wanjala, MP
5. The Hon. Joshua Kipyegon Kandie, MP
6. The Hon. Mishi Mboko, MP
7. The Hon. Mathias Nyamabe Robi, MP
8. The Hon. Rahab Mukami Wachira, MP
9. The Hon. Mary Wamaua Njoroge, MP
10. The Hon. James Kamau Githua Wamacukuru, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|------------------------|---|-------------------------|
| 1. Mr. Evans Oanda | - | Senior Clerk Assistant |
| 2. Mr. Mohamed Boru | - | Second Clerk Assistant |
| 3. Ms. Marlene Ayiro | - | Legal Counsel |
| 4. Ms. Euridice Nzioka | - | Audio Recording Officer |
| 5. Mr. Cyrille Mutali | - | Fiscal Analyst |
| 6. Mr. Moses Musembi | - | Sergeant-at-Arms |
| 7. Mr. Abdimalik Ahmed | - | Intern |
| 8. Ms. Brenda Wekesa | - | Intern |

IN ATTENDANCE

- | | | |
|--------------------------|---|------------------------|
| 1. Mr. Fredrick Odhiambo | - | Deputy Auditor General |
| 2. Mr. Andrew Kintu | - | Deputy Director, Audit |
| 3. Mr. Dickson Ocharo | - | Manager, Audit |
| 4. Mr. Henry Manegene | - | Manager, Audit |

2. Minutes of the 72nd Sitting were confirmed as a true record of the proceedings as proposed Hon. Thuku Zachary Kwenya, M.P and seconded by Hon. Mohamed Hire Garane, MP;
3. Minutes of the 73rd Sitting were confirmed as a true record of the proceedings as proposed by the Hon. Esther Passaris, MP and seconded by the Hon. Teddy Mwambire, MP;
4. Minutes of the 74th Sitting were confirmed as a true record of the proceedings as proposed Hon. Mohamed Hire Garane, MP and seconded by Hon. Thuku Zachary Kwenya MP;
5. Minutes of the 75th Sitting were confirmed as a true record of the proceedings as proposed Hon. Esther Passaris, MP and seconded by Hon. Thuku Zachary Kwenya;
6. Minutes of the 76th Sitting were confirmed as a true record of the proceedings as proposed Hon. Teddy Mwambire, MP and seconded by Hon. Mohamed Hire Garane, MP;
7. Minutes of the 77th Sitting were confirmed as a true record of the proceedings as proposed Hon. Mohamed Hire Garane, MP and seconded by Hon. Teddy Mwambire, MP;
8. Minutes of the 78th Sitting were confirmed as a true record of the proceeding as proposed by the Hon. Teddy Mwambire, MP and seconded by the Hon. Thuku Zachary Kwenya, MP;
9. Minutes of the 79th Sitting were confirmed as a true record of the proceedings as proposed Hon. Thuku Zachary Kwenya, MP and seconded by Hon. Mohamed Hire Garane, MP;
10. Minutes of the 80th Sitting were confirmed as a true record of the proceedings as proposed Hon. Esther Passaris, MP and seconded by Hon. Teddy Mwambire, MP;
11. Minutes of the 81st Sitting were confirmed as a true record of the proceedings as proposed Hon. Mohamed Hire Garane, MP and seconded by Hon. Thuku Zachary Kwenya, MP;
12. Minutes of the 82nd Sitting were confirmed as a true record of the proceedings as proposed Hon. Esther Passaris, MP and seconded by Hon. Teddy Mwambire, MP;
13. Minutes of the 83rd Sitting were confirmed as a true record of the proceedings as proposed Hon. Teddy Mwambire, MP and seconded by Hon. Mohamed Hire Garane, MP;

14. Minutes of the 84th Sitting were confirmed as a true record of the proceedings as proposed Hon. Thuku Zachary Kwenya, MP and seconded by Hon. Abdullswamad Sharrif Nassir, MP;
15. Minutes of the 85th Sitting were confirmed as a true record of the proceeding as proposed by the Hon. Omar Mohamed Maalim Hassan, MP and seconded by the Hon. Babu Owino Paul Ongili, MP;
16. Minutes of the 86th Sitting were confirmed as a true record of the proceedings as proposed Hon. Esther Passaris, MP and seconded by Hon. Abdullswamad Sharrif Nassir, MP;
17. Minutes of the 87th Sitting were confirmed as a true record of the proceedings as proposed Hon. Esther Passaris, MP and seconded by Hon. Abdullswamad Sharrif Nassir, MP;
18. Minutes of the 88th Sitting were confirmed as a true record of the proceedings as proposed Hon. Teddy Mwambire, MP and seconded by Hon. Mohamed Hire Garane, MP;
19. Minutes of the 89th Sitting were confirmed as a true record of the proceedings as proposed Hon. Thuku Zachary Kwenya, MP and seconded by Hon. Mohamed Hire Garane, MP;
20. Minutes of the 90th Sitting were confirmed as a true record of the proceedings as proposed Hon. Thuku Zachary Kwenya, MP and seconded by Hon. Mohamed Hire Garane, MP;
21. Minutes of the 91st Sitting were confirmed as a true record of the proceedings as proposed Hon. Teddy Mwambire, MP and seconded by Hon. Mohamed Hire Garane, MP;
22. Minutes of the 92nd Sitting were confirmed as a true record of the proceeding as proposed by the Hon. Thuku Zachary Kwenya, MP and seconded by the Hon. Teddy Mwambire, MP;
23. Minutes of the 93rd Sitting were confirmed as a true record of the proceedings as proposed by the Hon. Thuku Zachary Kwenya, MP and seconded by the Hon. Teddy Mwambire, MP;
24. Minutes of the 94th Sitting were confirmed as a true record of the proceedings as proposed by the Hon. Thuku Zachary Kwenya, MP and seconded by the Hon. Teddy Mwambire, MP;
25. Minutes of the 95th Sitting were confirmed as a true record of the proceedings as proposed by the Hon. Thuku Zachary Kwenya, MP and seconded by the Hon. Teddy Mwambire, MP;

26. Minutes of the 96th Sitting were confirmed as a true record of the proceedings as proposed by the Hon. Thuku Zachary Kwenya, MP and seconded by the Hon. Teddy Mwambire, MP;
27. Minutes of the 97th Sitting were confirmed as a true record of the proceedings as proposed Hon. Mohamed Hire Garane, MP and seconded by Hon. Thuku Zachary Kwenya, MP;
28. Minutes of the 98th Sitting were confirmed as a true record of the proceedings as proposed Hon. Teddy Mwambire, MP and seconded by Hon. Esther Passaris, MP;
29. Minutes of the 99th Sitting were confirmed as a true record of the proceeding as proposed by the Hon. Mohamed Hire Garane, MP and seconded by the Hon. Abdullswamad Sharrif Nassir, MP;
30. Minutes of the 100th Sitting were confirmed as a true record of the proceedings proposed by the Hon. Mohamed Hire Garane, MP and seconded by the Hon. Abdullswamad Sharrif Nassir, MP;
31. Minutes of the 101st Sitting were confirmed as a true record of the proceedings as proposed Hon. Thuku Zachary Kwenya, MP and seconded by Hon. Teddy Mwambire, MP;
32. Minutes of the 102nd Sitting were confirmed as a true record of the proceedings as proposed Hon. Teddy Mwambire, MP and seconded by Hon. Thuku Zacchary Kwenya, MP;
33. Minutes of the 103rd Sitting were confirmed as a true record of the proceedings as proposed Hon. Thuku Zachary Kwenya, MP and seconded by Hon. Mohamed Hire Garane, MP;
34. Minutes of the 104th Sitting were confirmed as a true record of the proceedings as proposed Hon. Mohamed Hire Garane, MP and seconded by Hon. Teddy Mwmabire, MP;
35. Minutes of the 105th Sitting were confirmed as a true record of the proceedings as proposed Hon. Mohamed Hire Garane, MP and seconded by Hon. Teddy Mwmabire, MP;
36. Minutes of the 106th Sitting were confirmed as a true record of the proceeding as proposed Hon. Mohamed Hire Garane, MP and seconded by Hon. Teddy Mwmabire, MP;
37. Minutes of the 107th Sitting were confirmed as a true record of the proceedings as proposed Hon. Teddy Mwambire, MP and seconded by Hon. Thuku Zachary Kwenya, MP;

38. Minutes of the 108th Sitting were confirmed as a true record of the proceedings as proposed Hon. Mohamed Hire Garane, MP and seconded by Hon. Teddy Mwambire, MP;

39. Minutes of the 109th Sitting were confirmed as a true record of the proceedings as proposed Hon. Mohamed Hire Garane, MP and seconded by Hon. Teddy Mwambire, MP;

40. Minutes of the 110th Sitting were confirmed as a true record of the proceedings as proposed Hon. Thuku Zachary Kwenya, MP and seconded by Hon. Mohamed Hire Garane, MP;

MIN/PIC/2021/791: ANY OTHER BUSINESS

No other business arose.

MIN/PIC/2021/792: ADJOURNMENT

The meeting was adjourned at forty-nine minutes past two O'clock. The next meeting will be held on notice.

Signed

The Hon. Abdullswamad Sharrif Nassir, MP

(Chairperson)

Date.....

24/07/2022

MINUTES OF THE 2ND SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD ON THURSDAY 27TH JANUARY, 2022 IN THE COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS AT 11.00 A.M.

PRESENT

1. The Hon. Abdullswamad Sharrif Nassir, MP (Chairman)
2. The Hon. Ahmed Abdisalan Ibrahim, MP (Vice chairman)
3. The Hon. Paul Kahindi Katana, MP
4. The Hon. Joshua Kipyegon Kandie, MP
5. The Hon. Mishi Mboko, MP
6. The Hon. Omar Mohamed Maalim Hassan, MP.
7. The Hon. Mohamed Hire Garane, M.P
8. The Hon. Julius Kibiwott Melly, MP
9. The Hon. Teddy Mwambire, MP

ABSENT WITH APOLOGY

1. The Hon. Rashid Kassim Amin, MP
2. The Hon. Esther Muthoni Passaris, MP
3. The Hon. Thuku Zachary Kwenya, M.P
4. The Hon. Babu Owino Paul Ongili, MP
5. The Hon. Tom Joseph Kajwang, MP
6. The Hon. Raphael Bitta Sauti Wanjala, MP
7. The Hon. Mathias Nyamabe Robi, MP
8. The Hon. Rahab Mukami Wachira, MP
9. The Hon. Mary Wamaua Njoroge, MP
10. The Hon. James Kamau Githua Wamacukuru, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|----------------------------|---|-------------------------|
| 1. Mr. Mohamed Boru | - | Second Clerk Assistant |
| 2. Mr. Wilson Angatangoria | - | Sergeant-at-Arms |
| 3. Ms. Euridice Nzioka | - | Audio Recording Officer |
| 4. Mr. Moses Musembi | - | Sergeant-at-Arms |

IN ATTENDANCE

- | | | |
|--------------------------|---|------------------------|
| 1. Mr. Fredrick Odhiambo | - | Deputy Auditor General |
| 2. Ms. Jane Kariuki | - | Ag. Director, Audit |
| 3. Mr. Stephen Waweru | - | Principal Auditor |
| 4. Mr. Henry Manegene | - | Manager, Audit |

MIN/PIC/2022/005: PRELIMINARIES

The Chairperson called the meeting to order at six minutes past eleven O'clock and prayed.

MIN/PIC/2022/006: EXAMINATION OF THE SPECIAL AUDIT REPORT ON LAKE TURKANA WIND POWER PROJECT

Mr. Daniel Bargoria, the Director General of the Energy and Petroleum Regulatory Authority accompanied by Dr. John Mutua (Ag. Director, Economic Regulation & Strategy) appeared before the Committee to adduce evidence on the Special Audit Report on Lake Turkana Wind Power Project.

MIN/PIC/2022/007: JUSTIFICATION FOR GRANTING AN APPROVAL TO ENTER INTO A POWER PURCHASE AGREEMENT BETWEEN KENYA POWER AND LTWP LTD WITHIN TWO DAYS AND WHETHER THERE WAS COMPLIANCE WITH THE PROVISIONS OF SECTIONS 6 (A), 27 AND 31 OF THE ENERGY ACT, 2006.

Section 6 (j) of the Energy Act, 2006 gave powers to the Commission (now EPRA) to approve electric power purchase and network service contracts for all persons engaging in electric power undertakings.

Kenya Power and LTWP jointly submitted an initialed Power Purchase Agreement on 9th November 2009. The Authority (Commission then) approved the initialed PPA at its 24th Meeting held on the 11th December 2009. The approval process took 32 days from the time of submission of the PPA which was within the stipulated requirement of 90 days. The approval process was in accordance with the Energy Act, 2006.

MIN/PIC/2022/008: THE JUSTIFICATION FOR GRANTING AN APPROVAL TO ENTER INTO A POWER PURCHASE AGREEMENT BETWEEN KENYA POWER AND LTWP LTD BEFORE LTWP HAD OBTAINED A LICENSE TO GENERATE ELECTRIC POWER.

Among the Conditions Precedent in the PPA between Kenya Power and LTWP is the requirement for a generation license having been issued to the LTWP. This therefore meant that for the PPA to become effective, then LTWP ought to have been issued with a generation license after approval of the PPA by the Authority. The PPA is normally approved before issuance of the license for purposes of unlocking finances for the developer and to enable the developer attain financial close.

MIN/PIC/2022/009: CORRESPONDENCE AND JUSTIFICATION FOR APPROVAL OF THE THREE AMENDMENTS TO THE POWER PURCHASE AGREEMENT (PPA) DATED (I) 29TH SEPTEMBER, 2011 (II) 14TH SEPTEMBER 2012 AND (III) 13TH MAY 2013. FURTHER PROVIDE JUSTIFICATIONS FOR THE TWO ADDITIONAL VARIATIONS OF 31ST JULY 2014 AND 19TH SEPTEMBER 2017

LTWP entered into a PPA with KPLC on 29th January 2010. The PPA was amended through agreements dated 29th September 2011, 14th September 2012 and 13th May

2013, Variation Agreement dated 31st July 2014 and Variation Agreement dated 19th September 2017 to address various issues as tabulated below:

Summary of PPA Variations:

Item	Variation	Justification for Variation	Correspondences
1	Dated 29 th September 2011	<p>Change in security package being provided to Lake Turkana Wind Power (LTWP) by Kenya Power and Lighting Company (KPLC) and Government of Kenya (GOK).</p> <p>Recognition that the Transmission Interconnector (TI) is being developed, owned and operated by Kenya Electricity Transmission Company (KETRACO).</p> <p>To increase the energy charge rate and review the energy threshold set out in the original PPA, in view of the increase in total costs for the project since the execution of the original Power Purchase Agreement (PPA).</p>	Instrument of Approval issued on 2 nd September 2011
2	Agreement dated 14 th September 2012	<p>Addition of a Condition Precedent that 90 days will have expired from the issuance by KETRACO of Notice to Proceed for the Transmission Interconnector</p> <p>Change the Target Effective Date from 31st December 2011 to 31st December 2012</p> <p>Correction of an error in the formula for Calculation of Energy Charges when the cumulative aggregate of the Net Electrical Output and the KPLC, Deemed Generated Energy (DGE), GOK Transmission Interconnector (TI) Delay DGE and TI Interruption DGE in the Operating Year is greater than Discounted Energy Threshold.</p>	Instrument of Approval issued on 4 th September 2012
3	Amended and Restated PPA dated 13 th May, 2013	The original PPA was amended and restated to incorporate the contents of the agreements dated 29 th September 2011 and 14 th September 2012	Instrument of Approval issued on 6 th May 2013
4	Variation Agreement dated 31 st July 2014	Through Agreement dated 31 st July 2014 (Variation Agreement in respect to PPA dated 13 th May 2013), the Parties amended the PPA to vary the definition of Long Stop Effective Date and provide for Conditions Precedent.	ERC approval letter dated

5	Variation Agreement dated 19 th September 2017	Through agreement dated 19 th September 2017 (Second Variation Agreement in respect of the PPA dated 13 th May 2013 and as amended on 31 st July 2014), Parties agreed to amend the PPA to address the Transmission Interconnector Delay for the period 15 th May 2017 to 31 st May 2018. The financial impact of the TI delay was addressed through a combination of a lump sum payment and a change in tariff	Instrument of Approval issued on 6 th September 2017.
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Committee Observations

The Committee made the following observations:

1. The approval process for KPLC and LTWP to enter into a PPA took 32 days from the time of submission of the PPA on 9th November 2009 to the approval on 11th December 2009. This was within the stipulated requirement of 90 days and the approval process was in accordance with the Energy Act, 2006.
2. The PPA is normally approved before issuance of the license for purposes of unlocking finances for the developer.
3. The PPA was amended five times through agreements dated 29th September 2011, 14th September 2012 and 13th May 2013, Variation Agreement dated 31st July 2014 and Variation Agreement dated 19th September 2017 to address various issues including the construction of the transmission interconnector.

MIN/PIC/2022/010: EXAMINATION OF THE AUDITED ACCOUNTS OF KENYA NATIONAL QUALIFICATION AUTHORITY

Mr. Juma Mukhwana, the Chief executive Officer of the Kenya National Qualifications Authority accompanied by Mr. Stanley Maindi (Director, Technical Services) and Ms. Blandina Malimu (Finance Officer) appeared before the Committee to adduce evidence on the audited accounts of the Authority for the financial years 2018/19 and financial year 2019/20.

The Authority was issued with unqualified audited accounts for the two financial years under consideration.

MIN/PIC/2022/011: APPROPRIATION-IN-AID AND FUNCTIONS OF THE KENYA NATIONAL QUALIFICATIONS AUTHORITY

The Committee was briefed as follows:

1. There was lack of clarity on whether the Kenya National Qualification Authority Regulations (2018) were approved by the National Assembly.

No other business arose.

MIN/PIC/2021/062: ADJOURNMENT

The meeting was adjourned at eleven minutes past one O'clock.

Signed

The Hon. Abdullswamad Sharrif Nassir, MP
(Chairperson)

Date.....

24/07/2022

MINUTES OF THE 3RD SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD ON TUESDAY 1ST FEBRUARY, 2022 IN THE COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS AT 11.00 A.M.

PRESENT

1. The Hon. Abdullswamad Sharrif Nassir, MP (Chairman)
2. The Hon. Paul Kahindi Katana, MP
3. The Hon. Mishi Mboko, MP
4. The Hon. Mary Wamaua Njoroge, MP
5. The Hon. Thuku Zachary Kwenya, M.P
6. The Hon. Teddy Mwambire, MP
7. The Hon. Mohamed Hire Garane, M.P
8. The Hon. Raphael Bitta Sauti Wanjala, MP
9. The Hon. Joshua Kipyegon Kandie, MP
10. The Hon. Rashid Kassim Amin, MP
11. The Hon. Esther Muthoni Passaris, MP

ABSENT WITH APOLOGY

1. The Hon. Ahmed Abdisalan Ibrahim, MP (Vice chairman)
2. The Hon. Omar Mohamed Maalim Hassan, MP.
3. The Hon. Julius Kibiwott Melly, MP
4. The Hon. Babu Owino Paul Ongili, MP
5. The Hon. Tom Joseph Kajwang, MP
6. The Hon. Mathias Nyamabe Robi, MP
7. The Hon. Rahab Mukami Wachira, MP
8. The Hon. James Kamau Githua Wamacukuru, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|----------------------------|---|-------------------------|
| 1. Mr. Evans Oanda | - | Senior Clerk Assistant |
| 2. Mr. Mohamed Boru | - | Second Clerk Assistant |
| 3. Mr. Cyrille Mutali | - | Fiscal Analyst |
| 4. Mr. Wilson Angatangoria | - | Sergeant-at-Arms |
| 5. Ms. Euridice Nzioka | - | Audio Recording Officer |
| 6. Mr. Moses Musembi | - | Sergeant-at-Arms |

IN ATTENDANCE

- | | | |
|--------------------------|---|------------------------------------|
| 1. Mr. Fredrick Odhiambo | - | Deputy Auditor General |
| 2. Mr. Henry Manegene | - | Manager, Audit |
| 3. Mr. Michael Muturi | - | Inspectorate of State Corporations |

MIN/PIC/2022/014: PRELIMINARIES

The Chairperson called the meeting to order at fourteen minutes past eleven O'clock

MINUTES OF THE 4TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD ON WEDNESDAY 2ND FEBRUARY, 2022 IN THE COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS AT 10.00 A.M.

PRESENT

1. The Hon. Abdullswamad Sharrif Nassir, MP (Chairman)
2. The Hon. Ahmed Abdisalan Ibrahim, MP (Vice chairman)
3. The Hon. Paul Kahindi Katana, MP
4. The Hon. Mishi Mboko, MP
5. The Hon. Teddy Mwambire, MP
6. The Hon. James Kamau Githua Wamacukuru, M.P
7. The Hon. Rashid Kassim Amin, MP
8. The Hon. Esther Muthoni Passaris, MP
9. The Hon. Mary Wamaua Njoroge, MP
10. The Hon. Raphael Bitta Sauti Wanjala, MP
11. The Hon. Tom Joseph Kajwang, MP

ABSENT WITH APOLOGY

1. The Hon. Omar Mohamed Maalim Hassan, MP.
2. The Hon. Julius Kibiwott Melly, MP
3. The Hon. Thuku Zachary Kwenya, M.P
4. The Hon. Mohamed Hire Garane, M.P
5. The Hon. Joshua Kipyegon Kandie, MP
6. The Hon. Babu Owino Paul Ongili, MP
7. The Hon. Mathias Nyamabe Robi, MP
8. The Hon. Rahab Mukami Wachira, MP

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|----------------------------|---|-------------------------|
| 1. Mr. Evans Oanda | - | Senior Clerk Assistant |
| 2. Mr. Mohamed Boru | - | Second Clerk Assistant |
| 3. Ms. Marlene Ayiro | - | Legal Counsel |
| 4. Mr. Cyrille Mutali | - | Fiscal Analyst |
| 5. Mr. Wilson Angatangoria | - | Sergeant-at-Arms |
| 6. Ms. Euridice Nzioka | - | Audio Recording Officer |
| 7. Mr. Moses Musembi | - | Sergeant-at-Arms |

IN ATTENDANCE

- | | | |
|--------------------------|---|------------------------------------|
| 1. Mr. Fredrick Odhiambo | - | Deputy Auditor General |
| 2. Mr. Michael Muturi | - | Inspectorate of State Corporations |

MIN/PIC/2022/018: PRELIMINARIES

The Chairperson called the meeting to order at fourteen minutes past eleven O'clock

The Committee made the following observations:

1. The submission presented to the Committee did not have any attachments as part of the evidence.
2. The Government of Kenya did not issue a sovereign guarantee on the Lake Turkana Wind Power project but issued a Letter of Support. Payments to LTWP were made from the vote of the Ministry of Energy in line with the PPA between KPLC and LTWP and not from the Consolidated Fund.
3. GoK obligation under the LoS is to safeguard investments of the Independent Power Producer in case of political events. LoS is not a guarantee but a contingency liability. It is not a sovereign guarantee and is not included in the national debt.
4. Draft Letters of Support are approved by the Attorney General before they become effective.
5. The Principal Secretary indicated that he was unaware of the excess amount of Kshs. 790 Million paid to LTWP Ltd as Deemed Generated Energy by KPLC. This is despite the fact that the Principal Secretary was copied in various correspondences between LTWP Ltd and KPLC where the former repeatedly sought to refund the amount unsuccessfully.
6. The Principal Secretary requested the Committee for additional time to prepare detailed response on the chronology of events that led to variations and determined the cost of the project.

Committee Resolution

The Committee made the following resolutions:

1. The Principal Secretary was asked to resubmit the responses to all the questions asked in the letter of invitation to the meeting of 2nd February 2022. The submission including attachments to be submitted by 4th February, 2022.
2. The Principal Secretary to submit the following additional information:
 - a. Provide evidence showing approval of the L.O.S by the Attorney General.
 - b. Submit a copy of the Letter of Support;
 - c. Indicate the circumstances under which the Government of Kenya was required to pay Deemed Generated Energy amounting to EURO 127 million and whether verification of the amount was done;
 - d. Indicate whether a comparative analysis was done on the companies that were to implement LTWP project and the best option chosen;
 - e. A copy of the Letters of Support done on implementation of LTWP project and the circumstances under which they were given - what convinced the National Treasury to sign them;
 - f. Interest clauses in the LTWP project, their implications, how much interest has accrued so thus far, how much interest has been paid and how much is still pending;

MINUTES OF THE 5TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD ON THURSDAY 3RD FEBRUARY, 2022 IN THE COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS AT 10.00 A.M.

PRESENT

1. The Hon. Abdullswamad Sharrif Nassir, MP (Chairman)
2. The Hon. Ahmed Abdisalan Ibrahim, MP (Vice chairman)
3. The Hon. Paul Kahindi Katana, MP
4. The Hon. Mishi Mboko, MP
5. The Hon. Mary Wamaua Njoroge, MP
6. The Hon. Julius Kibiwott Melly, MP
7. The Hon. Thuku Zachary Kwenya, M.P
8. The Hon. Joshua Kipyegon Kandie, MP
9. The Hon. Teddy Mwambire, MP

ABSENT WITH APOLOGY

1. The Hon. Omar Mohamed Maalim Hassan, MP.
2. The Hon. Mohamed Hire Garane, M.P
3. The Hon. James Kamau Githua Wamacukuru, M.P
4. The Hon. Rashid Kassim Amin, MP
5. The Hon. Esther Muthoni Passaris, MP
6. The Hon. Raphael Bitta Sauti Wanjala, MP
7. The Hon. Tom Joseph Kajwang, MP
8. The Hon. Babu Owino Paul Ongili, MP
9. The Hon. Mathias Nyamabe Robi, MP
10. The Hon. Rahab Mukami Wachira, MP

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|----------------------------|---|-------------------------|
| 1. Mr. Evans Oanda | - | Senior Clerk Assistant |
| 2. Mr. Mohamed Boru | - | Second Clerk Assistant |
| 3. Mr. Cyrille Mutali | - | Fiscal Analyst |
| 4. Mr. Wilson Angatangoria | - | Sergeant-at-Arms |
| 5. Ms. Euridice Nzioka | - | Audio Recording Officer |
| 6. Mr. Moses Musembi | - | Sergeant-at-Arms |

IN ATTENDANCE

- | | | |
|--------------------------|---|------------------------------------|
| 1. Mr. Fredrick Odhiambo | - | Deputy Auditor General |
| 2. Mr. Henry Manegene | - | Manager, Audit |
| 3. Mr. Michael Muturi | - | Inspectorate of State Corporations |

MIN/PIC/2022/022: PRELIMINARIES

The Chairperson called the meeting to order at fourteen minutes past eleven O'clock

- ✓ MoE letter dated 25th May 2009
- ✓ MoE letter dated 2nd July 2009
- ✓ MoE letter dated 25th Sept. 2009
- ✓ MoE letter dated 27.09.2010
- ✓ MoE letter dated 20.08.2009

3. Why the Feed-in-tariff policy adopted for the Power Purchase Agreement that allowed LTWP to sell generated electricity to KPLC at a pre-determined tariff for a given period ie ata a rate of ksh. 7,65 (EUR 0.0722) per kilowatt (kwh), which was lower than the EPRA recommended fee-in Tariff amount of Ksh.11

LTWP project was not procured under the Feed-in Tariff Policy. It was a Privately Initiated Project and the tariff negotiated based on project Costs and projected output from the wind farm.

4. Justification for executing Power Purchase Agreement while aware there was no transmission line from Loiyangalani to Suswa.

a. Ordinarily transmission lines and power stations are constructed at the same time unless a power station is to be constructed in an area adequately served by an existing transmission line.

b. The twenty-six (26) months line construction period included in the PPA was negotiated on the basis of the eighteen months that LTWP had put in the tender as one of the conditions for bidders for the line construction to be pre-qualified.

c. Therefore the wind power plant and the line had to be completed at the same time in order to avoid having costly idle power generation capacity. In addition, there was the need to keep the validity of the tender prices of various components of the wind farm contract and subcontracts.

5. Justification for inclusion of the clause in the PPA for GOK transmission interconnector (TI) delay deemed generated Energy claims pursuant to clause 7.3 of the PPA and Clause 9.5.1 and Schedule 6, part B Paragraph 2 of the third amendment.

Important to note Deemed Energy Generated (DEG) arises where the power plant is available to generate but unable to deliver to the Offtaker's system electrical energy in the following Events:

- a. a Power System Interruption;
- b. a stoppage or curtailment of the Plant arising out of a specific dispatch instruction
- c. a breach by the Buyer of its obligations under the PPA; or

7. Why was M/S Isolux Ingeneria SA and KEMA procured by LTWP Ltd instead of KPLC?

LTWP invited tenders on behalf of Kenya Lighting & Power Co (KPLC) in accordance with the agreement of the Special Task Force (comprising MoE, KPLC, KETRACO and LTWP) that was established between the Parties to facilitate this process. KETRACO was newly incorporated in 2008 and participated in the Task Force with KPLC, MOE and LTWP. KETRACO was the contracting party.

8. Justification for initiation of payments for the TI interruption DGE without any independent review to confirm readiness of power generation by LTWP Ltd.

The Commissioning of LTWP is provided in the PPA and witnessed by the Independent Engineer.

The Commissioning was also witnessed by the Sector representatives.

9. Justification for the approval of the three amendments to the PPA

The amendments and justifications are summarized in the attached Appendix I

10. The circumstances under which the World Bank withdrew its intent to provide PRG support of the project

The circumstances for World Bank (WB) withdrawal from the project are contained in their letter to GoK dated 6th October, 2012 (attached). The Government did not agree with the WB views and therefore progressed the project considering the Social Economic impact to the Country.

11. The rationale for not collecting and remitting into an escrow account the security support facility according to clause 10.9.5(a) of the PPA

The procurement of the Escrow Agent and LC Bank by KPLC was concluded pending GoK approval. The GoK has since approved an alternative arrangement through a Partial Risk Guarantee (PRG) by AfDB.

12. What informed the negotiations of the DGE total amount owed, paid and written off by LTWP Ltd?

The details of GOK TI delay DGE amounts is summarized in Appendix II attached.

13. Involvement in the tendering process of the construction of Transmission line (lot 3)

KPLC was not involved in contracting the Transmission line contractors.

Committee Observations

The Committee made the following preliminary observations:

12. KPLC had failed to provide bank details for refund of excess DGE payments made to LTWP despite repeated requests by the company to refund the amount.

13. On Isolux contract, Eng. Oduol stated that it was LTWP that did the procurement process.

Committee Resolution

The Committee made the following resolutions:

1. Kenya Power Management to submit correspondence on refund of excess DGE payment by LTWP.
2. KPLC management to re-appear on Wednesday 16th Feb 2022 to continue with submission of their responses with all the relevant supporting documents and staff who are familiar with the matters under consideration.

MIN/PIC/2022/024: ANY OTHER BUSINESS

1. OAG should audit the KPLC accounts as resolved by the House and committee communications to KPLC on the matter.
2. KEHNA could not make it in today meeting due to late receipt of the invitation letter.

MIN/PIC/2022/025: ADJOURNMENT

The meeting was adjourned at eight minutes past twelve O'clock.

Signed

The Hon. Abdullswamad Sharrif Nassir, MP

(Chairperson)

Date.....

24/03/2022

MINUTES OF THE 11TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD ON WEDNESDAY 16TH FEBRUARY, 2022 IN THE COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS AT 10.00 A.M.

PRESENT

1. The Hon. Abdullswamad Sharrif Nassir, MP (Chairman)
2. The Hon. Ahmed Abdisalan Ibrahim, MP (Vice chairman)
3. The Hon. Paul Kahindi Katana, MP
4. The Hon. Julius Kibiwott Melly, MP
5. The Hon. Joshua Kipyegon Kandie, MP
6. The Hon. Teddy Mwambire, MP
7. The Hon. Esther Muthoni Passaris, MP
8. The Hon. Thuku Zachary Kwenya, M.P
9. The Hon. Mishi Mboko, MP
10. The Hon. Omar Mohamed Maalim Hassan, MP.
11. The Hon. James Kamau Githua Wamacukuru, M.P
12. The Hon. Rahab Mukami Wachira, MP
13. The Hon. Babu Owino Paul Ongili, MP
14. The Hon. Tom Joseph Kajwang, MP

ABSENT WITH APOLOGY

1. The Hon. Mohamed Hire Garane, MP
2. The Hon. Rashid Kassim Amin, MP
3. The Hon. Mary Wamaua Njoroge, MP
4. The Hon. Raphael Bitta Sauti Wanjala, MP
5. The Hon. Mathias Nyamabe Robi, MP

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|------------------------|---|-------------------------|
| 1. Mr. Evans Oanda | - | Senior Clerk Assistant |
| 2. Mr. Mohamed Boru | - | Second Clerk Assistant |
| 3. Mr. Cyrille Mutali | - | Fiscal Analyst |
| 4. Ms. Euridice Nzioka | - | Audio Recording Officer |
| 5. Mr. Moses Musembi | - | Sergeant-at-Arms |

IN ATTENDANCE

- | | | |
|--------------------------|---|------------------------------------|
| 1. Mr. Fredrick Odhiambo | - | Deputy Auditor General |
| 2. Mr. Henry Manegene | - | Manager, Audit |
| 3. Mr. Michael Muturi | - | Inspectorate of State Corporations |

MIN/PIC/2022/054: PRELIMINARIES

The Chairperson called the meeting to order at thirty minutes past ten O'clock and prayed.

- ✓ MoE letter dated 25th May 2009
- ✓ MoE letter dated 2nd July 2009
- ✓ MoE letter dated 25th Sept. 2009
- ✓ MoE letter dated 27.09.2010
- ✓ MoE letter dated 20.08.2009

3. Why the Feed-in-tariff policy adopted for the Power Purchase Agreement that allowed LTWP to sell generated electricity to KPLC at a pre-determined tariff for a given period ie ata a rate of ksh. 7,65 (EUR 0.0722) per kilowatt (kwh), which was lower than the EPRA recommended fee-in Tariff amount of Ksh.11

LTWP project was not procured under the Feed-in Tariff Policy. It was a Privately Initiated Project and the tariff negotiated based on project Costs and projected output from the wind farm.

4. Justification for executing Power Purchase Agreement while aware there was no transmission line from Loiyangalani to Suswa.

a. Ordinarily transmission lines and power stations are constructed at the same time unless a power station is to be constructed in an area adequately served by an existing transmission line.

b. The twenty-six (26) months line construction period included in the PPA was negotiated on the basis of the eighteen months that LTWP had put in the tender as one of the conditions for bidders for the line construction to be pre-qualified.

c. Therefore the wind power plant and the line had to be completed at the same time in order to avoid having costly idle power generation capacity. In addition, there was the need to keep the validity of the tender prices of various components of the wind farm contract and subcontracts.

5. Justification for inclusion of the clause in the PPA for GOK transmission interconnector (TI) delay deemed generated Energy claims pursuant to clause 7.3 of the PPA and Clause 9.5.1 and Schedule 6, part B Paragraph 2 of the third amendment.

Important to note Deemed Energy Generated (DEG) arises where the power plant is available to generate but unable to deliver to the Offtaker's system electrical energy in the following Events:

- a. a Power System Interruption;
- b. a stoppage or curtailment of the Plant arising out of a specific dispatch instruction
- c. a breach by the Buyer of its obligations under the PPA; or

7. Why was M/S Isolux Ingeneria SA and KEMA procured by LTWP Ltd instead of KPLC?

LTWP invited tenders on behalf of Kenya Lighting & Power Co (KPLC) in accordance with the agreement of the Special Task Force (comprising MoE, KPLC, KETRACO and LTWP) that was established between the Parties to facilitate this process. KETRACO was newly incorporated in 2008 and participated in the Task Force with KPLC, MOE and LTWP. KETRACO was the contracting party.

8. Justification for initiation of payments for the TI interruption DGE without any independent review to confirm readiness of power generation by LTWP Ltd.

The Commissioning of LTWP is provided in the PPA and witnessed by the Independent Engineer.

The Commissioning was also witnessed by the Sector representatives.

9. Justification for the approval of the three amendments to the PPA

The amendments and justifications are summarized in the attached Appendix I

10. The circumstances under which the World Bank withdrew its intent to provide PRG support of the project

The circumstances for World Bank (WB) withdrawal from the project are contained in their letter to GoK dated 6th October, 2012 (attached). The Government did not agree with the WB views and therefore progressed the project considering the Social Economic impact to the Country.

11. The rationale for not collecting and remitting into an escrow account the security support facility according to clause 10.9.5(a) of the PPA

The procurement of the Escrow Agent and LC Bank by KPLC was concluded pending GoK approval. The GoK has since approved an alternative arrangement through a Partial Risk Guarantee (PRG) by AfDB.

12. What informed the negotiations of the DGE total amount owed, paid and written off by LTWP Ltd?

The details of GOK TI delay DGE amounts is summarized in Appendix II attached.

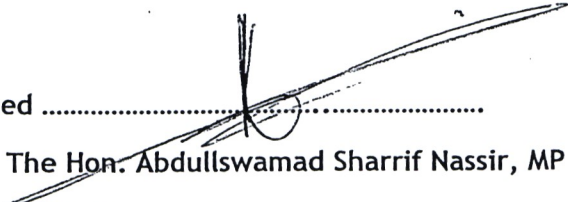
13. Involvement in the tendering process of the construction of Transmission line (lot 3)

KPLC was not involved in contracting the Transmission line contractors.

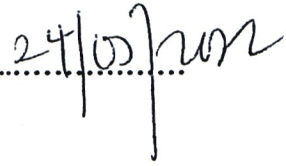
Committee Observations

The Committee made the following preliminary observations:

Signed


The Hon. Abdullswamad Sharrif Nassir, MP
(Chairperson)

Date.....



MINUTES OF THE 12TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD ON THURSDAY 17TH FEBRUARY, 2022 IN THE COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS AT 10.00 A.M.

PRESENT

1. The Hon. Abdullswamad Sharrif Nassir, MP (Chairman)
2. The Hon. Ahmed Abdisalan Ibrahim, MP (Vice chairman)
3. The Hon. Paul Kahindi Katana, MP
4. The Hon. Mishi Mboko, MP
5. The Hon. Omar Mohamed Maalim Hassan, MP.
6. The Hon. Babu Owino Paul Ongili, MP
7. The Hon. Teddy Mwambire, MP
8. The Hon. Rahab Mukami Wachira, MP
9. The Hon. Esther Muthoni Passaris, MP
10. The Hon. Joshua Kipyegon Kandie, MP
11. The Hon. Mohamed Hire Garane, M.P

ABSENT WITH APOLOGY

1. The Hon. Julius Kibiwott Melly, MP
2. The Hon. Mary Wamau Njoroge, MP
3. The Hon. Thuku Zachary Kwenya, M.P
4. The Hon. Raphael Bitta Sauti Wanjala, MP
5. The Hon. Rashid Kassim Amin, MP
6. The Hon. Tom Joseph Kajwang, MP
7. The Hon. Mathias Nyamabe Robi, MP
8. The Hon. James Kamau Githua Wamacukuru, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|----------------------------|---|-------------------------|
| 1. Mr. Evans Oanda | - | Senior Clerk Assistant |
| 2. Mr. Mohamed Boru | - | Second Clerk Assistant |
| 3. Mr. Cyrille Mutali | - | Fiscal Analyst |
| 4. Mr. Wilson Angatangoria | - | Sergeant-at-Arms |
| 5. Ms. Euridice Nzioka | - | Audio Recording Officer |
| 6. Mr. Moses Musembi | - | Sergeant-at-Arms |

IN ATTENDANCE

- | | | |
|--------------------------|---|------------------------------------|
| 1. Mr. Fredrick Odhiambo | - | Deputy Auditor General |
| 2. Mr. Henry Manegene | - | Manager, Audit |
| 3. Mr. Manases Kuria | - | Manager, Audit |
| 4. Mr. Victor Momanyi | - | Inspectorate of State Corporations |

MIN/PIC/2022/058: PRELIMINARIES

Corporation and Power China Guizhou Engineering Co. Ltd to complete the project.

4. M/s Isolux Ingenieria SA faced two major challenges. When the 'Full Notice to Proceed' was issued, way leaves for the construction corridor had not been acquired. During execution of the project, there were intermittent stoppages by landowners who demanded huge sums in compensation. The Contractor also experienced cash flow challenges which impacted on project implementation. This was ultimately manifested when they were declared bankrupt.
5. M/s Isolux was procured by Lake Turkana Wind Power Ltd. through an evaluation carried out by their consultant, KEMA and not KETRACO.
6. The three Addenda done on the contract with M/s Isolux Ingenieria SA prior to the company filing for bankruptcy.
 - a. Addendum No. 3 changed the scope of the contract due to re-alignment of the southern part of the line due to way leave acquisition issue that had pending court cases leading to an increase in contract price by Euro 3,265,049. The addendum also extended time for completion of the works by two and a half months to 30th December 2016.
 - b. Addendum 4 provided a change in scope due to re-alignment of the northern part of the line to avoid 'the flash flood prone area' leading to an increase in the contract price by Euro 687,076.
 - c. Addendum 5 extended the time of completion by twelve months to 31st December 2017 to allow for completion of the works and disbursement of the funds from the financier.
7. Termination of the contract with M/s Isolux Ingenieria SA was in accordance with contract provisions under Clause 15.2 (h) that allows termination when the contractor becomes bankrupt. The consortium of NARI Group Corporation and PowerChina Guizhou Engineering Company was competitively procured on 30th January 2018 and completed the construction of the transmission interconnector by 31st August 2018.

Committee Observations

The Committee made the following preliminary observations:

1. Lake Turkana Wind Power Limited invited tenders on behalf of Kenya Power in accordance with the agreement of the Special Task Force established between the two parties for the LTWP project. This was a conflict of interest since LTWP Ltd. stood to earn revenue from 'Deemed Generated Energy' in the event that the transmission line was not complete within the stipulated contractual timelines.
2. M/s Isolux Ingenieria SA was awarded the contract for the transmission line on the recommendation of the Consultant, KEMA, who had been hired by LTWP Ltd to conduct technical evaluation.

No other business arose.

MIN/PIC/2021/062: ADJOURNMENT

The meeting was adjourned at eleven minutes past one O'clock.

Signed

The Hon. Abdullswamad Sharrif Nassir, MP
(Chairperson)

Date.....

24/05/2022

MINUTES OF THE 19TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD ON TUESDAY 1ST MARCH, 2022 IN THE COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS AT 4.00 P.M.

PRESENT

1. The Hon. Abdullswamad Sharrif Nassir, MP (Chairman)
2. The Hon. Ahmed Abdisalan Ibrahim, MP (Vice chairman)
3. The Hon. Paul Kahindi Katana, MP
4. The Hon. Julius Kibiwott Melly, MP
5. The Hon. Joshua Kipyegon Kandie, MP
6. The Hon. Teddy Mwambire, MP
7. The Hon. Omar Mohamed Maalim Hassan, MP.
8. The Hon. James Kamau Githua Wamacukuru, M.P

ABSENT WITH APOLOGY

1. The Hon. Mohamed Hire Garane, M.P
2. The Hon. Rashid Kassim Amin, MP
3. The Hon. Esther Muthoni Passaris, MP
4. The Hon. Mishi Mboko, MP
5. The Hon. Mary Wamau Njoroge, MP
6. The Hon. Thuku Zachary Kwenya, M.P
7. The Hon. Raphael Bitta Sauti Wanjala, MP
8. The Hon. Tom Joseph Kajwang, MP
9. The Hon. Babu Owino Paul Ongili, MP
10. The Hon. Mathias Nyamabe Robi, MP
11. The Hon. Rahab Mukami Wachira, MP

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|------------------------|---|-------------------------|
| 1. Mr. Evans Oanda | - | Senior Clerk Assistant |
| 2. Mr. Mohamed Boru | - | Second Clerk Assistant |
| 3. Mr. Cyrille Mutali | - | Fiscal Analyst |
| 4. Ms. Euridice Nzioka | - | Audio Recording Officer |
| 5. Mr. Moses Musembi | - | Sergeant-at-Arms |

IN ATTENDANCE

- | | | |
|--------------------------|---|------------------------|
| 1. Mr. Fredrick Odhiambo | - | Deputy Auditor General |
| 2. Mr. Henry Manegene | - | Manager, Audit |

MIN/PIC/2022/113: PRELIMINARIES

The Chairperson called the meeting to order at thirty minutes past ten O'clock and prayed.

6. M/s Isolux signed a contract worth Kshs. 18 billion and were paid Kshs. 10 billion for a completion rate below 30%. No refund was sought from M/s Isolux by KETRACO.

Committee Resolutions

The Committee made the following resolutions:

The Project Manager to submit the following additional information:

1. Completion certificates with a breakdown of the works done worth USD 109,224,308.48.
2. Correspondence on follow up with KETRACO regarding outstanding payment.
3. Breakdown of the claim amount of USD 24,515,913.75 made to KETRACO and breakdown of the appraised amount of USD 16,133,782.41.

MIN/PIC/2022/115: ANY OTHER BUSINESS

No other business arose.

MIN/PIC/2022/116: ADJOURNMENT

The meeting was adjourned at thirty seven minutes past five O'clock.

Signed

The Hon. Abdullswamad Sharrif Nassir, MP

(Chairperson)

Date.....

24/05/2022

MINUTES OF THE 26TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD ON TUESDAY 22ND MARCH, 2022 IN THE COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS AT 11.30 A.M.

PRESENT

1. The Hon. Abdullswamad Sharrif Nassir, MP (Chairman)
2. The Hon. Ahmed Abdisalan Ibrahim, MP (Vice chairman)
3. The Hon. Paul Kahindi Katana, MP
4. The Hon. Mishi Mboko, MP
5. The Hon. Teddy Mwambire, MP
6. The Hon. Esther Muthoni Passaris, MP
7. The Hon. Joshua Kipyegon Kandie, MP
8. The Hon. Thuku Zachary Kwenya, M.P
9. The Hon. Mathias Nyamabe Robi, MP

ABSENT WITH APOLOGY

1. The Hon. Omar Mohamed Maalim Hassan, MP.
2. The Hon. Julius Kibiwott Melly, MP
3. The Hon. Mohamed Hire Garane, M.P
4. The Hon. Babu Owino Paul Ongili, MP
5. The Hon. James Kamau Githua Wamacukuru, M.P
6. The Hon. Rashid Kassim Amin, MP
7. The Hon. Mary Wamaua Njoroge, MP
8. The Hon. Raphael Bitta Sauti Wanjala, MP
9. The Hon. Tom Joseph Kajwang, MP
10. The Hon. Rahab Mukami Wachira, MP

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|----------------------------|---|-------------------------|
| 1. Mr. Evans Oanda | - | Senior Clerk Assistant |
| 2. Mr. Mohamed Boru | - | Second Clerk Assistant |
| 3. Ms. Marlene Ayiro | - | Legal Counsel |
| 4. Mr. Cyrille Mutali | - | Fiscal Analyst |
| 5. Mr. Wilson Angatangoria | - | Sergeant-at-Arms |
| 6. Ms. Euridice Nzioka | - | Audio Recording Officer |
| 7. Mr. Moses Musembi | - | Sergeant-at-Arms |

IN ATTENDANCE

- | | | |
|-----------------------|---|------------------------------------|
| 1. Mr. Henry Managene | - | Manager, Audit |
| 2. Mr. Michael Muturi | - | Inspectorate of State Corporations |

MIN/PIC/2022/158: PRELIMINARIES

The Chairperson called the meeting to order at thirty-four minutes past eleven

termination of the PPA. It is instructive that LoS are not explicit guarantees and are cleared by the Attorney General before they are issued.

7. The LTWP Power Purchase Agreement had provided for exceptions which were to be factored in the determination of the tariff. The financing model had therefore taken into consideration the exceptions contained in the PPA. The exceptions were aimed at lowering the cost of production and making energy affordable to the consumers.
8. The taxes to be paid by GoK were in respect to items that were not covered by the law but had been agreed to be exempted during the PPA negotiations between KPLC and LTWP Ltd.
9. Government agreed to tariff increase through the Second Variation Agreement to shoulder the additional obligation on DGE payments amounting to Euro 127 Million.
10. To cater for deferred amount, a tariff increase of Euro 0.00845 Kw/h was agreed to offset the amount owed to LTWP for a period of six years (2018-2024). The increase in tariffs was in lieu of payments that would have been made by Government to LTWP.
11. The National Treasury does not undertake due diligence on banks owned/or recommended by foreign governments. This is in regard to the loan agreement between Instituto Credito Oficial of the Kingdom of Spain, Deutsche Bank and the Kenya Ministry of Finance for construction of the Transmission Interconnector by M/s Isolux.
12. The National Treasury did not issue a sovereign guarantee on the LTWP project but issued a Letter of Support. Payments made to LTWP emanated from the Vote of the Ministry of Energy in line with the PPA between KPLC and LTWP and not the Consolidated Fund.
13. TI delay DGE for the period 15th May 2017 to 31st May 2018 (381 days) was estimated at 1,652,764,752 kw/h on the basis of an assumed capacity factor of 0.62. This translated to TI DGE amount of Euro 127,577,128.32 of which GoK paid Euro 46,000,000 to LTWP and the balance was to be factored into tariff under the Second Variation agreement. (Euro 81.5 million).
14. Following further delays to the TI operationalization, LTWP invoiced GoK an additional Euro 39,684,035 for the months of June, July, August and September 2018. The Ministry of Energy through KPLC settled the amount. This addition increased the total GoK TI DGE delay liability to Euro 167,261,163.32 comprising of the initial DGE Euro 127,577,128.32 and the additional DGE of Euro 39,684,035.00.
15. The Capacity factor obtained for the period of 381 days from the TI operation date (10th September 2018 to 25th September 2019) is 0.54. The second variation agreement had provision for the correction of capacity factor from estimated 0.62 to actual 0.54 obtained during actual production, yielded a GoK TI delay

relevant officials who failed to provide the bank account details for refund of the amount.

5. There was no independent assessment to confirm the DGE amount claimed by LTWP Ltd. of Euro 161,087,870.32.
6. Despite the failure to follow up on the refund from LTWP Ltd., the project faces additional interest costs from NARI Consortium who finished the construction of the transmission line after the insolvency of the original contractor, M/s Isolux. The failure to pay NARI was attributed to lack of funds.
7. The PPA obligates Government to pay DGE in the event that, payment liability in any given operating year in respect of DGE on Transmission Interconnector interruptions exceed Euro 600,000.

Committee Resolution

The Committee made the following resolutions:

1. The Ministry to confirm which part of the contract provides for taxes to be paid by GoK with respect to the project as highlighted in para 1.5.53 of the audit report.
2. Treasury to confirm the genesis on change in tariff including which party proposed the increase in tariff in the second variation agreement.

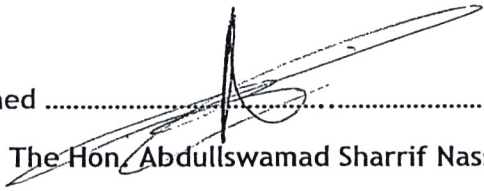
MIN/PIC/2022/160: ANY OTHER BUSINESS

No other business arose.

MIN/PIC/2022/161: ADJOURNMENT

The meeting was adjourned at eight minutes past twelve O'clock.

Signed


The Hon. Abdullswamad Sharrif Nassir, MP
(Chairperson)

Date..... 24/05/2022

MINUTES OF THE 27TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD ON WEDNESDAY, 22ND MARCH 2022 IN THE COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS AT 3:30 P.M

PRESENT

1. The Hon. Abdullswamad Sharrif Nassir, MP (Chairman)
2. The Hon. Mishi Mboko, MP
3. Hon Esther Muthoni Passaris, MP.
4. The Hon. Rashid Kassim Amin, MP
5. The Hon. Rahab Mukami Wachira, MP.
6. The Hon. Paul Kahindi Katana, MP
7. The Hon. Joshua Kipyegon Kandie, MP
8. The Hon. Mohamed Hire Garane, MP.

ABSENT WITH APOLOGY

1. The Hon. Ahmed Abdisalan Ibrahim, MP (Vice chairman)
2. The Hon. Julius Kibiwott Melly, MP
3. The Hon. Babu Owino Paul Ongili, MP
4. The Hon. Omar Mohamed Maalim Hassan, MP.
5. The Hon. James Kamau Githua Wamacukuru, M.P.
6. The Hon. Mary Wamaua Njoroge, MP
7. The Hon. Raphael Bitta Sauti Wanjala, MP
8. The Hon. Tom Joseph Kajwang, MP
9. The Hon Thuku Zachary Kwenya,MP.
10. The Hon. Mathias Nyamabe Robi, MP
11. The Hon. Teddy Mwambire, MP

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|------------------------|---|-------------------------|
| 1. Mr. Evans Oanda | - | Senior Clerk Assistant |
| 2. Mr. Rodgers Kilunje | - | Audio Recording Officer |
| 3. Mr. Moses Musembi | - | Office Attendant |

MIN/PIC/2022/162: PRELIMINARIES

The Chairperson called the meeting to order at forty minutes past three O'clock and prayed.

MIN/PIC/2022/163: SPECIAL AUDIT REPORT ON KETRACO

The Chairman informed the Committee that Hon. Charles Keter, former Cabinet Secretary for the Ministry of Energy, who was meant to appear before the Committee had written to the Committee indicating that the issues raised in the invitation letter could be addressed by the current office holder of the Ministry of Energy.

The Chairman further informed the Committee that upon looking at the request, he directed that Secretariat to share with the Hon. Keter a copy of the letter dated 14th September 2016 that was done by the Chairman of KETRACO warning that the Transmission Line would not be completed and therefore requested approval to enter into negotiations with LTWP to allow for an extension of project implementation time without invoking a DGE TI penalty. In the

MINUTES OF THE 28TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD ON WEDNESDAY 23RD MARCH, 2022 IN THE COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS AT 10.30 A.M.

PRESENT

1. The Hon. Abdullswamad Sharrif Nassir, MP (Chairman)
2. The Hon. Tom Joseph Kajwang, MP
3. The Hon. Paul Kahindi Katana, MP
4. The Hon. Mishi Mboko, MP
5. The Hon. Teddy Mwambire, MP
6. The Hon. Joshua Kipyegon Kandie, MP
7. The Hon. Julius Kibiwott Melly, MP
8. The Hon. Mohamed Hire Garane, M.P
9. The Hon. Rashid Kassim Amin, MP
10. The Hon. Esther Muthoni Passaris, MP
11. The Hon. Babu Owino Paul Ongili, MP
12. The Hon. Raphael Bitta Sauti Wanjala, MP

ABSENT WITH APOLOGY

1. The Hon. Ahmed Abdisalan Ibrahim, MP (Vice chairman)
2. The Hon. Thuku Zachary Kwenya, M.P
3. The Hon. Mathias Nyamabe Robi, MP
4. The Hon. Omar Mohamed Maalim Hassan, MP.
5. The Hon. James Kamau Githua Wamacukuru, M.P
6. The Hon. Mary Wamaua Njoroge, MP
7. The Hon. Rahab Mukami Wachira, MP

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|----------------------------|---|-------------------------|
| 1. Mr. Evans Oanda | - | Senior Clerk Assistant |
| 2. Mr. Mohamed Boru | - | Second Clerk Assistant |
| 3. Ms. Marlene Ayiro | - | Legal Counsel |
| 4. Mr. Cyrille Mutali | - | Fiscal Analyst |
| 5. Mr. Wilson Angatangoria | - | Sergeant-at-Arms |
| 6. Ms. Euridice Nzioka | - | Audio Recording Officer |
| 7. Mr. Moses Musembi | - | Sergeant-at-Arms |

IN ATTENDANCE

- | | | |
|-----------------------|---|------------------------------------|
| 1. Mr. Henry Managene | - | Manager, Audit |
| 2. Mr. Michael Muturi | - | Inspectorate of State Corporations |

MIN/PIC/2022/166: PRELIMINARIES

The Chairperson called the meeting to order at thirty-three minutes past ten O'clock

ii. The twenty-six (26) months line construction period included in the PPA was negotiated on the basis of the eighteen months that LTWP had put in the tender as one of the conditions for bidders for the line construction to be pre-qualified.

iii. Therefore, the wind power plant and the line had to be completed at the same time in order to avoid having costly idle power generation capacity. In addition, there was the need to keep the validity of the tender prices of various components of the wind farm contract and subcontracts.

3. The justification for granting LTWP Ltd, a private entity, the exclusive rights to survey the project and wind resources and further invite tenders on behalf of Kenya Power and Lighting Company:

i. Renewable energy resources assessment is one of the key stages in renewable energy resources development. Before a decision is made to develop the resource, an assessment is done to determine commercial viability of the project. This is critical in securing project financing.

ii. As stipulated in the Sessional Paper No. 4 on Energy, the government committed to promote renewable energy resources assessment among them Wind. Whereas the government prioritized geothermal resource assessment that culminated in creation of GDC, a detailed Wind resources assessment was yet to be undertaken due to lack of funds. Renewable resource assessment is a highly technical field requiring both specialized equipment and human resources. In the Feed-In-Tariff Policy it was therefore envisaged that the Private Investors would undertake search for land and carry out feasibility study for their projects. This is in contrast with more mature markets where private sector access reliable data to set up wind farms.

iii. The private firm then approached the Ministry with a view of undertaking a detailed wind resource assessment at their own cost to determine the viability of the project. This involved installation of wind masts and data loggers at their own cost to collect data at Loyangalani, Marsabit. This would culminate, if proven viable, with construction of a power plant.

iv. Bearing in mind that substantial amount of risk capital was going to be expended on wind data acquisition and analysis to ascertain the sites suitability and viability for wind power development, the Ministry did not object to the study being done by LTWP Ltd. It is also important to note that LTWP Ltd was the only company which had come forward with the proposal for wind power development in Marsabit. If the studies had indicated that there was no enough resource, the project proposers would have taken the loss in terms of money and time spent and government would not have compensated them for this effort. The project remains the single largest private investment in Kenya's history at EUR 685M (KES 85B)

v. Other factors which informed MOE decision not to object were that the country was experiencing devastating power supply deficits which were mitigated through

ii. The LTWP was initiated by the Investor who proposed to undertake and finance their own wind data collection and studies on wind power at Loyangalani in Marsabit that would culminate if proven viable with construction of a power plant. The developer undertook all the technical studies and proved to the Ministry that the wind resource available on site was adequate to develop the 300MW power plant.

iii. The project was a viable project and the developer put together a group of equity investors and lending institutions to fund the project to construction and commissioning. The Project would therefore qualify for a Private Initiated Investment Project.

iv. The reasons why competitive bidding was not used are:

a) There was in place a Feed-In-Tariff policy of 2008 which provided maximum tariffs for respective renewable energies technologies. LTWP's tariff was significantly lower than the one provided for under FiT. The FiT policy was developed to spur growth of renewable energy sources by providing for a prescribed rate for the renewables. Technologies included in the policy are wind, solar PV, biomass and small hydro

b) Not significant amount of wind regime data had previously been collected and analyzed to ascertain commercial viability of the proposed wind power project in Marsabit or any other part of Kenya to facilitate private sector participation in wind power development to warrant floatation of a public tender for development of wind power plants. LTWP took all upstream wind energy risk whilst installing grid stability equipment that has been beneficial to Kenya's national grid in addition to socio-economic-political benefits that the project brought to the region and the communities.

c) MOE was also of the view that the project was good for Kenya as it was going to generate electricity at substantially lower tariff than oil based thermal power plant including the private sector developed geothermal power plant that existed at that time;

d) Despite the government commitment to undertake wind resources assessment in the Country as stipulated in Session No. 4 on Energy, this was yet to be done due to competing government priorities. It should be noted however that the government had prioritized geothermal resource assessment that culminated in creation of GDC and thus detailed wind resource assessment development was yet to be undertaken at that time.

v. It then follows that Sections 2 (b) and 74 of the repealed Public Procurement and Disposal Act, 2005 and Section 3 (2) of the Public Procurement and Disposal (Public Private Partnerships) Regulations, 2009 were not applicable herein.

6. Details of the Government's commitment to the project and the Sovereign Guarantee to cover Political Risks and payment defaults by KPLC:

- i. Having ascertained that the project area had a huge potential for power generation and the generation tariff was lower than the maximum set in the Feed-In-Tariff Policy, the Ministry decided to support the project.
- ii. The Sovereign guarantee was not given; instead, a Government Letter of Support (GLoS) was given to the project lenders. Issuance of this type of letter had been done to all IPPs previously. These IPPs included Tsavo Power, OrPower 4, Rabai Power, Thika Power, Gulf Power and Triumph Power.
- iii. The Letter of Support (LoS) covered political risks including but not limited to acts of war, foreign invasion, insurrection, change in law and/or change in tax, riots civil disturbances, failure by GoK to meet its obligations under the LoS and Force Majeure affecting KPLC. Under the LoS the government is also required to pay claims by LTWP for GoK TI Delay DGE and GoK TI Interruption DGE.

7. The basis of the three amendments to the Power Purchase Agreement (dated 29th September, 2011; 14th September, 2012; and 13th May, 2013) and the rationale of two additional variations of 31st July, 2014 and 19th September, 2017:

- i. LTWP entered into a PPA with KPLC on 29th January 2010. The PPA was amended through agreements dated 29th September 2011, 14th September 2012 and 13th May 2013 to address various issues as tabulated below:
- ii. Summary of PPA Variations:

Item	Variation	Justification for Variation	Correspondences
1	Dated 29 th September 2011	Change in security package being provided to LTWP by KPLC and GOK Recognition that the Transmission Interconnector (TI) is being developed, owned and operated by KETRACO. To increase the energy charge rate and review the energy threshold, set out in the original PPA, in view of the increase in total costs for the project since the execution of the original PPA.	Instrument of Approval issued on 2 nd September 2011
2	Agreement dated 14 th	Addition of a Condition Precedent that 90 days will have expired from the issuance by	Instrument of Approval issued

8. Why implementation of the project was not suspended as per the World Banks advisory

i. The Government position was at variance with the World Bank's views and therefore progressed with the project considering its socio-economic impact to the country.

ii. The Ministry of Energy and other key stakeholders of the project were convinced that the project was viable and as a result proceeded to engage African Development Bank (AfDB) for the issuance of a Partial Risk Guarantee (PRG) instrument for the project. The AfDB was convinced of the bankability of the project and went ahead to not only issue the Partial Risk Guarantee (PRG) but also a senior loan to the project.

iii. The reasons for World Bank's withdrawal from the project are contained in a letter dated 6th October 2012 that was addressed to the Permanent Secretary, Ministry of Finance and copied to the Permanent Secretary, Ministry of Energy among others. The following are details of the World Bank concerns and the reasons why the Ministry did not agree with them:

a) **The large size of the plant could impact on the reliability of systems supply and advised that the power plant should be developed gradually in smaller lots of (50-100MW).**

The project would not have made any financial and technical sense to wheel 50-100MW of power over a distance of 428km through a 400kV line. Power losses would be very high and the consumer tariff would also be high.

The Ministry has been vindicated as injection into the national grid of the entire 300 megawatt of wind power daily by LTWP has not had any negative impact on the power system stability and reliability. If anything, it has helped to substantially reduce the amount of Heavy Fuel Oil (HFO) used daily to fire Medium Speed Diesel (MSD) power plants in the Nairobi Metropolitan. These Medium Speed Diesel (MSD) Power Plants have a combined capacity of 300MW of firm power.

b) **The take or pay obligations in the PPA exposed KPLC to unacceptable high financial risk.**

Take or pay clause is well established and widely used clauses in Power Purchase Agreement (PPAs) across the world. Kenya is considered the most successful in development of IPP in sub Saharan region, because of its balanced PPA structure, and its longevity in usage since 1997.

Energy projects take place over long periods, potentially 20 to 30 years, and usually require loans to finance them. These clauses are effectively designed to protect the generator in this case LTWP by providing a guaranteed income even if the purchaser

of EURO 46,000,000 (Euro Forty-Six Million) before 31st August 2017, which was to cover debt obligation to Lenders;

c) To compensate for the difference between the lumpsum payment of EURO 46,000,000 and the actual GOK Initial TI Delay DGE for the period from 15th May 2017 to 31st May 2018 (i.e. EUR 127M), LTWP agreed to receive a tariff increase of EURO 0.00845 per kWh (“DGE Recovery Period Tariff”), which was to be paid by KPLC /GOK during the period from 1st June, 2018 to 31st May 2024 (“DGE Recovery Period”); and

d) Any TI Delay beyond 1st June 2018 would result in LTWP being paid GOK TI Delay DGE in the normal manner.

e) In view of the foregoing, during the period between 15th May 2017 upto the time the TI Operation occurred (in this case 10th September 2018), the following amounts which were due and payable to LTWP, were transferred to KPLC by Ministry of Energy for onward remission to LTWP - being GOK TI Delay DGE Payments as per the PPA.

Table 1: Amounts Transferred from MOE to KPLC

<i>Financial Year</i>	<i>Date</i>	<i>Amount Paid (Kshs)</i>
2017/2018	6th Sept 2017	5,658,690,000
2017/2018	June 2018	1,160,000,000
2018/2019	12th Sept 2018	1,422,972,444
2018/2019	7th Nov, 2018	897,027,556
2019/2020	31 st July 2019	1,160,000,000
TOTAL		10,298,690,000

Committee Observations

The Committee made the following observations:

1. The Lake Turkana Wind Power has a project term of 20 years from full commercial operation date.
2. The project had a construction security in the form of a performance bond amounting to Euro 10 Million to protect KPLC against the risk of delays in construction of the power plant or failure to commence construction by the required start date.

MINUTES OF THE 29TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD ON THURSDAY 24TH MARCH, 2022 IN THE COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS AT 10.30 A.M.

PRESENT

1. The Hon. Abdullswamad Sharrif Nassir, MP (Chairman)
2. The Hon. Ahmed Abdisalan Ibrahim, MP (Vice chairman)
3. The Hon. Esther Muthoni Passaris, MP
4. The Hon. Omar Mohamed Maalim Hassan, MP.
5. The Hon. Paul Kahindi Katana, MP
6. The Hon. Joshua Kipyegon Kandie, MP
7. The Hon. Raphael Bitta Sauti Wanjala, MP
8. The Hon. Teddy Mwambire, MP
9. The Hon. Mohamed Hire Garane, M.P
10. The Hon. Thuku Zachary Kwenya, M.P
11. The Hon. Mishi Mboko, MP

ABSENT WITH APOLOGY

1. The Hon. Rashid Kassim Amin, MP
2. The Hon. Julius Kibiwott Melly, MP
3. The Hon. Babu Owino Paul Ongili, MP
4. The Hon. Tom Joseph Kajwang, MP
5. The Hon. Mathias Nyamabe Robi, MP
6. The Hon. Rahab Mukami Wachira, MP
7. The Hon. Mary Wamaua Njoroge, MP
8. The Hon. James Kamau Githua Wamacukuru, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|------------------------|---|-------------------------|
| 1. Mr. Evans Oanda | - | Senior Clerk Assistant |
| 2. Mr. Mohamed Boru | - | Second Clerk Assistant |
| 3. Mr. Sidney Lugaga | - | Legal Counsel |
| 4. Mr. Job Oaga | - | Audio Recording Officer |
| 5. Mr. Cyrille Mutali | - | Fiscal Analyst |
| 6. Mr. Moses Musembi | - | Sergeant-at-Arms |
| 7. Mr. Abdimalik Ahmed | - | Intern |

IN ATTENDANCE

- | | | |
|--------------------------|---|------------------------------------|
| 1. Mr. Fredrick Odhiambo | - | Deputy Auditor General |
| 2. Mr. Edwin Murimi | - | Inspectorate of State Corporations |

MIN/PIC/2022/170: PRELIMINARIES

The Chairperson called the meeting to order at fifty-seven minutes past ten O'clock

9. Vide a letter ref.MOE/3/1(44) dated 3rd February, 2022, the ministry of Energy wrote to the National Treasury indicating that the details of the bank account for refund of excess DGE payment made to LTWP Ltd. that had been provided to the company were insufficient and the amounts remitted had been bounced back. The correct account has since been provided and the National Treasury has confirmed receipt of the same.

Committee Observations

The Committee made the following observations:

1. The Legal opinion by the Attorney General was not an opinion on the Purchase Power Agreement between LTWP Ltd. and Kenya Power but an opinion on the Government of Kenya Letter of Support issued to Lake Turkana Wind Power Limited for the LTWP project.
2. The Attorney General has been reviewing PPAs between Kenya Power and Independent Power Producers after they have been signed.
3. The Ministry of Energy is in negotiations with IPPs with a view to review the signed PPAs. State Counsel from the Attorney General's office have been seconded to the Ministry to assist in the review.
4. KETRACO Management stated that they did not appraise the Ministry of Energy and Kenya Power on the addenda to the contract with M/s Isolux for the transmission interconnector. The variations had extension-of-time elements which would eventually lead to incurring the Deemed Generated Energy charges.
5. The three addenda were signed by the former KETRACO CEO Eng. Joel Kiilu and the former KETRACO Company Secretary, Mr. Duncan Macharia. There was no confirmation whether KETRACO Board had approved the three addenda.
6. The technical evaluation for the bidders of the transmission interconnector undertaken by KEMA on behalf of Lake Turkana Wind Power Limited ranked M/s Isolux Corsan lowest with a score of 56.9%. Two other companies had a lower financial score with bids lower than Isolux's bid.
7. The report further noted that the final ranking would be determined by LTWP Limited which was a conflict of interest since the company stood to benefit from DGE if the transmission line was not completed in time.
8. Despite the financing agreement between the Spanish and Kenyan Governments prioritizing Spanish companies for the construction of the transmission interconnector, Isolux was not the highest ranked Spanish company. M/s Elecnor, another Spanish company that bid for the contract had a technical evaluation score of 75.6% compared to Isolux's score of 56.9%.
9. KETRACO was not involved in the procurement of M/s Isolux. The procurement was undertaken by Lake Turkana Wind Power Limited and KEMA on behalf of KETRACO, a clear conflict of interest.

Appendix 1

MANAGING DIRECTOR'S OFFICE

TELEPHONE: 243368
TELEGRAMS
'ELECTRIC' NAIROBI
FAX: 250067
P.O. BOX 30099-00100
NAIROBI, KENYA.



The Kenya Power & Lighting
Co. Ltd.

STIMA PLAZA
KOLOBOT ROAD
PARKLANDS, NAIROBI
KENYA

KPLC1/7/6C/JMK/enm

February 10, 2009

Mr. Christopher Staubo
Director
Lake Turkana Wind Power Limited
P.O. Box 63716 - 00619
NAIROBI

Dear *Christopher,*

**RE: CONSTRUCTION OF 426 KM 400KV DOUBLE CIRCUIT TRANSMISSION LINE
LOYIANGALANI TO SUSWA - STEERING COMMITTEE**

Reference is made to your letter dated 28th January 2009 regarding the above mentioned.

The following staff from KPLC have been appointed to be members of the Steering Committee (Task Force) for this project.

1. Mr. David Mwangi
2. Mr. Joel Kiilu
3. Mr. Sammy Muita
4. Mr. Peter Gitura
5. Mr. Erastus Kirunja

Please let us have a list of the members from Lake Turkana Wind Power Limited. We are also proposing a meeting of this committee on 16th February 2009, 2.30 pm at the KPLC offices.

Yours

JN
**ENG. JOSEPH NJOROGE, MBS
MANAGING DIRECTOR & CEO**

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Appendix 2



MINISTRY OF INDUSTRY,
TOURISM AND TRADE
OF SPAIN

SECRETARÍA DE ESTADO DE INDUSTRIA,
TURISMO Y COMERCIO
DIRECCIÓN GENERAL DE POLÍTICA
COMERCIAL Y DE INVERSIÓN
THE DIRECTOR GENERAL FOR
TRADE AND INVESTMENT
Antonio Sánchez Bustamante

Mr. Joseph Kinyua
Permanent Secretary
Ministry of Finance
P.O Box 30007 - 001100
Nairobi
Republic of Kenya

Madrid, 9th October 2009

Dear Sir,

With respect to the Bilateral Financial Cooperation Agreement between the Ministry of Finance of the Republic of Kenya and the Ministry of Industry, Tourism and Trade of the Kingdom of Spain, I am glad to inform you that the Government of Spain is willing to financially support the construction of the electric infrastructures of the Lake Turkana Wind Power Project.

We have been informed that several Spanish companies are participating in the international competitive tender called by Lake Turkana Wind Power Limited for the Transmission Project (lot 2 "400/33kV substation Loyangalani, 400/220kV substation Suswa including SCADA" and lot 3 "400kV transmission line from Loyangalani to Suswa, 220kV tie in at Suswa").

Therefore, we would like to offer financial support for this project on the following terms and conditions:

- Maximum amount of 80 million euros under the following conditions:
 - o 50 million euros concessional loan available from the Spanish "Fondo de Ayuda al Desarrollo" (FAD).
 - o 30 million euros commercial export credit with official support from CESCE (Spanish Export Credit Insurance Company), under OECD Consensus conditions.

- The financial conditions for the 50 million euros concessional loan would be:
 - o Repayment Period: 30 years
 - o Grace Period (included in the repayment period): 10 years
 - o Rate of interest: 1.12

The former financial terms could be improved if the Government of Spain is granted a preferential price regarding the Certificates of Emission Reduction (CERs) generated by the Lake Turkana Wind Power Project.

The final agreement on this loan will require the Sovereign Guarantee of the Republic of Kenya.

This financial facility could be used to finance either lot 2 or lot 3, or both, provided that a Spanish company is awarded the lot in the international competitive bid.

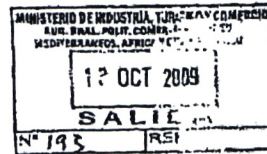
e-mail: d.gcominter@mc.es

PASEO DE LA CASTELLANA, 132
28046 MADRID (SPAIN)
TEL: 91 3482888
FAX: 91 3460008



The use of this financial facility should respect all the conditions established in the Bilateral Financial Cooperation Agreement. Therefore, the local cost and foreign component of goods and services of the projects financed under this facility will respect the limits specified in article 2.4.

With the assurances of highest consideration,



Appendix 3

**TERMS OF REFERENCE FOR
LTWP/KPLC TASK FORCE
FOR A 426KM, 400KV DOUBLE CIRCUIT
LINE FROM LOYANGALANI TO SUSWA.**

Preamble:

Lake Turkana Wind Power Ltd (LTWP) has proposed to erect a 300Mw Wind Farm (the Project) to be located near Loyangalani, in Laisamis District (Marsabit), on a piece of land comprising 150.000 acres leased by LTWP from the County Council of Marsabit for this purpose. The studies carried out by LTWP and verified by independent wind energy consultants since 2005 prove the viability of the Project. Following through on this, and with the support of the Ministry of Energy, LTWP has been negotiating a Power Purchase Agreement (PPA) with the Kenya Power and Lighting Corporation (KPLC) to sell/purchase the energy which will be produced by the Project. The negotiations are at an advanced stage and execution of the PPA is expected shortly and upon clearance from the Cabinet Sub-Committee on Infrastructure.

The major critical path for the Project implementation is the erection of a 426 km, 400 kv double circuit Transmission line from the Project site (Loyangalani), to the selected grid interconnect point at Suswa.

The Ministry of Energy of Kenya (MOE), KPLC and LTWP have held extensive meetings on the matter and have concluded that the Transmission Line should be built under a Build Own Operate and Transfer (BOOT) basis.

LTWP has been requested by MOE (vide their letter ref: ME/CONF/3/2/73A dated 16th January 2009) to take charge of the Transmission line erection from design to construction. By the same authority, MOE has instructed LTWP to work under the supervision of KPLC who is to evaluate and endorse every stage of the design to erection process also on behalf of MOE.

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LTWP and KPLC realize the importance of completing the erection of the Transmission Line by June/July 2011 in conjunction with the start-up of the Wind Farm envisaged for the same date above.(the Objective)

In view of the task before them, the Parties have jointly recommended the creation of a Task Force comprising specialists from LTWP and KPLC, vested with the authority to lead, obtain all necessary consents and approvals and complete all the stages required to achieve the Objective.

LTWP and KPLC have already agreed and nominated the members of the Task Force, these are:

For KPLC:

- 1) Mr. David Mwangi
- 2) Mr. Joel Kiilu
- 3) Mr. Sammy Muita
- 4) Mr. Peter Gitura
- 5) Mr. Erastus Kirunja

For LTWP:

- 1) Mr. Carlo van Wageningen
- 2) Mr. Christopher Staubo
- 3) Mr. Ed Schike
- 4) Mr. Willem Dolleman
- 5) Mr. Nick Taylor

The purpose of the present document is to outline in detail the responsibilities and tasks to be carried out by the Task Force:

Terms of Reference:

The task Force will be responsible for all the process involved in ensuring the timely delivery of the Transmission Line in order to avoid a situation of stranded assets, in particular this includes:

1) Review, confirm and approve the work this far carried out on the Transmission Line by LTWP, namely:

- a) Route survey
- b) Route selection
- c) Transmission Line design
- d) Transmission Line BQ
- e) Proposed sub-stations as designed by KEMA
- f) Proposed Switching stations
- g) Invitation for Expression of Interest
- h) Tender document as Proposed by KEMA for both Transmission Line and sub-stations.

2) Assign and time the remaining works to be carried out by a qualified Surveyor Company, namely:

- a) Topographical Survey and cartography of the Transmission Line route
- b) Wayleaves acquisition
- c) Soil investigation
- d) Pegging
- e) Bush clearing

3) Select the best option on the proposed Financial Structure recommended by LTWP and KPLC, in order to meet the Objective, including where necessary obtaining the necessary GoK support for the financing structure.

4) Obtain all necessary approvals from each of the Parties' respective Boards and any other parties that may be required including but not limited to the MoE, KETCO and the MoF, for the entering into of any contract or agreement that shall form the basis of the Project;

5) Obtain all necessary approvals, consents and endorsements required to enter into and execute the concession agreement for the eventual transfer of the TransCo to KETCO / KPLC.

4) Shortlist qualified contractors to be invited to bid for the Tender

5) Evaluate bids submitted by the shortlisted qualified contractors and select the winning bid

6) Award the Contract.

7) Select and assign external independent advisory be it legal, technical or other as may be required and where such expertise is not available within LTWP and/or KPLC

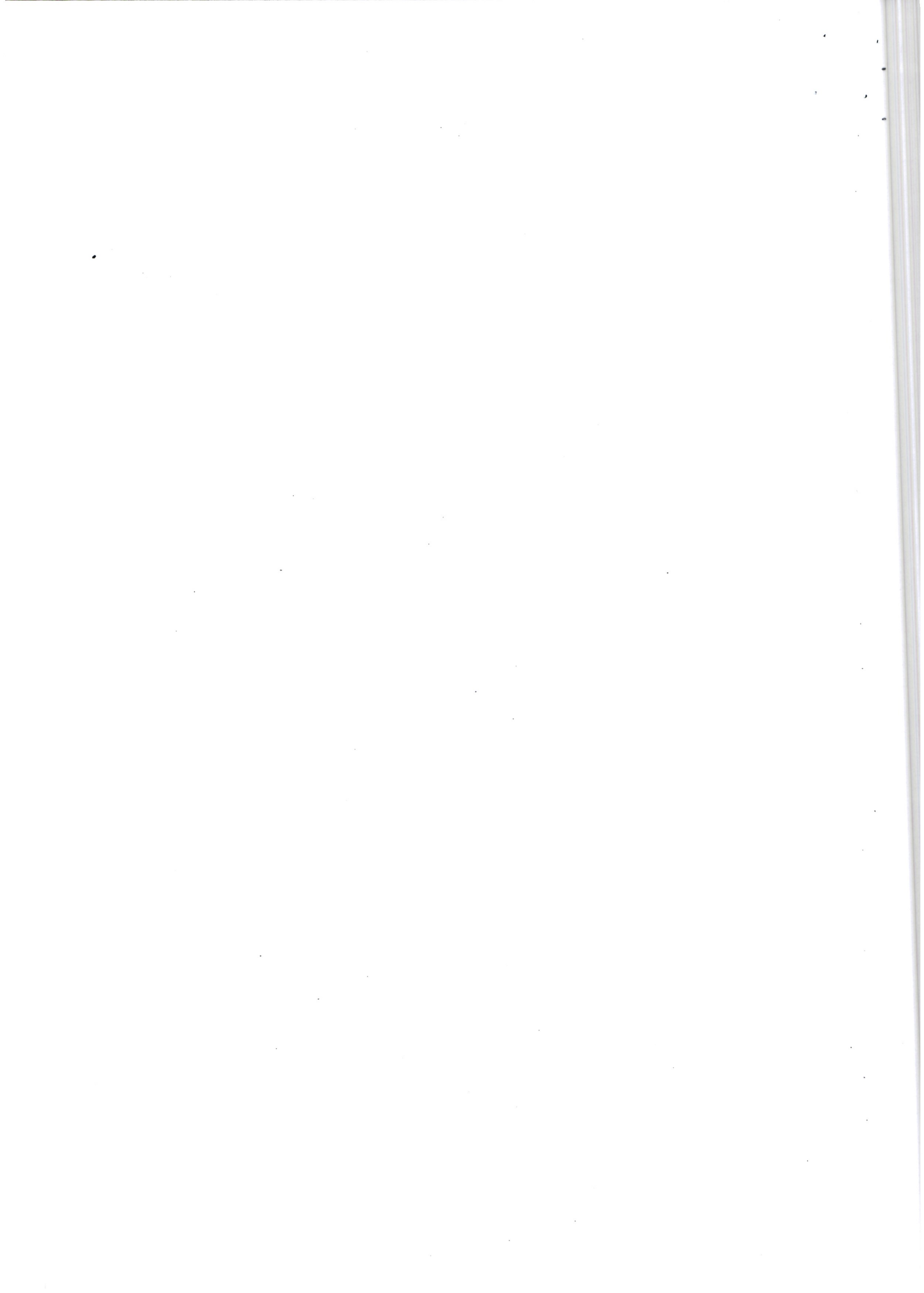
8) Minute all proceedings of meetings and copy the same to the Permanent secretary of MOE, the Managing Director of KPLC and the Legal Advisors of LTWP and KPLC

9) Supervise all stages of the Transmission Line and Sub-stations erection or assign the same to a an agreed third party

10) Perform any other task that the Task Force may be called upon to perform to ensure a smooth process to achieve the Objective.

1800

Appendix 4



MANAGING DIRECTOR'S OFFICE

TELEPHONE: 243366
TELEGRAMS:
'ELECTRIC' NAIROBI
FAX: 250067
P.O. BOX 30099-00100
NAIROBI, KENYA



The Kenya Power & Lighting
Co. Ltd.

STIMA PLAZA
KOLOBOT ROAD,
PARKLANDS, NAIROBI
KENYA

Our Ref: KPLC1/2/4/1K

4th June, 2009

Christopher Staubo
Director
Lake Turkana Wind Power
P.O. Box 63716
NAIROBI

Dear *Christopher,*

DEVELOPMENT OF A 300MW WIND POWER PLANT NEAR LAKE TURKANA AND ASSOCIATED TRANSMISSION LINE

We refer to the negotiations held between KPLC, Lake Turkana Wind and the Ministry of Energy on your proposal for the development of a 300MW Wind Power Plant near Lake Turkana in Marsabit District. Following the negotiations, Parties agreed on a tariff of Euro Cts 7.22/kWh for the energy to be generated from the plant, subject to approval by the Government.

We are pleased to inform you that the Government has approved development of the plant. Further, the Government has decided that Lake Turkana Wind develops the 400kV 428 km transmission lines from Laisamis District to Suswa, Naivasha District which is necessary to evacuate the power from the plant on a BOOT basis.

We now expect parties to work diligently on the Project so as to complete the Power Purchase Agreement within the shortest time possible. The KPLC team is reviewing the draft PPA and will revert to you by end of next week.

Yours

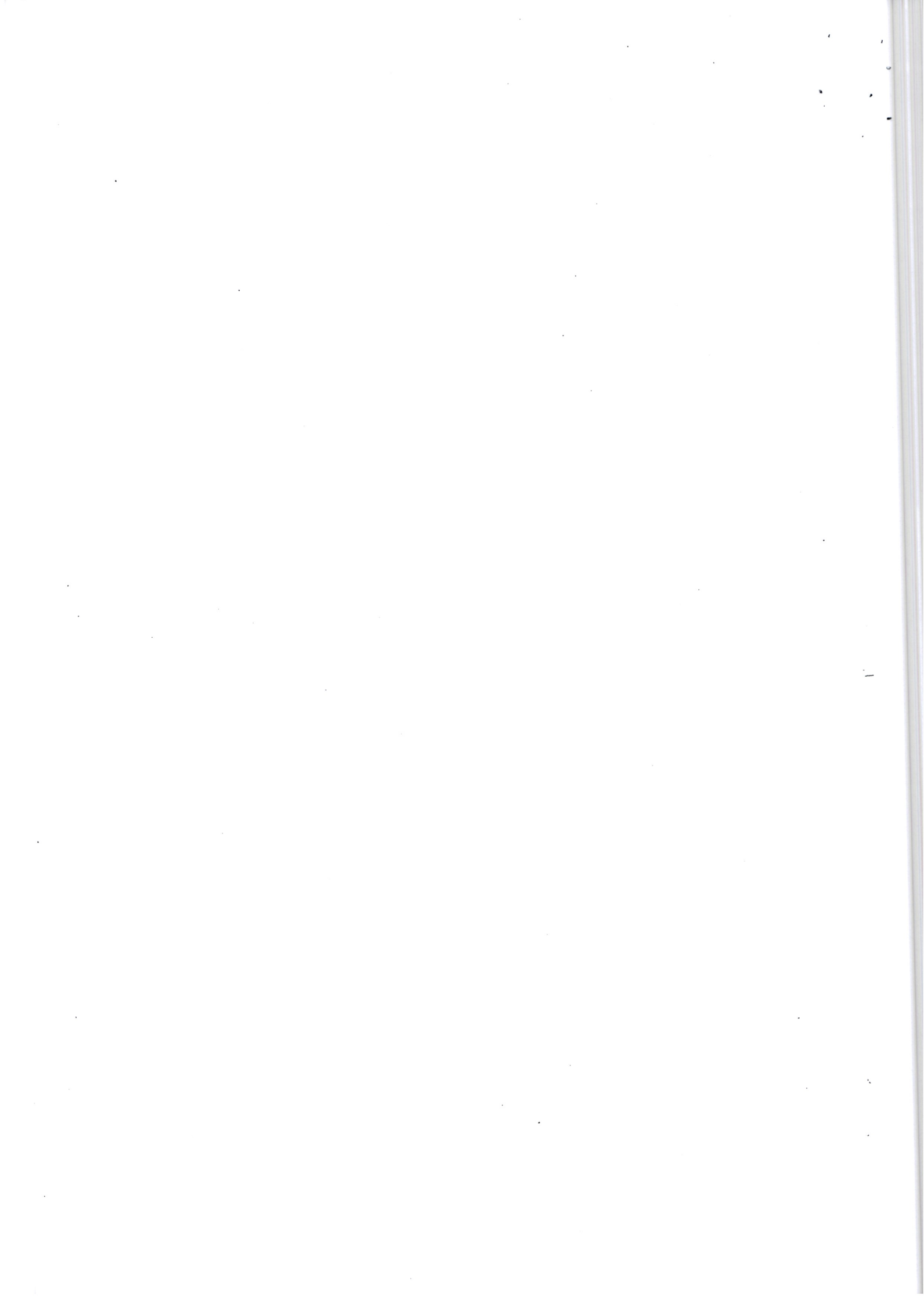
Sincerely,

J.J.

**ENG. JOSEPH NJOROGE, MBS
MANAGING DIRECTOR & CEO**

10-11-17

Appendix 5





30813134-Consulting 09-2700

**Lake Turkana Wind Power Project
Lot 3: Transmission lines**

Technical tender evaluation report

Arnhem, 6 January 2010

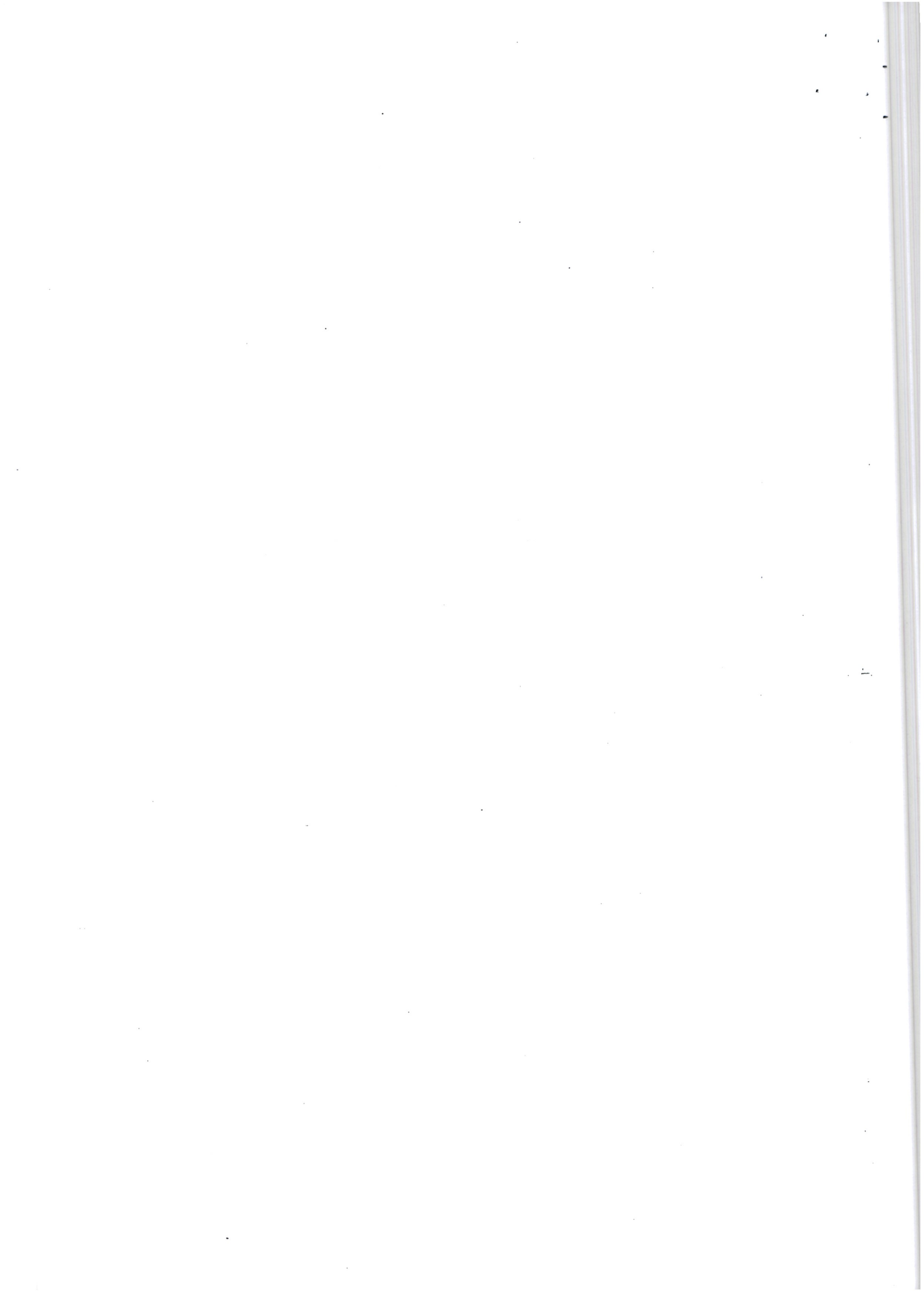
By order of Lake Turkana Wind Power

author : A.J.H. Linssen/J.F. Groeman

reviewed : W.G. Kuijpers

B 40 pages 0 annexes JFG

approved : K.J. van Oeveren



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1 INTRODUCTION

1.1 Background

LAKE TURKANA WIND POWER (LTWP) is a company incorporated in Kenya (East Africa) to develop energy sources from wind. The Lake Turkana region in Kenya has great potential of wind power generation and the proposed wind farm is situated in South Horr Marsabit District, approximately 500 km from Nairobi, the capital city of Kenya. LTWP intends to install 365 wind turbine generators with an installed capacity of 850 kW each, total 300 MW. For collecting the generated power at the wind turbines and transfer the power to the transmission grid in southern Kenya overhead lines and substations need to be constructed.

The generated power will be stepped up at each wind turbine to 33 kV, collected at 33 KV level and then stepped up to 400 kV. A 400/33 kV substation called "Loyangalani" shall be erected at the Lake Turkana wind farm.

A 400 KV Double Circuit line from Loyangalani substation to the central grid in southern Kenya having an approximate length of 426 km needs to be constructed. The 400 kV line will terminate at a 400 KV substation "Suswa" planned near the town of Suswa/Longonot, about 70 km North-West of Nairobi. The power received at the 400 kV substation "Suswa" will be transformed to 220 kV and released into the Extra High Voltage (EHV) network of KPLC.

Temporarily, the power will be transmitted at 220 kV level, with line insulation levels and other provisions present to enable future conversion to 400 kV operation.

LTWP has invited tenders on behalf of Kenya Light & Power Co (KPLC) in accordance with the agreement of the Special Task Force that has been established between the two Parties to facilitate this process. LTWP has split the transmission project into 3 Contract Lots:

- Lot 1: Electrical infrastructure at the LTWP wind farm, consisting of the wind farm 33 kV grid and the collection busbar at Loyangalani
- Lot 2: 400/33 kV substation Loyangalani, 400/220 kV substation Suswa including SCADA
- Lot 3: 400 kV transmission line from Loyangalani to Suswa, 220 kV tie in at Suswa

This report gives the results of the Lot 3 Tendering process and the technical evaluation report. The financial evaluation has been carried out by KPMG and is not in scope of this report.

1.2 Course of the tender procedure for Lot 3

Prior to the tendering process, KPMG has requested for expressions of interest for each of the Contract Lots. KPMG has carried out this prequalification of tenderers resulting into the following 7 pre-qualified bidders for Contract Lot 3:

- Cobra/Chidhiya
- Elecnor
- Isolux
- Jyoti
- Kalpataru
- KEC
- Transrail/Gammon.

The tendering procedure has been executed according to FIDIC Tendering Procedure, second edition 1994.

The tender package has been compiled by KEMA and reviewed by the KPLC/Ketraco/LTWP Task Force. Final approval by KPLC/Ketraco/MoE to issue the tenders has been received in the Task Force Meeting no. 9 of 3 July 2009¹.

KEMA has co-ordinated the tendering process and issued invitations and the complete set of specifications to tender on 10 July 2009 to all 7 bidders. The tenders had to be submitted into separate sealed parts: technical and financial envelopes.

During the tendering process, the following tender bulletins were issued:

- TB 6, 8, 9, 10 regarding the submission of tenders (e.g. closing date, details of the tender opening, evaluation methodology)
- TB1, 2, 3, 4, 4a, 5 and 7, concerning technical, financial and legal clarifications and amendments to the tender package

The tender closing date was set for Monday 19 October 2009.

Five companies have timely submitted a tender:

- Elecnor, Spain
- Isolux Corsán, Spain
- Kalpataru, India
- KEC, India

¹ Minutes of meeting 2



- Transrail/Gammon, India.

The technical tender opening has taken place on 19 October 2009 at KPMG in presence of LTWP, KPLC, Ketraco, KEMA and Lot 3 bidders who had submitted a bid. A presence list is enclosed.

KEMA has received one copy of the technical envelopes and one set of CDs with technical information only from each tender for evaluation at the KEMA offices in Arnhem, The Netherlands.

After the initial technical evaluation, the financial tender opening has taken place on 20 November 2009 at KPMG in presence of LTWP, KPLC, KEMA an LTWP financing party, the Lot 3 bidders who had submitted a bid. One Lot 2 contractor, who had been deemed non-responsive, was not present. After the opening of the Financial envelopes KEMA received also a CD-rom of the financial proposal of each tenderer in order to do necessary evaluation if required.

In the initial evaluation, it was found that all tenderers have given very little information on the actual project design and the approach for execution. Therefore it was decided to issue one request for clarification to all the tenderers on 1st December 2009, in order to get better information on the system approach, the design process, the execution and logistics considerations of the tenderers.

1.3 Evaluation Lot 3

1.3.1 General

The tender evaluation has been split into separate technical and financial evaluations, carried out by KEMA and KPMG, respectively. The results of these evaluations will be joined into a final ranking by LTWP. The scope of this report is the result of the technical evaluation.

In KEMA a group of engineers/specialists, also responsible for the specifications, has technically evaluated the submitted tenders. This evaluation has been performed based on an evaluation matrix system, prepared prior to the receipt of the Tenders. The full procedure is described in Tender Bulletin # 9 which is attached.

After receipt of the Tenders, a check on completeness and responsiveness has been executed. From this first evaluation it was concluded that all five tenders submitted are

responsive for the technical part. The responsiveness for the financial envelope would be determined by KPMG.

In the next sections the technical evaluation of each individual tender will be described in detail. The deviations will be discussed and points of interest for the contract negotiations will be given.

1.3.2 Evaluation aspects

All technical evaluations will contain the following aspects:

- General information on the Tenderer
- General impression on Tender completeness and responsiveness
- Availability of overall project documents e.g. Project Plan, Planning, HS&E plan, Quality Plan
- Approach for the project execution, e.g. planning, manpower, heavy equipment, logistics, security.
- Technical description of the project, e.g. system approach, studies to be executed, design
- Proposed and described components

Conclusions:

- Score table
- Points of interest for contract negotiations
- Deviations to the scope

1.3.3 Scoring system, monetary value of deviations

Each item in the tender documents will be scored. The score bidders receive for each item will depend on the degree that they fulfil the requirements for that particular item. When they fully comply with a clause the item gets a 10, the 100% score. If they don't or just partly comply they get a representative part of the percentage.

The score on all items will be weighed to determine the total score. An evaluation form in XLS format has been filled in for each bidder separately. The sum of several individual requirements have been weighted again in comparison to other summed clauses within the system. A third level weighing is available for systems within the total contract lot. The weigh factor approximately reflects the economical interest of the respective sub-topics. Because of



the large number of evaluation items and the implemented weigh factors, misjudgement of one item hardly influences the overall score.

In this way an objective and transparent, clearly weighted evaluation is possible, giving the required level of importance to each sub-system/system/equipment.

In the final ranking (see Common evaluation procedure and ranking), the final price for each proposal will be adjusted for its technical score by determining the monetary value of technical deviations at a percentage of $100\% - S_{\text{tech}}$ of the "Corrected Lump Sum Price" (see below). Example: one gets 95% score S_{tech} . The monetary value of technical deviations will then be calculated as +5% of the average "Lump Sum Price".

This monetary value of deviation is in some cases quite a large sum, due to the relatively low score of the tenderers evaluation. This monetary value of deviations is not only to be seen as the "defective" amount of money required to compensate scope of supply deviations in the Tender. Due to lack of information or unclarity of the information given, it cannot be excluded that there might be apparent deviations in the scope. During contract negotiations these unclaritys will be discussed and in many cases these deviations are not apparent or can be included into the contract without additional costs. Using this approach it is very likely that the contract can be awarded with minimal increase of the initial lump sum price, because too large increase (the lump sum is higher than the next best) would implicate that negotiations with the second in line would have to be started.

2 ELEC NOR, SPAIN

2.1 General impression of Tender issued

The Tender was issued in 1 volume and a CD rom with the information in digital form. The information was properly structured and was in accordance to the CD-rom. On the CD-rom no content description was found.

2.2 Project documents

Most of the requested project documents are present and give a good overview of the project organisation.

The resumés show a good mix of expertise and young people. Most of the personnel has been with Elecnor for quite some time.

The HS&E plan seems a standard product that will need to be tailored to the project. This is a good approach since in this way the HS&E precautions will be universal over all the projects and this is easiest to maintain for both the workers as well as the HS&E officers.

Elecnor has not delivered a maintenance plan.

2.3 Design approach

There is adequate design for the civil construction proving that Elecnor is able to do the design work properly.

There is adequate tower design, including mechanical load calculations and drawings proving that Elecnor is able to do the design work properly.

Elecnor does not state to submit design reports for approval to the Engineer in due course. There is no proof that Elecnor will execute the insulation co-ordination study required. The insulators are already determined. This is a point of attention.

2.4 Execution approach

2.4.1 Planning

The planning chart shows that after contract award the engineering and design will be executed in three months. For the approval a period of 2,5 months is defined. Both durations are considered adequate.

Elecnor will need 18 months after contracting for the execution of the complete project, which is in line with the requirements

2.4.2 Logistics

Elecnor will work from 2 base camps. It is not clear how many teams there will be along the the line.

Elecnor has done a quick scan on the possibilites for camps and logistics. They have evaluated possible transport routes from Mombasa to Suswa and up to Lake Turkana. A commitment for a more detailed logistic plan is made after contract-award.

2.4.3 Workflow

Elecnor doesn't give a detailed description of the execution workflow.

2.4.4 Manpower and heavy equipment

The following forecast for manpower was issued by Elecnor. The total of all the manmonth forecasted by Elecnor is 6162. The number of 6162 manmonths considered low in comparison to the estimates of KEMA for this amount of work.

See appendix 1 for the Manpower forecast for Elecnor.

2.4.5 Security

Stores and Camps will be fenced and for guarding each camp will be supplied with 8 guards. Along the line, whenever Elecnor leaves tools and tackles and heavy equipments, separate security shall be deployed in the night time

2.5 Technical description of the components

Elecnor lists reputed manufacturers of components for line equipment. Not all the required data sheets have been completed. In case of contracting, the missing spaces should be completed.

Below find the scores for the individual equipments specifications.

Lot 3		Elecnor		Score
09-0311.3	Evaluation Part 3: System design			
09-0370	Conductor generic	5%	Elecnor	8,0000
09-0371	Conductor project specification	5%	Elecnor	8,0000
09-0372	Spacers Generic	5%	Elecnor	8,0000
09-0373	Spacers detailed	5%	Elecnor	7,0000
09-0374	Clamps and fittings generic	5%	Elecnor	7,0000
09-0376	Dampers Generic	10%	Elecnor	7,0000
09-0378	Fasteners Generic	10%	Elecnor	9,0000
09-0379	Steel	20%	Elecnor	8,0000
09-0383	Material clamps and fittings Generic	10%	Elecnor	8,0000
09-0684	Generic specification OPGW	5%	Elecnor	8,0000
09-0687	Groundwork and foundations	5%	Elecnor	5,0000
09-1013A	Generic insulator spec suspension	5%	Elecnor	8,0000
09-1014A	Generic Insulator spec Linepost	5%	Elecnor	8,0000
09-1058	Detailed specification for OPGW	5%	Elecnor	8,0000
0	subtotal control			

2.6 Scope deviations

Elecnor has clearly stated not to have any deviations to the scope or the specifications.

However, the following deviations were found:

- Elecnor does not state to submit design reports to the Engineer, among others regarding insulation co-ordination. The insulators are already determined.

2.7 Total technical score

The total technical score of Elecnor is 7,56 or 75,6% of the maximum score. This means the Technical Deviation is $100\% - 75,6\% = 24,4\%$. The table below shows how this is built up.



Overall		Weighing	Score	
	Part 0 - 1	9.15	10%	0.92
	Part 2	7.20	60%	4.32
	Part 3	7.75	30%	2.33
			100%	7.56

3 ISOLUX CORSÁN, SPAIN

3.1 General impression of Tender issued

The Tender was issued in a set of 3 volumes and a CD rom with the information in digital form. Volume 1 contains the most relevant material, the project description and the project documents. Volume 2 and 3 mainly contain printed matter on reference projects, the materials proposed and type test reports.

3.2 Project documents

The "Work Methodology" document gives a clear description of the project approach even though it is not mentioned in the index as such at all. This makes that it is not recognized as such in the beginning. It describes in detail the individual steps that are taken for the route survey, the tower spotting, the preparation and installation of the foundations, the earthing, the tower erection, installation of spacers and dampers, stringing, OPGW installation, testing and commissioning.

The project plan describes the organisational approach of the project. This doesn't contain too much detail. The resumés show one senior manager (1964) and many medior engineers (1975+) for the actual work. All personnel listed is Spanish or lives in Spain. Many of them work for Isolux Corsan (Cobra) for longer period. Some of them come from utilities or from other industries (e.g. ABB and Elecnor).

The HS&E plan is a standard plan that is tailored to the project. This is a good approach since in this way the HS&E precautions will be universal over all the projects and this is easiest to maintain for both the workers as well as the HS&E officers. For each activity in the process there is a chapter on the expected risk and how they are mitigated. Together with a chapter on general risk mitigation (e.g. working at heights, working near live parts...) it is a good start for the actual HS&E plan for the execution. The chapter "On Site Prevention Control" gives sufficient confidence that Isolux can execute work like this in a safe manner.

The comprehensive maintenance plan gives a complete description of how maintenance will be executed but the exact scope of the maintenance work and the interval of the activities for the Lake Turkana Wind Power transmission line is not given. The document is an overall maintenance handbook in this sense. It is unclear what can be expected when they are granted the maintenance contract.

3.3 Design approach

In the main proposal some design approach is given for the electrical parameters and the loading calculations for the towers. The civil design (foundations) is not detailed.

There are some tower and earthing typical drawings delivered. They give relatively little detail. There are a lot of detailed drawings for the individual components present but this all together doesn't give a good impression on the systems approach.

Isolux proposes a full connection as requested to the Suswa S/S. There is a principle drawing present of the proposed solution. This has to be detailed in the contract negotiations.

3.4 Execution approach

3.4.1 Planning

The gant chart planning shows that after contract award the initial engineering and design will be executed in three months. There is no time reserved for the approval of the drawings and correction of the flaws. This is a potential risk. Another concern is the fact that manufacturing is already in progress before the final design is approved.

The tower structures are not tested, this shall be negotiated.

The total planning is 18 months form project start to first powering up of the complete line. This is in line with the requested planning.

3.4.2 Logistics

Isolux hasn't given any detailed description of the approach for their logistics plan, not even after the clarification. This makes it hard to evaluate their approach and their ability to execute a project of this size and type.

3.4.3 Workflow

The Work Methodology as described under 3.2 gives a good impression on the workflow. There is some more detail given in the "Construction Work Plan" which was issued after the clarification round. Therefor the amount of detail given is hardly sufficient to do a thorough evaluation.

3.4.4 **Manpower and heavy equipment**

The following forecast for manpower was issued by Isolux. In the initial tender the total of all the manmonths forecasted was 16242. The forecast after the clarification round was increased to 17687. This is a slight manpower increase probably due to rounding and reallocation. The number of 17687 manmonths is higher than the estimated 9760 manmonths by KEMA for this amount of work.

See appendix 2 for the Manpower forecast for Isolux.

The listed heavy equipment, issued after the clarification round, seems reasonable for this amount of work.

3.4.5 **Security**

Isolux doesn't give any detail on the security emphasised for this project. It is only mentioned that Isolux will arrange "guarding and fencing".

3.5 **Technical description of the components**

Isolux proposes a number of possible manufacturers of components for line equipment. For each component several possible vendors are mentioned. No clear choice for one preferred vendor or equipment is made. Based on the proposed equipment specification and filled in data sheets the evaluation of the individual components information is done by KEMA specialist, in comparison to the specification.

The list below shows the evaluation score and the weighing of the components in the overall component score.

Multiple alternative offers (vendors/equipment) for the line components are given, which results into unclarity about the final delivery. On the other hand, data sheets for key components contain correct data and Kalpataru declares not to have any deviations to the specifications. It must be assured that the right equipment will be delivered.

Below find the scores for the individual equipments specifications.

09-0311.3.A		Lot 3	Isolux	Score	8,0500
		Evaluation Part 3: System design			
09-0370	Conductor generic	5%	Isolux	9,0000	0,4500
09-0371	Conductor project specification	5%	Isolux	9,0000	0,4500
09-0372	Spacers Generic	5%	Isolux	8,0000	0,4000
09-0373	Spacers detailed	5%	Isolux	7,0000	0,3500
09-0374	Clamps and fittings generic	5%	Isolux	7,0000	0,3500
09-0376	Dampers Generic	10%	Isolux	7,0000	0,7000
09-0378	Fasteners Generic	10%	Isolux	7,0000	0,7000
09-0379	Steel	20%	Isolux	9,0000	1,8000
09-0383	Material clamps and fittings Generic	10%	Isolux	8,0000	0,8000
09-0684	Generic specification OPGW	5%	Isolux	8,0000	0,4000
09-0687	Groundwork and foundations	5%	Isolux	9,0000	0,4500
09-1013A	Generic insulator spec suspension	5%	Isolux	8,0000	0,4000
09-1014A	Generic Insulator spec Linepost	5%	Isolux	8,0000	0,4000
09-1058	Detailed specification for OPGW	5%	Isolux	8,0000	0,4000
0		subtotal control			

3.6 Deviations

Isolux has given a long list of deviations to the tender specifications mentioned as "Scope of Works" and have not given a written statement that they fully comply to the specifications given.

For the Basic solution Isolux states that the offer satisfies all the requirements as per Employer's Specifications and is in accordance to tower quantities, foundations and preliminary route survey indicated by LTWP and that all costs will be adjusted as per real quantities at contract execution. This is a major deviation since the route survey and the foundation type and quantities information issued by LTWP in document 30813134 – Consulting 09-1703 was for information only. This is clearly stated in item 4 of that document.

It shall be clearly communicated that the project is to be executed as a lump sum project, that there is no possibility for claims due to changed quantities.

Other deviations that need clarification are:

- Connection between 400 kV TL dead-end tower and the Suswa S/S gantries shall be under Lot 2 contractor's scope.
- Connection between 400 kV TL dead-end tower and the Loyangalani S/S gantries shall be under Lot 2 contractor's scope.
- Connection between 220 kV LILO dead-end towers and Suswa S/S gantries shall be under Lot 2 contractor's scope.
- Water supply for civil works is not under Lot 3 contractor's scope.
- Water transportation and storage from Loyangalani to Site is under Lot 3 contractor's

scope.

3.7 Total technical score

The total technical score of Isolux Corsan is 5,69 or 56,9% of the maximum score. This means the Technical Deviation is $100\% - 56,9\% = 43,1\%$. The table below shows how this is built up.

Overall	Score per item	Weighing	Score
Part 0 - 1	8,18	10%	0,82
Part 2	4,10	60%	2,46
Part 3	8,05	30%	2,42
		100%	5,69

4 KALPATARU, INDIA

4.1 General impression of Tender issued

The Tender was issued in a set of 5 volumes and a CD rom with the information in digital form. The information was properly structured and was in accordance to the content description. There was clear reference from the printed files to the PDF documents on the CD-rom.

4.2 Project documents

Most of the requested project documents are present and give a clear overview of the organisation.

The resumés show a good mix of expertise, personnel that has been with Kalpataru for quite some time, but also new personnel from companies like KEC and Jyoti that have been in the active in the Tendering proces.

A complete project plan is missing, only some organisational charts are present.

The HS&E plan is clearly a standard document that is tailored to the project. This is a good approach since in this way the HS&E precautions will be universal over all the projects and this is easiest to maintain for both the workers as well as the HS&E officers. There is clear descryption on the roles and responsibilities for the various positions in the project team as well as a clear risk evaluation. The presence of procedures for fire fighting, site access, alcohol and housekeeping show that this plan is well prepared.

Kalpataru has delivered a comprehensive maintenance plan complete with description and the interval of the activities. This gives a clear overview of what can be expected when they are granted the maintenance contract.

4.3 Design approach

There is adequate design for the civil construction from which it shows that Kalpataru most likely is able to do the design work properly.

There is adequate tower design, including calculations and drawings proving that Kalpataru is able to do the design work properly.

Kalpataru proposes a T-connection at Suswa. This is not in accordance to the specifications of KEMA. Kalpataru can offer an other arrangement on request but the risks and the costs will have to be negotiated at forehand.

4.4 Execution approach

4.4.1 Planning

The gant chart planning shows that after contract award the initial engineering and design will be executed in five months. Inclusive approval this is an adequate period. There is potential risk in this. Another concern is the fact that the field work for the civil part and the construction are already in progress before the final design is approved and the tower structures are tested.

Initially Kalpataru would first install and commission one complete circuit. The second circuit would therefore have to be stringed while the first circuit is in operation. The HS&E plan doesn't pay special attention to this. A clear procedure for this shall be put into place.

In the planning issued with the clarification round the overall planning is shrunk from 24 months to 18 months and stringing is done in parallel. There has been a significant change in approach. The reasoning is certainly worth asking for.

4.4.2 Logistics

Kalpataru will be divided the line of 428 KM into 4 sections.

Section 1 : South Horr / Baragoi Terminal Tower to AP 7 – 113 KM :

Section 2 – Marlal AP 7 to AP 9 – 95 KM :

Section 3 – Rumaruti – AP 9 – AP 13 – 107 KM

Section 4 – Naivasha – AP 13 – Suswa Terminal Tower – 113 KM

Kalpataru has shown in its description of the approach after the clarification that they are well aware of the risk and problems in each of the mentioned sections. They treat every section as a separate project. All aspects like risk, problems in the terrain, logistics, security are well described for each of the sections.

4.4.3 Workflow

Kalpataru gives clear description of the execution workflow. This gives great confidence in their approach. It seems that the manpower forecast is well tuned to the workflow as

described.

4.4.4 **Manpower and heavy equipment**

The following forecast for manpower was issued by Kalpataru. In the initial tender the total of all the manmonth forecasted by Kalpataru was 19380. The forecast after the clarification round is down to 8986. This is a significant drop in manpower forecast that needs explanation. The number of 8986 manmonths is better in line with the estimations of KEMA for this amount of work.

See appendix 3 for the Manpower forecast for Kalpataru.

The listed heavy equipment seems reasonable for this amount of work.

4.4.5 **Security**

Kalpataru will keep stores and camps that will be fenced and measures for security will be taken. In the day time wherever necessary after Rumuruti, especially in the area of Baragoi/South Horr etc., each team will be accompanied by the security personnel. Along the line, whenever Kalpataru leaves their tools and tackles and heavy equipments, separate and security shall be deployed in the night time.

In Mugie area with the due approval from concerned authority and with the help of Forest Rangers Kalpataru shall divert the wild life to refrain from that region during construction.

Below you will find the score table with the weighing factors for the individual sections of the Part 2 documents, related to the scope of work and the overall system approach.

4.5 **Technical description of the components**

Kalpataru lists a large number of reputed manufacturers of components for line equipment. For each component several possible vendors are mentioned. No clear choice for one preferred vendor or equipment is made. Based on the proposed equipment specification and filled in data sheets the evaluation of the individual components information is done by KEMA specialist, in comparison to the specification.

The list below shows the evaluation score and the weighing of the components in the overall component score.



09-0311.3	Lot 3 Evaluation Part 3: System design	Kalpataru	Score	8,1500
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09-0370	Conductor generic	5%	Kalpataru	7,0000	0,3500
09-0371	Conductor project specification	5%	Kalpataru	7,0000	0,3500
09-0372	Spacers Generic	5%	Kalpataru	9,0000	0,4500
09-0373	Spacers detailed	5%	Kalpataru	9,0000	0,4500
09-0374	Clamps and fittings generic	5%	Kalpataru	9,0000	0,4500
09-0376	Dampers Generic	10%	Kalpataru	7,0000	0,7000
09-0378	Fasteners Generic	10%	Kalpataru	9,0000	0,9000
09-0379	Steel	20%	Kalpataru	9,0000	1,8000
09-0383	Material clamps and fittings Generic	10%	Kalpataru	7,0000	0,7000
09-0684	Generic specification OPGW	5%	Kalpataru	9,0000	0,4500
09-0687	Groundwork and foundations	5%	Kalpataru	6,0000	0,3000
09-1013A	Generic insulator spec suspension	5%	Kalpataru	8,0000	0,4000
09-1014A	Generic Insulator spec Linepost	5%	Kalpataru	8,0000	0,4000
09-1058	Detailed specification for OPGW	5%	Kalpataru	9,0000	0,4500
0	subtotal control				

Multiple alternative offers (vendors/equipment) for the line components are given, which results into unclarity about the final delivery. On the other hand, data sheets for key components contain correct data and Kalpataru declares not to have any deviations to the specifications. It must be assured that the right equipment will be delivered.

4.6 Deviations

Kalpataru has declared not to have any deviations to the tender specifications.

However, the following possible deviations were found:

- No insulation co-ordination study mentioned
- Tower design approval not mentioned
- Multiple alternative offers (vendors/equipment) for the line components are given, which results into unclarity about the final delivery
- The tie-in at Suswa offered (hard T instead of full tie-in) is not correct.

4.7 Total technical score

The total technical score of Kalpataru is 6,08 or 60,8% of the maximum score. This means the Technical Deviation is 100% - 60,8% = 39,2%. The table below shows how this is built up.



Overall	Score per item	Weighing	Score
Part 0 - 1	7,6	10%	0,76
Part 2	4,8	60%	2,88
Part 3	8,2	30%	2,45
		100%	6,08

5 KEC, India

5.1 General impression of Tender issued

The Tender was issued in a set of 4 volumes and a CD rom with the information in digital form. Volume 1 contains the most relevant material, the project description and the project documents. Volumes 2, 3 and 4 mainly contain printed matter on brochures, reference projects, the materials proposed, Quality handbook and type test reports. A clear index of the material delivered is missing on the CD.

5.2 Project documents

The "Project Approach" document gives a full description of the project approach. Even it describes in detail the individual steps that are taken for the route survey, foundation classification and proposed overhead line construction. The latter section is a comprehensive description of all the activities involved when constructing the transmission line, from foundation installation, through tower erection, stringing and OPGW installation. The testing and commissioning are not described here.

The project plan describes the organisational preparation of the project and doesn't contain too much detail. It's all pretty obvious what is described here.

From the "Project Organisation" description it shows that KEC will approach the project as 4 independent subprojects, each with it's own team, headed by 2 projectmanagers and one country manager for the overall project management. This assumption is confirmed by the description of the project approach after the clarification round.

The resumés show one senior manager (1956) and many medior engineers (1971+) for the actual work. All key personnel listed is Indian. Many of them have long working experience in KEC. It is remarkable that the country manager gained experience at KEC in Saudi-Arabia and worked for Kalpataru for 2 years.

The HS&E plan is a standard plan that describes the Health, Environmental Management Plan (HEMP) a methodology adapted by KEC. The document gives a description of the approach by KEC. The document is very general in its descriptions and doesn't contain detail of or relation to the construction of the transmission line. The theoretical approach is okay, the link to the practical execution cannot be found. A risk table for the project is missing.

There is no maintenance plan available. No spare parts were offered.

5.3 Design approach

Only after the clarification round it became clear that KEC is capable of doing the transmission line engineering and tower design themselves. In the document "DESIGN INFRA STRUCTURE & CAPABILITIES" KEC describes the approach and the software tools that KEC has in use for this kind of engineering work.

There are some minimal tower and earthing typical drawings delivered. They give relatively little detail. There are a lot of detailed drawings for the individual components present, like for all the tenderers, but this all together doesn't give good impression on the systems approach.

The KEC Tie-in at Suswa S/S is not described in much detail. It is unclear how this Tie-in will be realized. This has to be detailed in the contract negotiations to avoid additional costs in execution.

5.4 Execution approach

5.4.1 Planning

The total execution planning is now 16 months form project start to first powering up of the complete line. The engineering is not mentioned in the planning but is a clear item in the Work Plan issued. This is in line with the requested planning.

The Gant chart planning shows the first activity "Receipt of approved tower design drawings from client". It seems that KEC wants to "buy" project execution time by shifting the project start date to a day after the design is approved. This is certainly an issue to discuss in detail during negotiations.

There is no testing of the tower structures mentioned in the planning. It is mentioned in the Work Plan issued after the clarification round.

5.4.2 Logistics

KEC will supply the work from 4 camps and 5 subcamps. This is stated after the clarification round. The supply of the tower material will all be done from the KEC owned factories in India. KEC claims to have a large amount of standard material in stock. It shall be verified that this material is of the right quality. The special tower elements will only be released after approval. Components will be supplied by various worldwide vendors with which KEC claims

to have long lasting relationship. All other required raw material e.g. cement and sand will be purchased locally.

5.4.3 **Workflow**

There is no real description of the workflow as such. The amount of detail given is insufficient to do a thorough evaluation.

5.4.4 **Manpower and heavy equipment**

The following forecast for manpower was issued by KEC. In the initial tender the total of all the manmonth forecasted was 25545. The forecast after the clarification round has remained the same. This number of about 2.5 times the estimated 9760 manmonths by KEMA for this amount of work. KEMA thinks this needs reconsideration.

See appendix 4 for the Manpower forecast for KEC

The listed heavy equipment, issued after the clarification round, seems rather high too for this amount of work.

5.4.5 **Security**

KEC doesn't give any detail on the security emphasised for this project. It is only mentioned that KEC will arrange "Security Agencies to provide teams of armed guards, unarmed guards. We would also take assistance of local police as and when required".

5.5 **Technical description of the components**

Like all other tenderers KEC proposes a number of possible international vendors of components for line equipment. In volume 3 and 4 for each component several possible vendors are mentioned. No clear choice for one preferred vendor or equipment is made. Based on the proposed equipment specification and filled in data sheets the evaluation of the individual components information is done by KEMA specialist, in comparison to the specification.

The list below shows the evaluation score and the weighing of the components in the overall component score.

Multiple alternative offers (vendors/equipment) for the line components are given, which



results into unclarity about the final delivery. On the other hand, data sheets for key components contain correct data and KEC declares (like all the others) not to have any deviations to the specifications. It must be assured that the right equipment will be delivered.

Lot 3		KEC		Score
09-0311.3.	Evaluation Part 3: System design			
09-0370	Conductor generic	5%	KEC	7,0000
09-0371	Conductor project specification	5%	KEC	7,0000
09-0372	Spacers Generic	5%	KEC	7,0000
09-0373	Spacers detailed	5%	KEC	7,0000
09-0374	Clamps and fittings generic	5%	KEC	7,0000
09-0376	Dampers Generic	10%	KEC	7,0000
09-0378	Fasteners Generic	10%	KEC	5,0000
09-0379	Steel	20%	KEC	5,0000
09-0383	Material clamps and fittings Generic	10%	KEC	8,0000
09-0684	Generic specification OPGW	5%	KEC	4,0000
09-0687	Groundwork and foundations	5%	KEC	6,0000
09-1013A	Generic insulator spec suspension	5%	KEC	9,0000
09-1014A	Generic Insulator spec Linepost	5%	KEC	9,0000
09-1058	Detailed specification for OPGW	5%	KEC	5,0000
0	subtotal control			

5.6 Deviations

Kalpataru has declared not to have any deviations to the tender specifications.

However, the following possible deviations were found:

- No calculations for the foundations were found
- Indian standards mentioned for the conductor and the line equipment
- No standards on the OPGW mentioned, no test reports available
- Multiple alternative offers (vendors/equipment) for the line components are given, which results into unclarity about the final delivery

5.7 Total technical score

The total technical score of KEC is 6,80 or 68,0% of the maximum score. This means the Technical Deviation is 100% - 68,0 % = 32,0%. The table below shows how this is built up.



Overall	Score per i	Weighing	Score
Part 0 - 1	7,4	10%	0,74
Part 2	6,9	60%	4,14
Part 3	6,4	30%	1,92
		100%	6,80

6 TRANSRAIL/GAMMON, INDIA

6.1 General impression of Tender issued

The Tender was issued in 2 volumes and a CD rom with the information in digital form. The information was poorly structured. Hence, it is not easy to see if an item is missing or just not found.

6.2 Project documents

The construction method is described only generally, but the design method is only stipulated in the clarification.

The resumés show mainly very experienced people with >30 years of experience, partly in HR positions (i.e. irrelevant) or management. It is questionable whether these people will actually be available for the project. Further, the resumés do not show in detail the relevance of the experience.

The provisional HS&E plan consists of presentation materials but not a sufficiently detailed document. Many (valuable) do's and don'ts, but the responsibilities and organization are missing. In case of contracting, a detailed HS&E plan should be required.

Transrail has not delivered a maintenance plan.

6.3 Design approach

The proposed tower design is much more compact (smaller clearances of only 2.8 m) than the typical tower design specified in the tender documents (assuming 4 m clearance). This is in principle acceptable, provided the contractor can show the design complies with the starting points in the tender documents, especially lightning performance. However, Transrail does not plan to execute the insulation co-ordination study required to determine the clearances. A higher tower has a significant impact on the tower design and cost.

The starting points proposed by Transrail need further scrutiny. The detailed calculations provided do not cast doubt that Transrail is able to do the design work properly.

The list of design documents substantiating the design that Transrail-Gammon is proposing to submit to the Engineer for approval (to show that the design complies with the

requirements) does not comply with (Part 2 of) the tender documents. For instance, there is no proof that Transrail will execute the insulation co-ordination study required. This is a point of attention: in case of contract negotiations, it should be specified that each starting point for the design calculations will need approval.

6.4 Execution approach

6.4.1 Planning

The planning chart shows that after contract award the engineering and design will be executed in eight months. For the approval a period of 8 months is defined as well. Both durations are considered adequate (pretty long in comparison to others, parallel construction??). However, in the adjudication stage it shall be brought to the attention of the Contractor that detailed engineering drawings per tower shall be submitted for information only (hence keeping the responsibility with the Design-Build Contractor).

Transrail will need 18 months after contracting for the execution of the complete project, which is adequate.

6.4.2 Logistics

Transrail intends to have 2 storage sites, near Suswa and at Rumuruti. Details on the logistics from the factory or Mombasa to the storage sites are not given.

6.4.3 Workflow

Transrail gives a general description of the construction on site, but not all details have been established yet, e.g. the number of storage sites (initially two).

The foundations and towers will be constructed/erected by 10 teams along the route, the stringing by 6 teams: 3 teams for the phase conductors and 3 teams for the ground wires (OPGW).

In case of contract negotiations, it should be made sure that no risk will be attributed to the Employer in this respect.

6.4.4 Manpower and heavy equipment

The following forecast for manpower was issued by Transrail. The total of all the manmonth forecast is 7105. The number of 7105 manmonths considered low in comparison to the

estimates of KEMA for this amount of work.

See appendix 5 for the Manpower forecast for Gammon Transrail

6.4.5 Security

From the tender: "All stores and camping facilities will be provided with round the clock Armed Security guards, deployed through reputed Local Security Agencies. All the equipments which will be kept at the site will also be provided with night armed security. Where required, armed security guards will be provided to workmen at work places." This is considered adequate.

6.5 Technical description of the components

Transrail lists reputed manufacturers of components for line equipment. For some components, more than one manufacturer is specified. Not all the required data sheets have been completed.

6.6 Scope deviations

Transrail has clearly stated not to have any deviations to the scope or the specifications.

8. It is confirmed that our proposal is consistent with all the requirements of submission as stated in the RFP and subsequent communications from LTWP or KEMA or KPMG.



However, the following possible deviations were found:

- Transrail does not state to submit design reports to the Engineer, among others regarding insulation co-ordination. The insulators are already determined.
- Transrail has offered a smaller tower design, possibly leading to deviations in price for steel structures and foundations.

6.7 Total technical score

The total technical score of Transrail is 7,06 or 70,6% of the maximum score. This means the Technical Deviation is $100\% - 70,6\% = 29,4\%$. The table below shows how this is built up.



Overall			Weighing	Score
	Part 0 - 1	7.43	10%	0.74
	Part 2	6.40	60%	3.84
	Part 3	8.25	30%	2.48
			100%	7.06

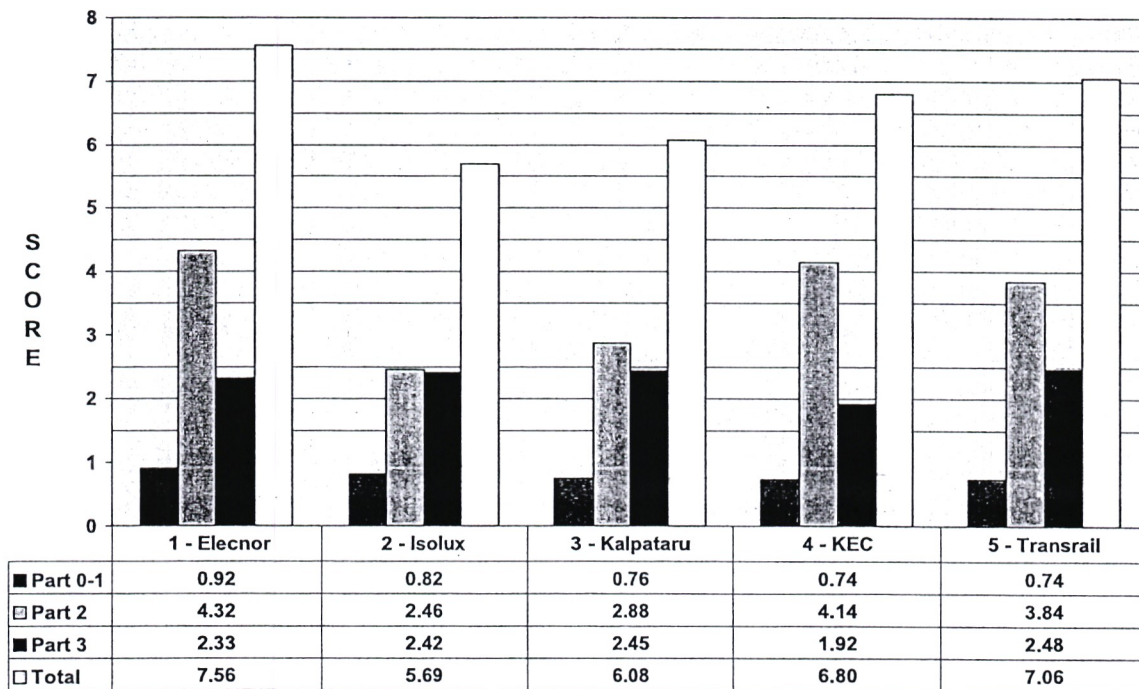
For Transrail, due to the expected necessary correction of the clearances (insulation coordination), it is expected that the contract can only be awarded with a significant increase of the initial lump sum price.

7 OVERALL COMPARISON AND CONCLUSION

7.1 Technical score

The table and graph below give the total technical scores for all 5 bids.

	Subscores				
	1 - Elecnor	2 - Isolux	3 - Kalpataru	4 - KEC	5 - Transrail
Part 0-1	9.15	8.18	7.56	7.43	7.43
Part 2	7.20	4.10	4.80	6.90	6.40
Part 3	7.75	8.05	8.15	6.40	8.25
	Weighed subscores				
	1 - Elecnor	2 - Isolux	3 - Kalpataru	4 - KEC	5 - Transrail
Part 0-1	0.92	0.82	0.76	0.74	0.74
Part 2	4.32	2.46	2.88	4.14	3.84
Part 3	2.33	2.42	2.45	1.92	2.48
Total	7.56	5.69	6.08	6.80	7.06



7.2 Monetary value of technical deviations

The average (corrected by KPMG) tender price was EUR 146,163,668. The table below shows how the price for all five tenders should be corrected.

LOT 3: FINAL TECHNICAL FINANCIAL	KEC					Gamma India
	Elecnor Euro	Kabataru Euro	International Euro	Isolux Corsan Euro	Ltd Euro	
Lumpsum excluding maintenance	159,305,477	145,005,999	145,624,096	136,970,018	143,912,751	
Technical score	75.6%	60.8%	68.0%	56.9%	70.6%	
Monetary Value of Technical Deviation	35,663,935	57,296,158	46,772,374	62,996,541	42,972,119	
NPV Maintenance	15,923,791	15,100,767	-	10,747,432	16,084,977	
NPV Spares	128,200	-	14,333,187	-	-	
Total Final Technical Financial Score	211,021,404	217,402,924	206,729,658	210,713,991	202,969,847	

Note: this score is exclusive of the monetary value of the financial offer/conditions and financing solution.

7.3 Further steps

The final ranking of the tenders will be determined by LTWP, taking into account the financial offer/conditions and financing solution.



Appendix: 4, Manpower forecast KEC

Project construction local manpower schedule (after questioning)																
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Country manager	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	16
Project manager	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	32
Construction manager	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	64
Commercial manager	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	16
Office personnel	9	9	9	9	9	9	9	9	9	9	9	9	9	9	9	144
Civil engineer	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	52
Engineer Tower erection																80
Surveyor	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	26
QA officer																26
Store keeper	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	111
Supervisor civil	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	234
Supervisor tower																154
Supervisor stringing																80
Civil workers	120	126	208	810	810	820	820	820	820	820	820	820	820	820	820	8634
tower erection workers						550	550	550	550	550	550	550	550	550	550	4950
stringing workers	41	82	128	195	196	340	382	310	311	300	301	302	301	302	301	3717
Store workers	139	148	148	148	148	177	177	168	170	192	194	196	247	247	247	2824
Miscellaneous works				10	7					32	32	32	132	140		385
Totals	197	377	538	1231	1234	1968	1888	2516	2435	2438	2474	2477	2480	1819	-1085	25545



Appendix: 5, Manpower forecast Gammon Transrail

Months	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	Total
Project Manager	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	18
Office Personnel	2	2	4	6	8	12	14	14	14	14	14	14	14	12	10	6	4	4	168
Engineer	1	1	2	2	4	4	6	6	6	6	6	6	6	6	4	3	3	3	75
Surveyor	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	1	1	1	33
QA Officer	0	1	1	1	2	2	2	2	2	2	2	2	2	2	2	2	2	2	31
Store Keeper	0	0	0	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	30
Supervisor Civil	0	0	2	2	2	4	4	6	6	6	6	6	6	4	2	2	1	1	60
Supervisor Tower	0	0	0	0	0	4	8	8	8	8	8	8	8	8	4	2	2	2	78
Supervisor Stringing	0	0	0	0	0	0	4	8	10	12	12	12	12	12	12	12	12	12	130
Civil Workers	20	30	30	90	150	200	200	200	200	200	200	200	150	100	120	60	20	20	2190
Tower Workers	0	0	0	0	0	20	120	150	200	250	250	250	250	250	250	200	150	100	2440
Stringing Workers	0	0	0	0	0	0	0	0	0	0	30	150	225	225	225	225	225	225	1530
Security	4	4	8	12	12	12	20	20	20	20	30	30	30	20	20	20	20	20	322
Assistance																			
Total	30	41	50	118	183	263	383	419	471	523	563	683	708	644	654	536	443	393	7105

APPENDIX 7

7 January 2010

Carlo Van Wageningen
Chairman
Lake Turkana Wind Power Limited
P O Box 63716-00619
Nairobi, Kenya

Our ref Z922/22/jk07012010

7 January 2010

Dear Carlo,

Lake Turkana Wind Power Limited – Transmission Grid Lot 3 Bids Evaluation Results

As part of the financial advisory services, we were requested by the Lake Turkana Wind Power Limited to evaluate the financial bids for Transmission Grid. The technical evaluation was to be carried out by KEMA. This letter summarises the results of our evaluation of the Lot 3 bids which also took into account the financial costs imputed by KEMA following their assessment of the Technical Bids.

1 Evaluation Criteria

The evaluation criteria involved a two stage process as follows:

Stage 1:

First, a technical evaluation by KEMA based on which the non-responsive bids were dropped. Further KEMA were required to quantify the technical deviations of all the responsive bids and then monetise the same for purposes of giving KPMG the pricing adjustments needed to be made to the financial proposals.

Stage 2:

The second stage was the domain of KPMG. Under this Phase, KPMG was required to assess the financial proposals received and then mark them as follows:

- *75% financial score:* made up of the results of the financial bids submitted by bidders *plus* the sum of technical deviations and or losses assessed by KEMA.
- *25% financial score:* made up of the results of the evaluation of the financing solutions given by the various bidders in their financial proposals.

The marking scheme and all subsequent revisions were communicated to the bidders under the request for proposals and various special bulletins. We understand that none of the bidders had expressed dissatisfaction to the concerned evaluation criteria.



2 Results

The evaluation results were concluded on the 6 Jan 2010. These results have been assessed on a two criteria basis as follows:

Criteria 1: Assumes that the Transmission Line will be the responsibility of the Lake Turkana Wind Power Limited pursuant to the BOOT arrangement

In this case the financial scores are based on sum of the financial bids and the technical deviations (which have been marked out of 75%), and the financing solution (which has been marked out of 25%). The ranking determined on this basis is summarised below.

Lot III ranking

Bidder	Financial proposal	Maintenance and spares	Technical Deviations	Total price adjusted for deviations	% score	Financing Solution	Overall score	Rank
Elecnor	159.3	16.0	35.7	211.0	72.17%	25.00%	97%	1
Kalpataru	145.0	15.1	57.3	217.4	70.03%	0.00%	70%	5
KEC International	145.6	14.3	46.8	206.7	73.67%	7.50%	81%	2
Isolux Corsan	137.0	10.7	63.0	210.7	72.25%	6.25%	79%	3
Gammon India	143.9	16.1	43.0	203.0	75.00%	0.00%	75%	4
Lowest bid lot 3	136.97			203.00				

Under this criteria, the financing solution was considered to be very significant to the successful implementation of the project and hence the allocation of 25% marks. If funding was not a constraint, then this criterion would not have been relevant.

Criteria 2: Assumes that the Transmission Line will be the responsibility of the Government of Kenya (GoK)

Assuming that the Transmission Line will be the responsibility of the GoK, then the financial score attached to the worth of the financing solution would cease to be of great significance, so long as, the concerned bidders are able to provide concessional funding under a Government Guarantee. We reviewed the list of bidders who had expressed willingness to provide concessional funding under the GoK guarantee. Based the proposals received only Isolux and Elecnor had provisions for concessionary funding. Accordingly, the ranking made under this criteria, is as given here below.

Lot III ranking

Bidder	Financial proposal	Maintenance and spares	Technical Deviations	Total price adjusted for deviations	% age score	Concessional funding	Rank
Elecnor	159.3	16.0	35.7	211.0	72.17%	Yes	2
Kalpataru	145.0	15.1	57.3	217.4	70.03%	No	N/A
KEC International	145.6	14.3	46.8	206.7	73.67%	No	N/A



Isolux Corsan	137.0	10.7	63.0	210.7	72.25%	Yes	1
Gammon India	143.9	16.1	43.0	203.0	75.00%	No	N/A
Lowest bid lot 3	136.97			203.00			

It should be noted that we have made one overriding assumption, that is, both Isolux and Elecnor would give concessional funding of the same amount. The ranking could if this proved to be untrue. Due regard should be given to this fact.

3 Conclusions

You should be aware that the assessment of the financial score attributable to the financing solution as well as the prices imputed under technical deviations could be subjective. As a result the worth of the financing solution and the validity of the costs imputed on technical deviations can only be properly determined once negotiations have been held. As such, the final discussions and award decisions should take account of these facts.

I trust that you will find the above to be in order and in case you need further clarification please let me know.

Yours sincerely,

John Kiruthu

Partner & Head Corporate finance, Transaction Services & Global Infrastructure

I/we confirm that the above constitutes the understanding of the bids evaluation methodology and the results articulated by both KPMG and KEMA.

For and on behalf of Turkana Wind Power Limited

Signature

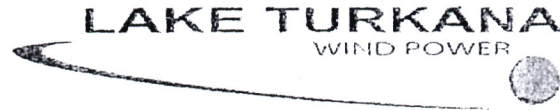
Name

Position

4

Appendix 6





Mr. Patrick Nyoike, EBS.,
Permanent Secretary
Ministry of Energy
25th Floor, Nyayo House
NAIROBI

January 11, 2009

RE: Lake Turkana Transmission Line Project ("the T-Line Project")

Dear Sir,

We refer to our various discussions over the preceding months in regards to the proposed transmission line infrastructure and specifically the communication from the Government of Kenya received via KPLC on June 4th 2009 (a copy of which is attached) through which the development of the transmission line on a BOOT basis was approved.

Subsequently and based on various developments over the preceding two months which has resulted in the Government of Kenya indicating its intention to implement the T-Line Project through KETRACO and using concessionary financing opportunities that have been offered to the Government of Kenya, it was agreed that the final decision on this would be taken by the Government once the tender evaluation, which is being independently undertaken by KEMA of the Netherlands and KPMG East Africa was completed. The decision to approach the matter in this manner was to ensure that the integrity of the procurement process was maintained and to take advantage of the significant amount of technical and other consultancy work undertaken by Lake Turkana Wind Power Ltd ("LTWP"), thereby fast-tracking the Project which is of significant national interest.

The purpose of this letter is to:

- a) *provide you with an update on the tender evaluation procedure of the transmission line project for Lot 3 – which comprises the 400kV transmission line from Loiyangalani to Suswa and the 200kV tie-in at Suswa;*
- b) *request the Ministry's formal decision on the implementation structure i.e. whether this Project will be undertaken on a private or public sector basis;*
- c) *seek the Government undertakings towards the "take-or-pay" obligations contained in the Power Purchase Agreement should the Ministry's decision be to proceed on a public sector implementation and which are required for LTWP to achieve financial close, including long-stop dates for contract award, commencement of the T-Line Project and commissioning of the T-Line infrastructure; and*
- d) *understand how the Government / Ministry / KETRACO wish the remainder of the tender process i.e. contract negotiations and award, to be undertaken.*

The tender package was compiled by KEMA and reviewed by the KPLC/KETRACO/LTWP Task Force and final approval by KPLC/KETRACO/MoE to issue the tenders was granted in the Task Force Meeting no. 9 of 3 July 2009, and the tenders were issued on 10 July 2009. The final tender closing date was 19 October 2009 and financial bids were opened on 20 November 2009 in the presence of representatives from LTWP, KPLC, KPMG, KEMA, KETRACO and the Bidders.

The results of the tender evaluation which are based on FIDIC Tendering Procedures (2nd edition, 1994) are contained in the attached two documents:

1. Technical tender evaluation report by KEMA, and referenced 30813134-Consulting 09-2700; and
2. Transmission Grid Lot 3 Bids Evaluation Results by KPMG, and referenced Z922/22/jk07012010.

The results of the technical evaluation are summarised in Table 1 below:

LOT 3: Evaluation Criteria Scoring	Elecnor	Kalpataru	KEC International	Isolux Corsan	Gammon India Ltd
Lump-sum excluding maintenance €	159,305,477	145,005,999	145,624,096	136,970,018	143,912,751
Technical Score	75.6%	60.8%	68.0%	56.9%	70.6%
Monetary value of technical deviations €	35,663,935	57,296,158	46,772,374	62,996,541	42,972,119
NPV Maintenance €	15,923,791	15,100,767	-	10,747,432	16,084,977
NPV Spares €	128,200	-	14,333,187	-	-
Total Technical Financial Score €	211,021,404	217,402,924	206,729,658	210,713,991	202,969,847

Table 1: Lot3 Final Technical Evaluation Results

Based on the situation existing at the time, bidders were informed that the T-Line Project would be owned and operated under a BOOT structure and bidders were encouraged to offer a financing solution that would also be scored in the financial evaluation. However, bidders were informed that no sovereign guarantee would be provided. Accordingly, the combined results of the technical and financial evaluation, including the financing solution are summarised in Table 2 below:

LOT 3: Evaluation Criteria Scoring	Elecnor	Kalpataru	KEC International	Isolux Corsan	Gammon India Ltd
Total Technical Financial Score €	211,021,404	217,402,924	206,729,658	210,713,991	202,969,847
Weighted Average Score (%) of Technical Financial Score	72.17%	70.03%	73.67%	72.25%	75.00%
Weighted Average Score (%) of Financing Solution	25.00%	0%	7.50%	6.25%	0%
Overall Score	97.17%	70.03%	81.17%	78.50%	75.00%
Ranking	1	5	2	3	4

Table 2: Lot 3 Final Technical and Financial Evaluation Results and Ranking (Based on LTWP evaluation / BOOT Structure)

Table 1 and 2 above indicate therefore, that if the T-Line Project were to be implemented under a BOOT structure, then Elecnor would be the preferred bidder, followed by KEC International and Isolux Corsan as second and third preferred bidders respectively.

Assuming that the Government takes on the responsibility of implementing the T-Line Project, it would then be in a position of availing the concessionary financing that requires a sovereign guarantee. Accordingly, the results of the evaluation would indicate that only Elecnor and Isolux Corsan were eligible (as indicated in the Financial Bids), and as such the tender evaluation would yield the results summarised in Table 3 on the next page:

LOT 3: Evaluation Criteria Scoring	Elecnor	Kalpataru	KEC International	Isolux Corsan	Gammon India Ltd
Total Technical Financial Score €	211,021,404	217,402,924	206,729,658	210,713,991	202,969,847
Weighted Average Score (%) of Technical Financial Score	72.17%	70.03%	73.67%	72.25%	75.00%
Concessionary Financing	Yes	N/A	N/A	Yes	N/A
Ranking	2	N/A	N/A	1	N/A

Table 3: Final Technical and Financial Evaluation Results and Ranking (Based on Concessionary Funding / Gok Implementation)

Table 3 above indicates therefore, that if the T-Line Project were to be implemented by the GoK, then only Elecnor and Isolux Corsan would be eligible with Isolux Corsan as the preferred bidder.

According to the FIDIC Tendering Procedures, LTWP is now required to invite the preferred bidder for negotiations and contract discussions. But, in order for LTWP to move forward, it is now important that the Government of Kenya makes a policy decision on which of the structures (Private BOOT or Public sector) it wishes to ratify, and to inform LTWP on how it wishes to handle the assignment of the tender evaluation and the subsequent steps entailing bid negotiation, contract discussions and award as well as the way leaves acquisition process that is underway. As previously indicated, LTWP, with KEMA and KPMG and in full liaison of the Task Force are willing to continue the process of discussing the bid with the highest ranked bidder and presenting the draft final contract with the successful bidder to the Ministry / KETRACO since they are the parties that have run with the tender and tender evaluation process. However, we look to the Ministry's guidance and direction on this matter.

It is important to bear in mind that once the Government takes its final position on the preferred structure, the debt and equity financiers of the generation plant will work on this assumption and the generation project will likely reach financial close by May 2010. Any change thereafter to the implementation structure of the T-Line Project will cause significant delays in the wind farm implementation. Furthermore, any debt and / or equity financing that may be available under the BOOT structure may not be available as these monies will likely be committed to other projects since the pool of funding available for Independent Transmission Line projects is scarce and hard to come by.

Another matter for the Government's consideration is the issue of costs incurred by LTWP for various consultancy works required to ensure the T-Line Project's implementation, and which would have been required irrespective of which implementation structure was selected. There are three main aspects of the consultancy services that LTWP would be grateful to receive reimbursement of costs for:

1. As the Ministry is aware, we have retained the services of KEMA – a leading, independent power consulting firm from the Netherlands to manage the entire tender process and who have been working closely with KPLC over the preceding months to design the transmission line infrastructure for this project. A key requirement for the design and construct contracts and a successful tender process was the technical functional specification documents (TFS) and this was achieved by engaging KEMA to undertake a comprehensive power system study of the future system and investigate the impact of connection of 300 MW of wind power to the electricity network of Kenya on the power flows in the network, to identify bottlenecks due to the wind farm and possible solutions, and to provide a basic design of the network connection. This study is in addition to the earlier study from VTT International and commissioned by LTWP

that studied the possibility of the Kenya system absorbing wind power, and the consequences for the dispatch and cost of generation. All these studies have been presented to KPLC and the Ministry and provide ample comfort that both the wind farm and transmission line are compatible with the national grid system. Both KEMA and VTT International provided reliance letters to both KPLC and the Ministry of Energy, copies of which are also enclosed for your reference.

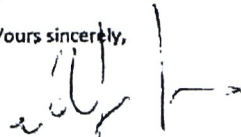
2. LTWP has also, in conjunction with, and on the approval of the Task Force, undertaken the services of a consortium lead by 42 Geomatics who specialise in all works relating to the way leaves acquisition including all soil and topographical surveys, GPS co-ordinate marking, obtaining way leaves consents as well as the actual process of obtaining and registering the consents. The Consultants have worked extensively with KPLC on previous assignments.
3. Environmental Impact Assessment costs : The EIA report and study was approved by NEMA on 24 July 2009 and the EIA license Registration Number 0003865 issued subsequently, a copy of which is attached.

All costs incurred have been sanctioned by the Task Force and are fully auditable.

In conclusion, we kindly request your usual assistance in providing us with direction on the matters raised above so as to fast track the development of the project. Attachment 3 of this letter is a copy of the correspondence sent to you on July 13 2009 which summarised the process leading up to the tender submission date, and is provided for your ease of reference.

As usual, we accord our sincere appreciation to you in your untiring efforts to promote this project – which will break new ground in the development of energy infrastructure in Kenya and we assure you also of our commitment to deliver this Project on time.

Yours sincerely,

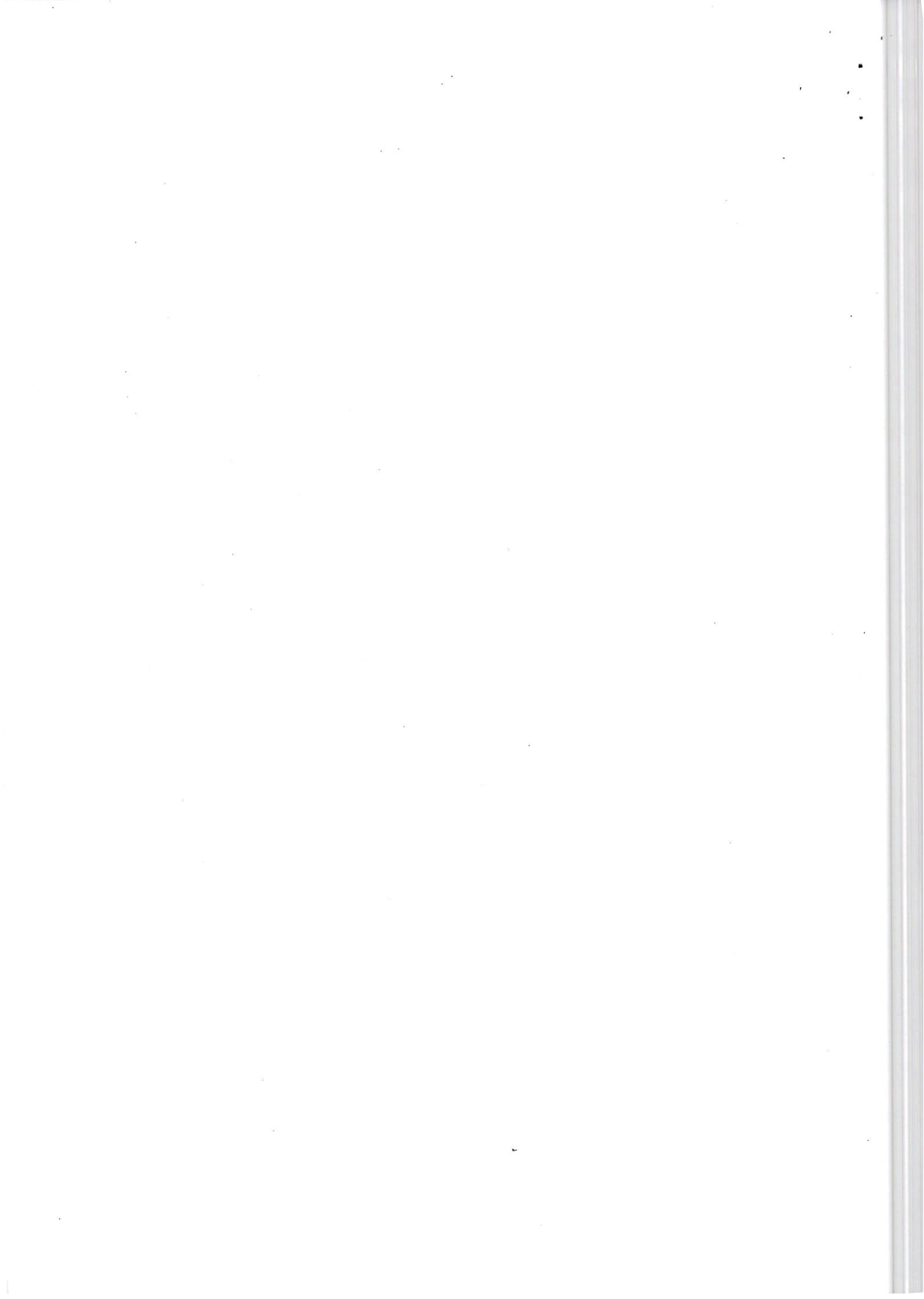


Carlo Van Wageningen
Chairman,
Lake Turkana Wind Power Limited

Attachments:

- 1) Technical tender evaluation report by KEMA, and referenced 30813134-Consulting 09-2700
- 2) Transmission Grid Lot 3 Bids Evaluation Results by KPMG, and referenced Z922/22/jk07012010
- 3) Copy of Environmental Impact Assessment (EIA) License, Registration Number 0003865
- 4) Copy of Letter addressed to Ministry of Energy dated July 13 2009
- 5) Copy of Letter of Reliance issued by VTT International to Ministry of Energy dated August 17 2009
- 6) Copy of Letter of Reliance issued by KEMA to Ministry of Energy dated August 24 2009
- 7) Copy of Letter received from KPLC on June 4 2009

Appendix 7





REPUBLIC OF KENYA
MINISTRY OF ENERGY

Telegrams: "MINPOWER, Nairobi
Telephone: Nairobi 310112
e-mail: ps@energymn.go.ke
Fax: 240910 or 228314
When replying please quote

OFFICE OF THE
PERMANENT SECRETARY
P. O. Box 30582
NAIROBI

Date: January 14, 2010

Ref. No. ME/CONF/3/2/8

Mrs. Rocio Kessler Grijalvo
Economics & Commercial Counselor
Embassy of Spain
CBA Building, Upper Hill
NAIROBI

Dear *Rocio*

**RE: TENDER EVALUATION REPORT ON THE LAKE TURKANA
TRANSMISSION LINE PROJECT**

This letter is a follow up on our (Grijalvo/Nyoike) several telephone discussions this week on the above captioned subject during which we agreed that I would give you a copy of the report.

Attached hereto please find a copy of a self explanatory letter from Mr. Carlo Van Wageningen, Chairman, Lake Turkana Wind Power Limited dated January 11, 2010 forwarding the report on the above captioned subject for your perusal and consideration.

The report contains the following documents:

1. Technical tender evaluation report by KEMA, and referenced 30813134- consulting 09-2700;
2. Transmission Grid Lot 3 Bids Evaluation Results by KPMG, and referenced Z922/22/jk07012010;
3. Environmental Impact Assessment (EIA) License, Registration Number 0003865;
4. Letter addressed to Ministry of Energy dated July 13, 2009;

ANNEX 1

5. Letter of Reliance issued by VTI International to Ministry of Energy dated August 17, 2009;
6. Letter of Reliance issued by KEMA to Ministry of Energy dated August 24, 2009; and,
7. Letter received from KPLC on June 4, 2009.

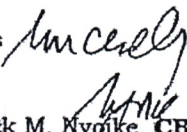
As you may ascertain from the report (Lot 3), Isolux Corsan had offered the lowest price for the construction of the line at Euro 136,970,018. The report further states that if development assistance would be provided by the Kingdom of Spain to Kenya Government, then Isolux Corsan would be the preferred bidder.

The purpose of this letter, therefore, is to seek confirmation from you regarding enhancement of your development assistance for construction of the line, given that you had already indicated that your Government would consider providing Euro 80 million which is rather inadequate.

I would like to request that you consider increasing your contribution to Euro 110 million to take into account the elements that have been included in the evaluation report by KEMA Engineering Consultants, which have substantially enhanced the cost. Some of these costs can be reduced significantly as they include huge stocks of spares to last a number of years. KfW has indicated its willingness to contribute Euro 30 million for the project, subject to appraisal.

Please expedite.

Yours


Patrick M. Nyoike, CBS
PERMANENT SECRETARY

COPY TO: **Mr. Joseph K. Kinyua, CBS**
Permanent Secretary
Office of the Deputy Prime Minister &
Ministry of Finance
Treasury Building
NAIROBI

Mr. Jackson N. Kinyanjui
Director, External Resources Department
Office of the Deputy Prime Minister &
Ministry of Finance
Treasury Building
NAIROBI

Eng. Joseph K. Njoroge, MBS
Managing Director
Kenya Power & Lighting Company
Stima Plaza A, Parklands
NAIROBI

Eng. Joel M. Kiilu
Managing Director
KETRACO
Caparo Place, Upper Hill
NAIROBI

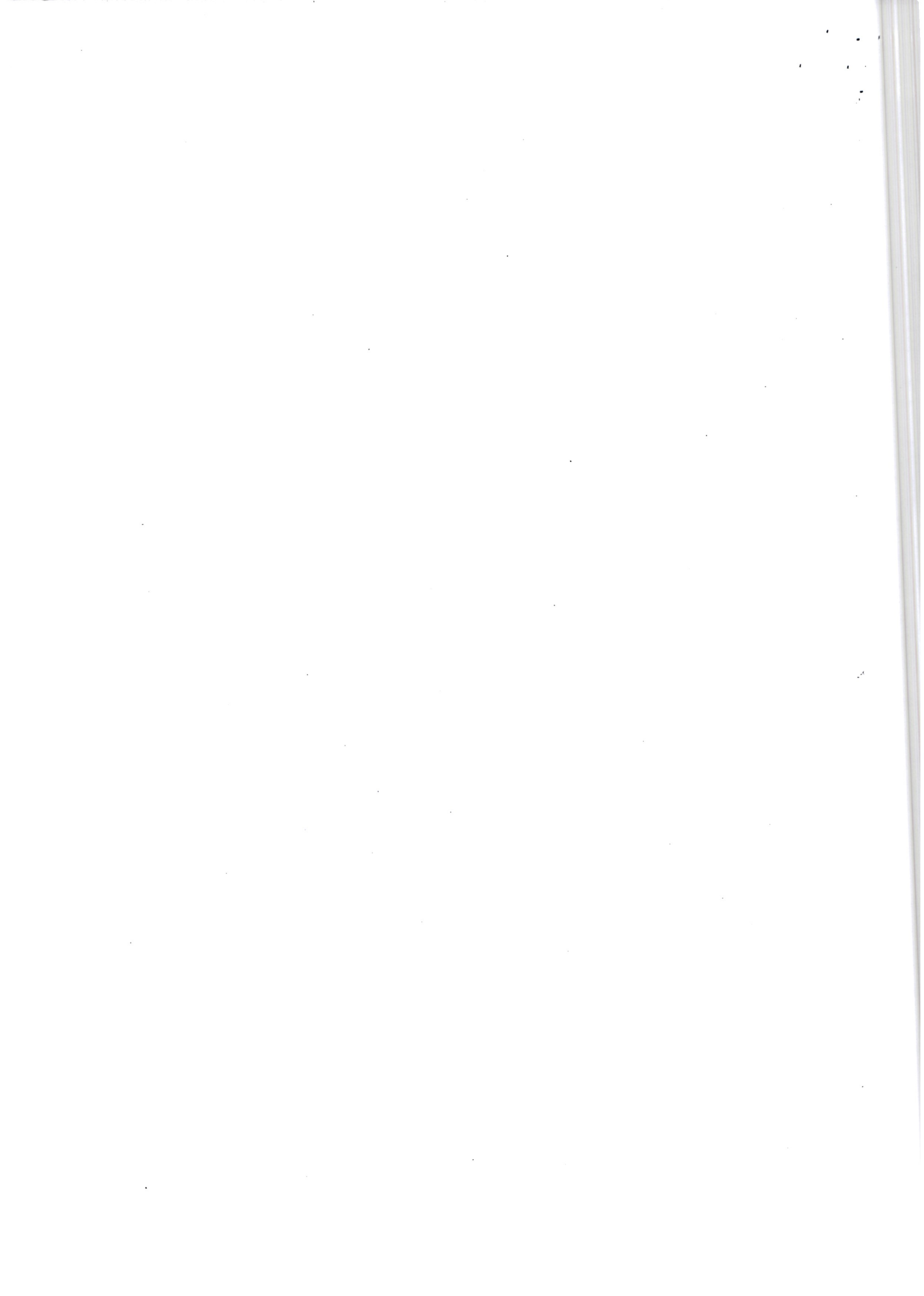
Mr. Piet Kleffmann
Country Director
KFW/DEG Regional office
P.O Box 52074 - 00200
Riverside Westlands
Off Riverside Drive
NAIROBI

Mrs. Mathilde Bourd-Laurans
Program Officer
AFD Regional Office
Royal Ngao House, Hospital Road
Upper Hill
NAIROBI

Mr. Kurt Simonsen
Regional Representative
European Investment Bank
P.O Box 40193 - 00100
Hospital Road
NAIROBI

Ms. Paivi Koljonen
Task Team Leader
World Bank Mission - Kenya
Hill Park Building
Upper Hill
NAIROBI

Appendix 8





MINISTRY OF INDUSTRY,
TOURISM AND TRADE
OF SPAIN

SECRETARÍA DE ESTADO PARA EL COMERCIO
EXTERNO
DELEGADO GENERAL PARA
NEGOCIACIONES DE
INVERSIÓN
EL DIRECTOR GENERAL PARA
COMERCIO EXTERNO
Antonio Sánchez Bustamante



Mr. Partick M. Nyoike
Permanent Secretary
Ministry of Energy
P.O. Box 30582-00100
Nairobi
Republic of Kenya

Madrid, 19th January 2010

RE: TENDER EVALUATION REPORT ON THE LAKE TURKANA
TRANSMISSION LINE PROJECT

Dear Sir,

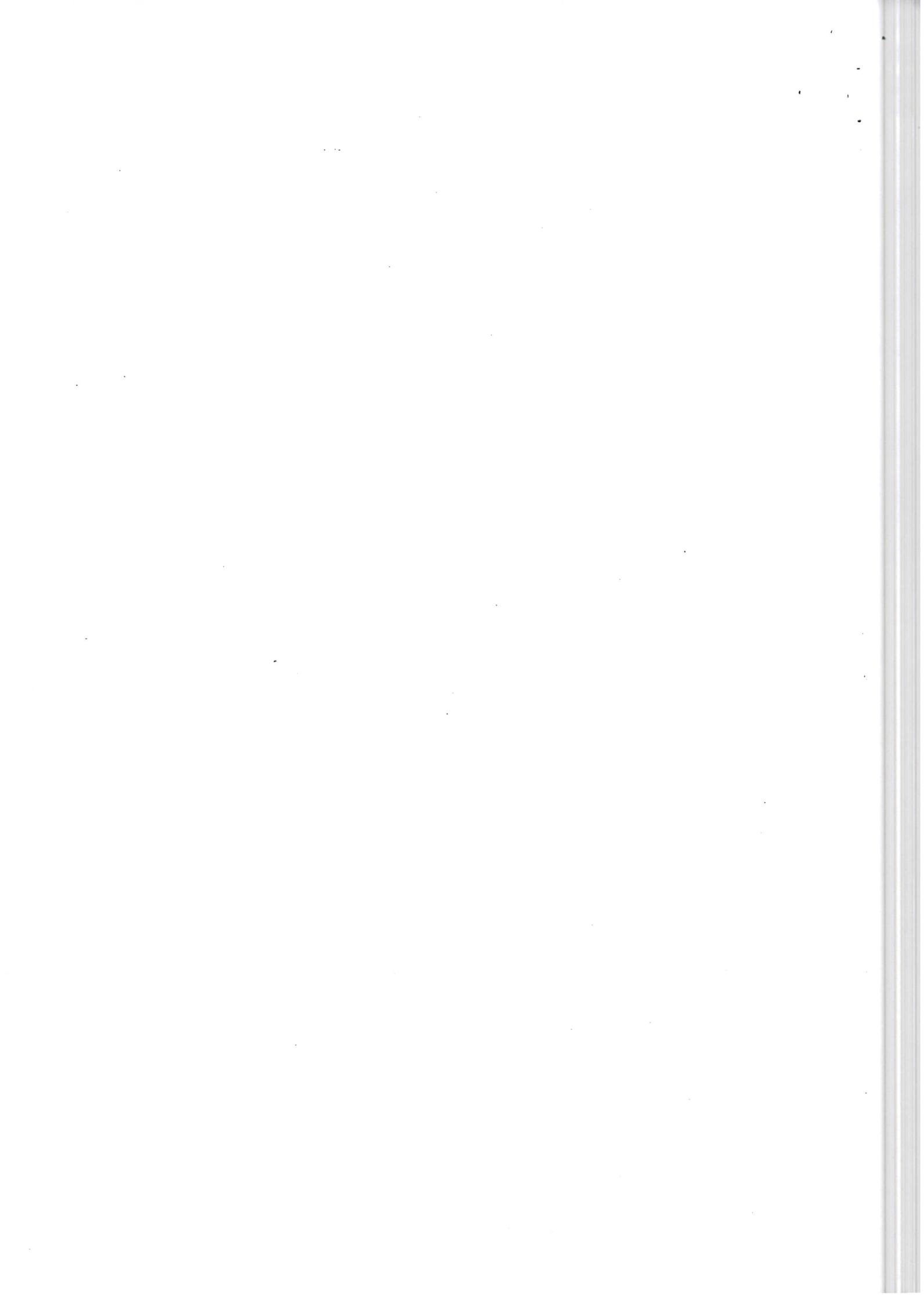
I refer to your letter dated 14th January, 2010 on the above subject. Following our previous communication to the Permanent Secretary of the Ministry of Finance (letter dated 9th October 2009) offering financial support for the Lake Turkana Transmission Line Project for the amount of 80 million euros, we would now like to inform you that the Spanish Government is willing to increase the financial support for this project for up to 110 million euros.

Yours sincerely,

COPY TO: Mr. Joseph Kinyua
Permanent Secretary
Office of the Deputy Prime Minister & Ministry of Finance
Treasury Building
Nairobi

APPENDIX 11

Appendix 9



LAKE TURKANA WIND POWER

Mr. Patrick Nyoike, CBS.,
Permanent Secretary
Ministry of Energy - Republic of Kenya
25th Floor, Nyayo House
NAIROBI

January 21, 2010

RE: LAKE TURKANA TRANSMISSION LINE PROJECT

Dear Sir,


We are in receipt of your letter dated January 20, 2010 and referenced ME/CONF/3/2/8 on the above captioned subject and most gratefully acknowledge your support and effort in facilitating the Spanish Government's increased financial support for the Transmission Line project.

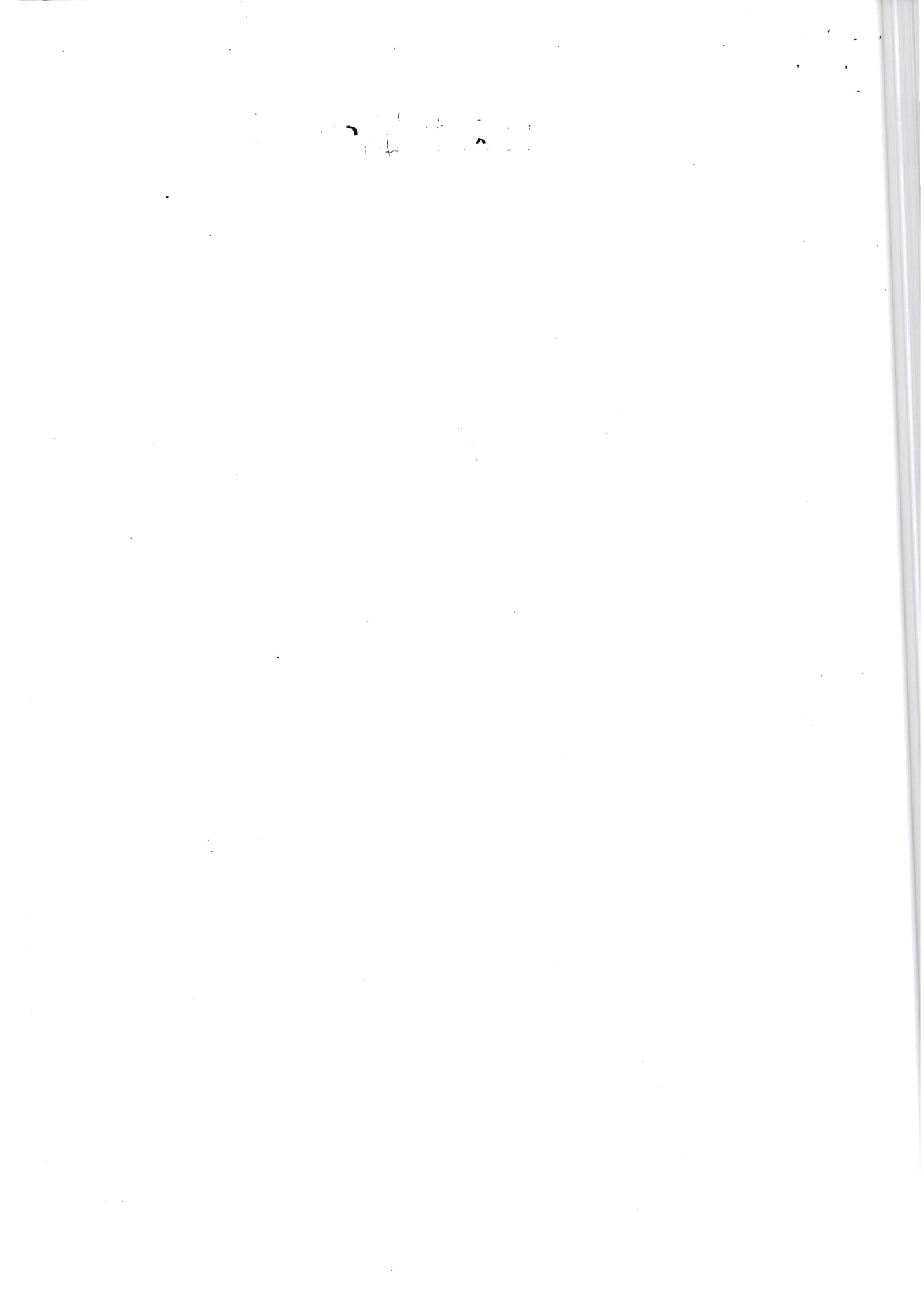
In order to move forward and to provide the debt financiers of the wind farm with the comfort they need to bring the project to a financial close, we kindly request you to:

1. Confirm the Government of Kenya's undertaking to implement the 428KM Loiyangalani – Suswa Transmission Line Project, for which Lake Turkana Wind Power Limited was previously mandated to implement under a Build-Own-Operate- Transfer (BOOT) structure, and that the Power Purchase Agreement shall be amended to cater for the public sector implementation and its associated undertakings including those that may be required under the Government Guarantee being sought for this Project for KPLC's take-or-pay obligations under the approved PPA; and
2. Authorise the Task Force comprising KETRACO, KPLC, KEMA, KPMG and LTWP to proceed to discussing with the successful bidder their tender proposal and commence contractual negotiations to ensure the speedy implementation of the Project to coincide with the wind farm's expected first commissioning date of March 2012, and to provide the agreed form of the final contract to the Ministry for ratification and onward implementation by March 31st 2010. Given that Lake Turkana Wind Power has, along with KEMA and KPMG and together with the Task Force that comprises KPLC and KETRACO conducted the tender evaluation procedure thus far, and in the interests of ensuring that the same technical team that evaluated the bids is involved, this will be the most efficient manner to tackle the remainder of the procurement process.

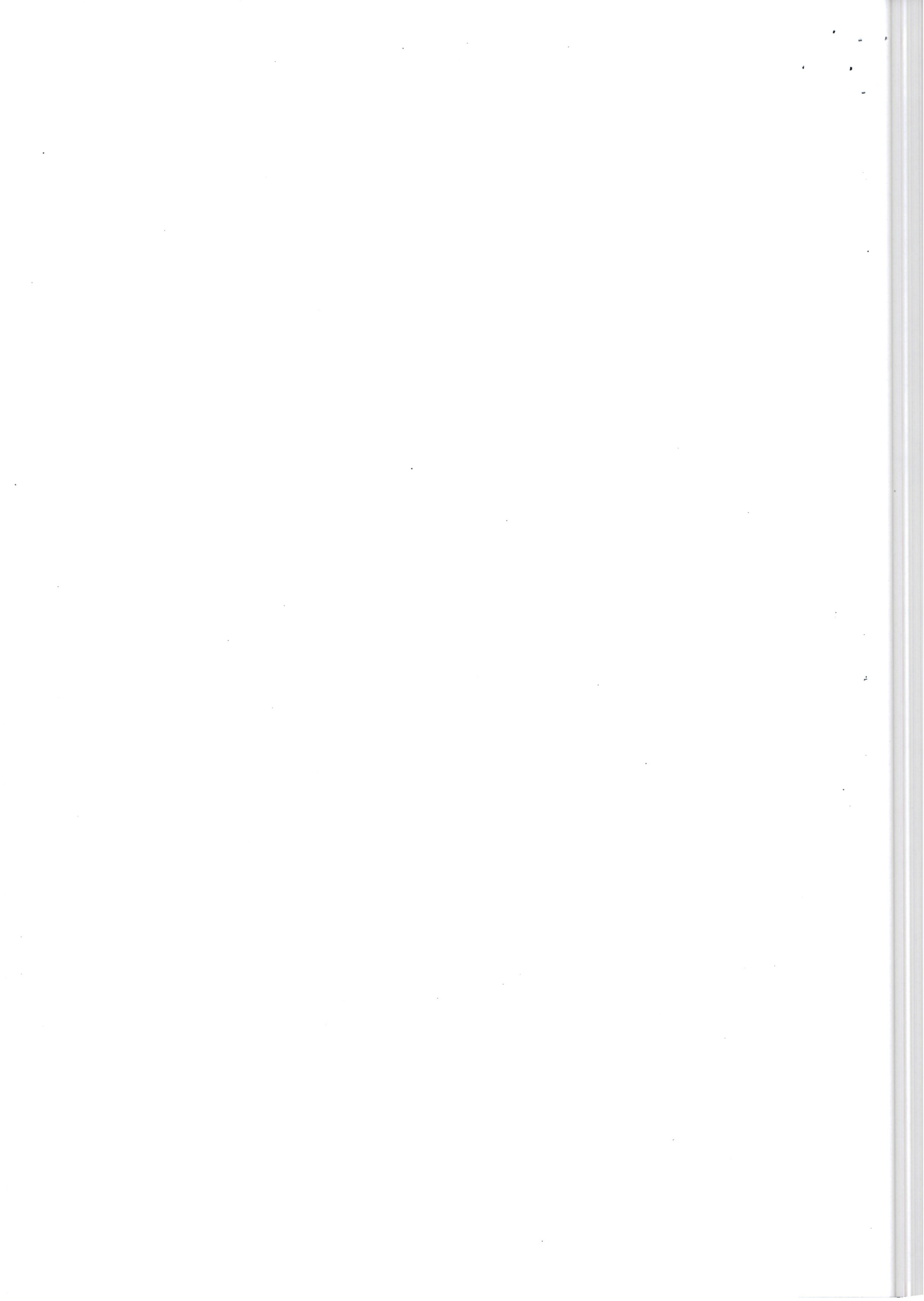
We once again, sincerely thank you for your assistance and support on this project, and reiterate our commitment to you to work diligently towards achieving the agreed milestones and to ensure that there are no delays in commissioning of this Project.

Yours sincerely,


Carlo Van Wageningen
Chairman,
Lake Turkana Wind Power Limited



Appendix 10





REPUBLIC OF KENYA

MINISTRY OF ENERGY

Telegrams: "MINPOWER, Nairobi"
Telephone: Nairobi 310112
e-mail: ps@energymin.go.ke
Fax: 240910 or 228314
When replying please quote



OFFICE OF THE
PERMANENT SECRETARY
P. O. Box 30582
NAIROBI

Ref. No. ME/CONF/3/2/8

Date: JANUARY 30, 2010

Mr. Carlo Van Wageningen

Chairman

Lake Turkana Wind Power Limited

P.O Box 63716

NAIROBI

Fax: 2718349

Dear *Carlo*

RE: LAKE TURKANA TRANSMISSION LINE PROJECT

Please refer to your letter dated January 14, 2010 seeking confirmation that the proposed 400KV double circuit transmission line will be undertaken by the Government of Kenya (*copy attached for ease of reference*).

I would like to confirm that the subject line will be undertaken by the government through its transmission company, the Kenya Electricity Transmission Company (KETRACO). As I have already informed you, the Government of the Kingdom of Spain has formally communicated its support for Isolux Corsan (an EPC contractor who went through your bidding process) through a concessionary loan of Euro 110 million out of the Euro 137 million required to construct the line.

1970: 114

I hope this information will facilitate Turkana Wind to reach a financial close by June 30, 2010. I would also like to inform you that your request for a sovereign guarantee is being considered. I have also received a similar request from ADB which is also one of your co-financiers of the 300MW wind farm project.

Yours

Patrick M. Nyojke
Patrick M. Nyojke, CBS
PERMANENT SECRETARY

COPY TO: Hon. Kiraitu Murungi, EGH, MP
Minister for Energy
Nyayo House
NAIROBI

Mr. Joseph K. Kinyua, CBS
Permanent Secretary
Office of the Deputy Prime Minister &
Ministry of Finance
Treasury Building
NAIROBI

Dr. Geoffrey N. Mwau
Economic Secretary
Economic Affairs Department
Office of the Deputy Prime Minister &
Ministry of Finance
Treasury Building
NAIROBI

Eng. Joel M. Kiilu
Managing Director
KETRACO
Caparo Place, Upper Hill
NAIROBI

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Appendix 11



30813134 Consulting 10-0448
2010-03-10 JFG
Lake Turkana Wind Power

MINUTES of Technical Contract Negotiations with Isolux Corsan for Lot 3

Date : 1 and 2 March 2010
Start : 11:00 on Monday 1 March
Place : Holiday Inn, Nairobi

AGENDA

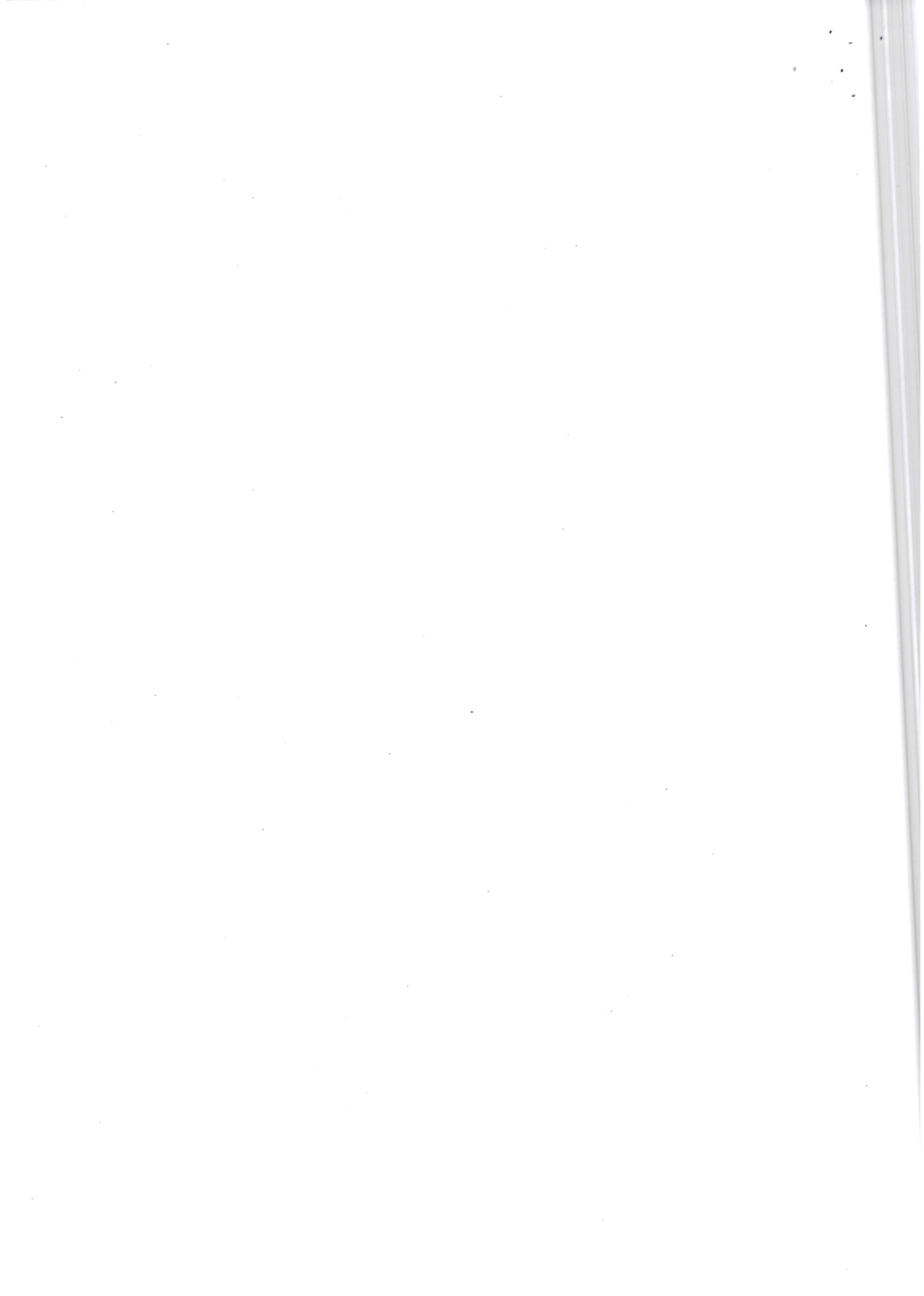
1. Opening and welcome
2. Introduction round
3. Agreement on the agenda and the program
4. Presentation by Isolux regarding preliminary issues list
5. Next actions
6. Draft minutes of meeting
7. Next meeting

PRESENT

1) Nick Taylor	LTWP	11) Frederik Groeman	KEMA
2) Duncan Macharia	KETRACO	12) Peter Mungai	KPLC
3) Lydia Wanja	KETRACO	13) Maurice Odhiambo	MoE
4) Eng. Wamukota A.T.	KETRACO	14) Eneko Alvarez	Isolux
5) Eng. Justin Muna	KETRACO	15) Joaquin Navarro	Isolux
6) Eng. Samson Akuto	KETRACO	16) Paolo Geronella	Isolux
7) Rupen Shah	KPMG	17) Marcel Cabral	Isolux
8) John Kiruthu	KPMG	18) Iván Ruíz	Isolux
9) Christopher Staubo	LTWP	19) Daniel Njuguna	Ketraco
10) Andries van der Wal	KEMA		

MINUTES

The following matters have been discussed. See also attached Isolux presentation addressing these issues.





Technical matters

- **Please clarify implications of Alternative Proposal, both technical and commercial**
Isolux recommends the Alternative Proposal. KEMA clarifies that the quantities provided "for information" by KEMA in TB4 (used for the "Basic Proposal") are a rough estimate, not based on detailed engineering, and that it is the Contractor's responsibility to come up with an optimized design, which is the "Alternative proposal".

- **Clarify statement that 'cost will be adjusted as per the real quantities.'**
This applies for the basic offer only, see above.

- **Clarify statement that 'design is made by the customer according the quantities given.' What 'quantities given' are referred to. The contractor shall make the final design and shall include all works and supplies to obtain full and proper working installations.**
This applies for the basic offer only, see above.

- **Clarify statement that 'any other work that is not clearly specified in this document is not included under Lot 3 Contractor's scope'. The contractor shall make the design and shall include all works and supplies to obtain full and proper working installations.**
Isolux's offer excludes way leaves/right of way/crop compensation, port clearance, bush clearing, line route survey. Regarding port clearance, the Employer states this is the responsibility of the Contractor, and taxes/duties will not be paid directly by the Employer. DDP delivery is required. Isolux's offer was as per TB1#10. Isolux shall specify the goods to be imported to the Employer. Wording in tender (exclusions) will be changed.

- **Advise whether both the basic and the alternative proposals based on existing tower designs.**
Neither – a new tower design will be made in both cases.

- **Which software will be used to design the towers and the overhead line?**
Tower® and PLSCADD.

- **Please specify the loads and load cases as proposed for the tower and overhead line designs.**
Handed over at the meeting



- Please elaborate on the planning for the design stage and list the documents and drawings to be submitted

Isolux confirms to comply with Part 2 Chapter 6.

- Foundation design is not shown for the basic proposal. Is it identical to the design of the alternative proposal?

No, for the basic proposal no design was made, the quantities were based on TB4. Isolux will choose the right foundation for the alternative case.

- Dampers and spacer dampers are not mentioned in section 1, but details are given elsewhere. Please confirm that all necessary dampers and spacer dampers are included.

Confirmed. Spacer dampers in the phase conductors and vibration dampers in the OPGW. Installation will be as per manufacturer's recommendations.

- Confirm that all type test in accordance with the tender specification documents are included.

Isolux confirms for the proposed equipment in the offer. Other standards (e.g. national Spanish standards) are subject to approval.

- Confirm that all documents in accordance with tender documents part 2 are included in the offer.

Confirmed.

- The tower structures are not tested.

Isolux states that full-scale testing would impact planning and cost, and was not mandatory in the tender documents, but could be requested. KEMA confirms that calculations would be sufficient, but KPLC states that full-scale testing is standard requirement in KPLC. Isolux will provide an indication of cost and planning implications. (action item Isolux). Ketraco/KPLC will consider the requirement for full-scale testing (action item Ketraco/KPLC).

- Last span between dead end/terminal tower (Lot 3) and substation gantry (Lot 2).

Isolux confirms that this last span is included as per Part 2.



- **Holding/Witnessing of quality of concrete.**
Isolux shall do relevant concrete tests according to regulations and requirements, but the work will not be halted for testing. The Employer may witness tests or/and carry out independent tests periodically as and when he wishes.
- **Trucks/transportation volume**
LTWP asks for an indication of the number and size/weight of vehicles of Lot 3 between Laisamis and the wind farm site (**action item Isolux**)
- **Water supply for Lot 3**
Isolux understood as per TB3#39 that water will be available on the wind farm site. LTWP however states that it is the Contractor's responsibility to make the necessary arrangements for the water needed.
- **Water supply form Lot 3 boreholes for local communities**
Isolux clarifies that the water will be tested, both for concrete production and as drinking water. LTWP stresses that any water supplied to local communities must have an EIA to justify the quality of the water that will be supplied to the local communities, which Isolux undertakes to do. Boreholes that do not pass the relevant tests for drinking water shall be closed up while those suitable shall be handed over to the communities after the project in order to avoid unnecessary repercussions to the Client in the future.
- **Tie-in of Suswa**
Isolux mentions that a 7 working days outage in the line NairobiNorth-Olkaria is needed for the tie-in of Suswa. KPLC states this is not acceptable. Isolux is asked to prepare a proposal for a temporary bypass of one line circuit (**action item Isolux**). KPLC will provide relevant info on the existing line around the substation site up to the tension/angle towers on either side (**action item KPLC**).
- **Terminal point locations**
KEMA advises that the substation sites for Suswa and Loyangalani will be moved. KEMA will inform Isolux on the substation sites and new line route from AP1 into Loyangalani substation (**action item KEMA**).
- **Loss calculation**
Isolux presents a calculation of the losses of the line and recommends a 0.96 power factor for operation. KEMA states that the transmission losses are a consequence of the line design and are not a responsibility of the Lot 3 Contractor.



- **Earthing of the tower**

Isolux proposes an "internal" earthing connection between the tower leg and the reinforcing bars of the foundation in order to decrease maintenance and theft (Eskom specification). Isolux will send a proposal (**action item Isolux**).

- **Optical telecommunication**

Isolux proposes to shift the interface between Lots 2/3 to joint boxes at the substation gantry. Isolux will prepare a proposal containing (**action item Isolux**):

- Technical description of interface and standards (for Lot 2 interface)
- Testing
- Price reduction.

- **Wind speed**

Tender document contained only "estimated and informative (30813134-Consulting 09-0311, Part 2: Employer's General Requirements)" value of 26.75 m/s, and was to be verified by the Contractor. It was agreed that KEMA will provide final reference wind speed to Isolux, after discussion with KPLC/Ketraco (**action item KEMA/KPLC/Ketraco**).

Project approach

Please elaborate on how the project will be executed with respect to engineering and construction. The lack of a clear description of the actual approach of the project resulted in as very low score on the highly weighted Part 2 of the Tender, which lead to a huge Monetary Value of Deviations in the technical evaluation compared to other bidders. The main topics that need clarification are listed below:

- Isolux hasn't given any detailed description of the approach for their logistics plan and the workflow, not even after the clarification. The approach on the execution of a project of this size and type is a critical success factor. Please elaborate on the logistics and the workflow.

On this particular issue, the presentation (attached) gave the necessary clarification. The Gantt chart planning shows that after contract award the initial engineering and design will be executed in three months. How much time is reserved for the approval of the drawings and correction of the flaws. This is a potential risk. Please elaborate and include time in the planning for review of documents by the client.

Isolux considers the 18 month delivery time critically short. There is no margin in the

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planning. Isolux proposes 2 week review time. Employer will consider this proposal.
(action item Ketraco/LTWP/KEMA)

- Constraints due to delivery of others are not visible in the planning (water, bush clearance,). Amend the planning accordingly. All interfaces shall be clearly mentioned.

Some interfaces are mentioned in the "Constraints" section of the attached presentation.

- In the initial tender the total of all the manmonths forecasted was 16242. The forecast after the clarification round was increased to 17687. This is a slight manpower increase probably due to rounding and reallocation. Please explain the manpower usage, how many workers will be employed per site, at how many sites will be worked simultaneously, etc.

Isolux clarified that an exact estimate is not possible until the start of the work on site. See presentation.

- The proposed key personnel are all of Spanish Origin. Confirm that all these persons will be part of the actual design team when contract is awarded. Not confirmed. Isolux will employ local personnel where possible. Unskilled labor will be recruited from local communities. For excavation & foundations, the majority of the personnel will be local, for the tower erection and the stringing, teams will be mainly specialists from abroad.

- No names or resumés of personnel for the execution phase are given. What will the actual construction team look like? How will the project execution be managed from Spain in terms of quality and progress? Are there any subcontractors foreseen? What subcontracting firms are proposed? What is their track-record? Isolux will propose key staff at contracting and at personnel changes for approval. Among others for security & civil works, local firms might be subcontracted.

- In the main proposal some design approach is given for the electrical parameters and the loading calculations for the towers. The civil design (foundations) is not detailed. Please elaborate on this.

For the alternative proposal, preliminary design is included in the tender.

- At peak over 1600 men will be working on the line simultaneous. Isolux doesn't give any detail on the security emphasised for this project. It is only mentioned that Isolux will arrange "guarding and fencing". Elaborate on the proposed logistics, housing and sanitary, water and food, safety, security....



On this particular issue, the presentation gave the necessary clarification.

- **Another concern is the fact that manufacturing is already in progress before the final design is approved. How will possible late design changes be taken along in the manufacturing?**
Isolux explains that there will be partial approvals which do not overlap.
- **Isolux proposes a number of possible manufacturers of components for line equipment. For each component several possible vendors are mentioned. No clear choice for one preferred vendor or equipment is made. Multiple alternative offers (vendors/equipment) for the line components are given, which results into unclarity about the final delivery. Which supplier will ultimately be chosen for the materials (conductor, OPGW, insulators, dampers, fasteners)? Ultimate choice will be made after the contract comes into force.**
- **Will multiple suppliers per material item be used?**
No, a single supplier per material.
- **If only one supplier per material item is used, how will the risk for late delivery or insufficient quality be mitigated?**
See presentation. For the concrete, insulators and conductors, no problems are foreseen (if there is a local shortage of concrete, Isolux will purchase it overseas). Tower steel may be critical – Isolux will deploy an engineer at the steel plant during manufacturing to monitor progress and quality. The Employer may witness .
- **If several suppliers per material item are used, how will the quality of the different supplied materials be verified? How will be tracked what materials will be installed in which part in case of trouble?**
N/A.
- **A transportation route survey has not been executed yet, what are the risk in the planning for this? The financial implications will not be reimbursable. Included, no financial implications.**
- **Training program is very shallow. There seems to be no training on maintenance. Please elaborate on the training program.**
A training program was presented and should be discussed later. The maintenance training program may be in Kenya.



– **Clearance fees**

Refer to the item "Clarify statement that 'any other work that is not clearly specified in this document is not included under Lot 3 Contractor's scope'. The contractor shall make the design and shall include all works and supplies to obtain full and proper working installations."

Financial matters

- The interconnection of the line Nairobi North ⇔ Olkaria seems a very costly one with 8 additional towers. Please propose a more cost-effective solution given the fact that the Suswa substation can be built further away from the existing line. Isolux presents a design with 4 towers. Final location of the Suswa substation and information regarding the existing line will be sent to Isolux (action item KEMA), who will amend the proposal accordingly (action item Isolux).
- **Tender validity date 30 June**
Isolux is requested to extend the tender validity from 19 February until 30 June, the planned Financial Close date. Isolux requests a formal request (action item KEMA).

Maintenance and spare parts

- The maintenance plan gives a complete description of how maintenance will be executed but the exact scope of the maintenance work and the interval of the activities for the Lake Turkana Wind Power transmission line is not given. It is unclear what can be expected when they are granted the maintenance contract. Please clarify.
Isolux has presented an annual scope of work.
- Part 8 of the Isolux offer gives the amount of manhours and equipments per (1) year. The costs for this maintenance are M€ 1.9,= per year. Is this amount fixed for 10 years?
No, only for the first year. For further years, Isolux would revise the cost for inflation and raw material variations.

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- The price for recommended spare is given for one (1) year. How shall this be interpreted? What is the price for 10 years? What happens with the equipments after 10 years?

Unit prices are included for spares recommended for 3 years. Equipment will remain Isolux property. Isolux is requested to prepare an offer for selected maintenance tools/equipment (action item Isolux).

- It is unsure how Isolux will take care of the safety and security of their people and their assets. This is a potential risk for the progress and the financial implications of this.

See presentation.

- The alternative offer gives a possible price reduction of M€ 8,=. What are the risks for the Employer in the alternative design with respect to the base case (route survey, ROW, footing of the towers....)?

See above.

Other issues

The following items were raised in the meeting:

- Isolux mentions that absence of fixed project dates brings uncertainty, among others due to the dates that inter-government loans will come into force.
- Isolux mentions that the Employer may change from Lake Turkana to Ketraco/GoK, and would like to receive information about tax consequences etc. (action item LTWP/KPMG)
- Isolux indicates that new financing sources may require more Spanish content, which may require a change in suppliers/subcontractors.
- Isolux indicates that material prices of aluminium and steel have increased since the tender date. Isolux proposed to use a revision formula. **To be discussed in the financial meeting.**
- Isolux indicates that the EUR/USD exchange rate has changed. There was disagreement regarding the interpretation of TB4#12 and TB5#18 regarding currency and exchange rate of the submitted tender. **To be discussed in the financial meeting.**



- Isolux mentions that the delivery time is challenging, and the project should start as soon as possible.
- KEMA to incorporate the tender bulletins into the tender documents Parts 1-4, indicating the changes for comments by Isolux (action item KEMA).

Wrap-up

Isolux handed over a copy of the presentations given, which is attached.

KEMA will send draft minutes of meeting by 3 March for comments by all participants by 5 March. Next, KEMA will send out the 2nd draft minutes of meeting by 10 March for initialing at the second meeting.

Isolux will supply additional information by Wed 10 March latest.

NSA

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Action item	Responsible	Due date	Ready date
Cost and planning implications of full scale tower testing	Isolux	2010-03-10	2010-3-10
Consider requirement for full-scale testing	Ketraco/KPLC	2010-03-10	
Indication of number and size/weight of vehicles between Laisamis and wind farm site to LTWP	Isolux	2010-03-10	2010-3-10
Proposal for temporary bypass of one line circuit Olkaria-Nairobi North during Suswa tie-in finalization	Isolux	2010-03-10	Wait for KPLC
Provide relevant info on the existing line around the substation site up to the tension/angle towers on either side to Isolux	KPLC	2010-03-05	
Provide substation site and line route information from AP1 to Loyangalani substation to Isolux	KEMA	2010-03-19	2010-03-15
Proposal for "internal" earthing connection between tower leg and foundation rebars	Isolux	2010-03-10	2010-3-10
Proposal to define the interface at joint boxes (3 parts)	Isolux	2010-03-10	2010-3-10
Wind speed reference value	KPLC/Ketraco/KEMA	2010-03-05	
Reaction on Isolux proposal to shorten approval time from 3 to 2 weeks	KPLC/Ketraco/KEMA	2010-03-10	
Final location of Suswa substation to Isolux	KEMA	2010-03-05	Wait for Lot 2 bidder
New location of Suswa substation: adapt tie-in design Suswa S/S and final portion of 400 kV line route	Isolux	2010-03-10	Wait for Lot 2 bidder
Formal tender validity extension request to Isolux	KEMA	2010-03-02	2010-03-02
Proposal for line maintenance tools/equipment	Isolux	2010-03-10	2010-03-10
Change of Employer: tax consequences etc.	LTWP/KPMG	2010-03-10	
Incorporate tender bulletins into the tender documents Parts 1-4	KEMA	2010-03-05	2010-03-05

Next meeting

The next meeting is tentatively scheduled to be on 17 and 18 March. To be confirmed until 5 March.

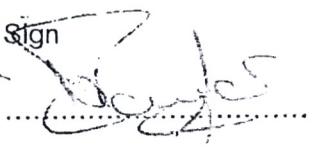
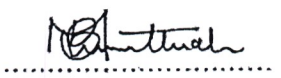
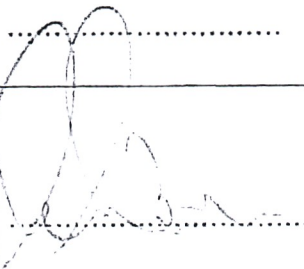
Topics: technical finalization and financial/legal issues.

Action item list

Following action items were agreed:



For approval:

LTWP:	KETRACO / KPLC	KEMA	ISOLUX
Nick TAYLOR	PETER MUNGAI	ANTHONY LINDSEY	JOSUAS WAKARU MARCEL CABRAL
Date: 18/3/2010	18-03-2010	18-3-2010	
Sign 			

1992

Appendix 12



REPUBLIC OF KENYA
MINISTRY OF ENERGY

Telegrams: "MINPOWER"
Telephone: +254-20-310112
Fax: +254-20-3228314/2240910
Email: ps@energymin.go.ke
p.nyolke@kenya.go.ke
When replying please quote

Ref. No. ME/CONF/3/2/8
and date

Mr. Chris Staubo
Deputy Managing Director
Lake Turkana Wind Power
Capital Hill Towers, 5th Floor
P.O. Box 63716
NAIROBI

Fax No. 2718349

Dear *Mr Staubo*

RE: LAKE TURKANA TRANSMISSION LINE PROJECT

Please refer to your letter, dated May 28, 2010 on the above captioned subject.

I would like to confirm that the Government of Kenya through the Ministry of Energy will provide at least Euro 35 million to KETRACO to cover the financing gap for the Loyangalani-Suswa 427km double circuit line for evacuation of power from the proposed 300MW wind power development by Lake Turkana Wind Farm. This funding will be provided in two financial years, commencing 2010/11.

As you are aware, the Government of the Kingdom of Spain has already agreed to provide to the Government of Kenya a soft credit of Euro 110 million out of about Euro 137 million required for construction of the line. KETRACO's funding will also

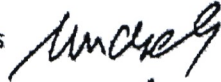
OFFICE OF THE
PERMANENT SECRETARY
NYAYO HOUSE
P. O. Box 30582
NAIROBI

May 28, 2010



include acquisition of the way leave (right of way) and resettlement costs for any affected persons.

Yours



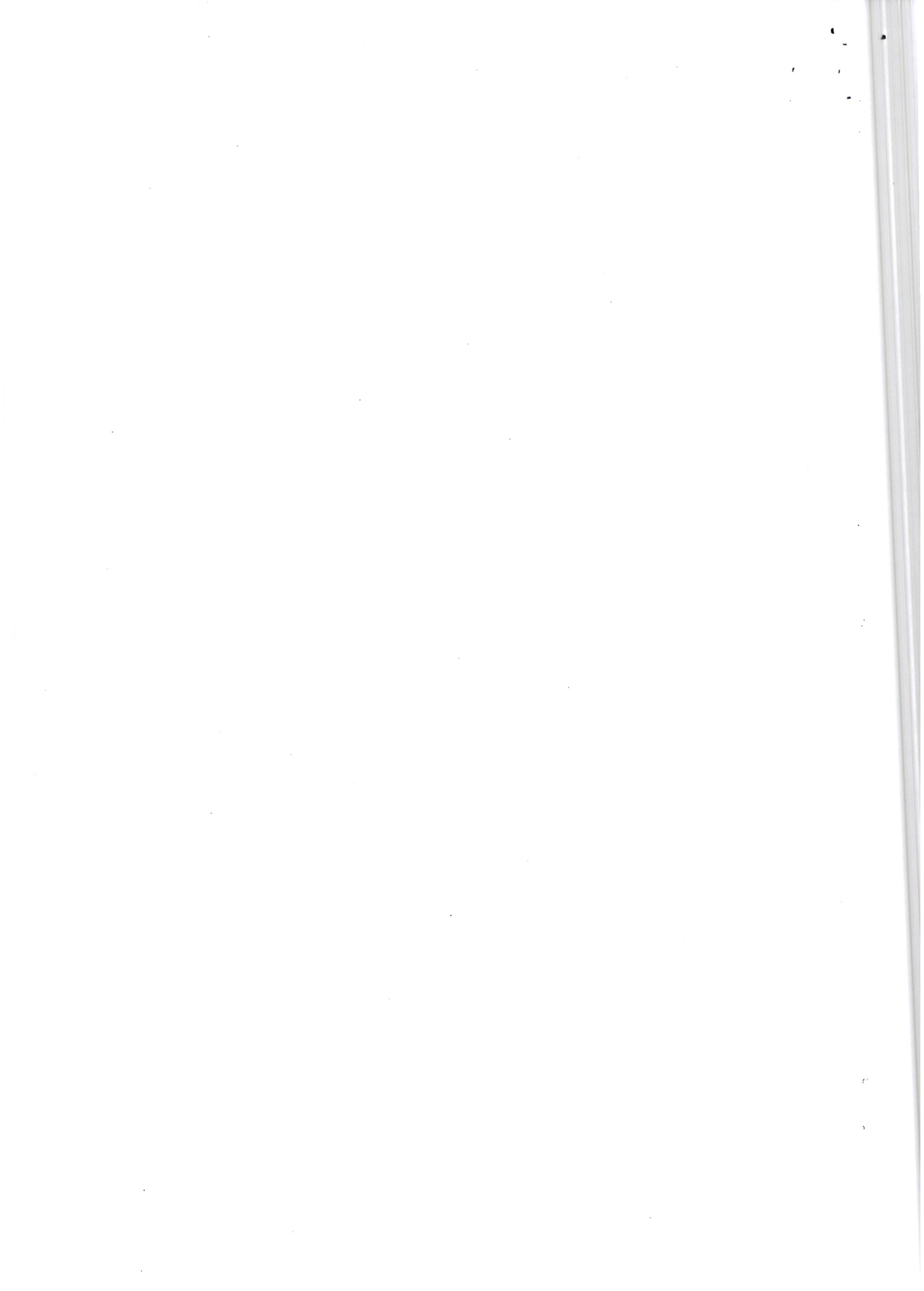
PATRICK M. NYOIKE, CBS
PERAMNENT SECRETARY

Copy to: Mr. Joseph K. Kinyua, CBS
Permanent Secretary
Office of the Deputy Prime Minister and
Ministry of Finance
Treasury Building
NAIROBI

Mr. Jackson N. Kinyanjui
Director
External Resource Department
Office of the Deputy Prime Minister and
Ministry of Finance
Treasury Building
NAIROBI

Eng. Joel M. Kiilu
Managing Director
KETRACO
Caparo Place, Upper Hill
NAIROBI

Appendix 13



OFFICE OF THE MANAGING DIRECTOR



KENYA ELECTRICITY TRANSMISSION CO. LTD.

2nd Flr. Caparo Place - Chyulu Rd - Upperhill
P. O. Box 34942 - 00100, NAIROBI
Phone: +254 20 4956000
Cell: +254 719018000
Cell: +254 732128000

KETRACO/2/14G/4/DM/bmk

12th July, 2011

Mr. Carlo Van Wageningen
Lake Turkana Wind Power
P O Box 63716
NAIROBI

Dear *Carlo*,

**RE: OUTSTANDING ISSUES: LTWP - KETRACO INTERFACE
LOIYANGALANI SUSWA 400KV T/LINE**

The above project refers.

As you are aware, we are in the penultimate stage of executing the EPC Contract for implementation of the above project. Lake Turkana Wind Power Ltd. (LTWP) and KETRACO have worked closely for the last two years since KETRACO became the implementing agent for the project on behalf of the Government.

This is now to request LTWP to confirm if there are any outstanding issues and related expenses and/or commitments that KETRACO is expected to assume or settle as we reach closure of negotiations on this project.

Meanwhile, we record our appreciation for the due diligence, unwavering support and commitment that the team of LTWP and its associates extended towards realization of the various milestones in reaching agreements between all the parties and stakeholders involved in this and associated facilities.

We wish you every success in bringing the wind farm project to its full realization and successful wind generation of 300MW as envisaged to add green energy to the national grid.

Yours

Joel M. Kiilu
ENG. JOEL M. KIILU
MANAGING DIRECTOR & CEO

APPENDIX 20

Appendix 14

Meeting Minutes

Wayleave Coordination Progress Meeting *Update following separate LTWP/Ketraco meeting*

Monday, February 12th, 2018
Red Court Inn

Ketraco	LTWP
John Macharia	Valerie Akinyi
Daniel Mukanda	Felix Rottmann
Rufus Rono	
Stephen Munzyu	
Noah Kimaru	
Lucy Theuri	

For best results, print on A3 paper
This document contains 22 pages.

Tower 995 - 932 (TP - AP36)

Twr 958 (HAK tower)

Oct. 13th: The local residents are claiming ownership of this parcel of land, but they don't actually own it. They are demanding compensation nonetheless. In the meantime, they are blocking access to construction: the foundation has not been started yet. Ketraco is exploring the option of using security to access the location (Tamani is in the area and needs to get to this location asap). **Lucy Theuri is to liaise with Nelson Bosuben about when security is required.**

TWRS 992 - 995

April 24th: Ketraco has security on standby for Isolux to access towers 992-995, as well as in the section between 981-990 (for tower erection). The Tamani teams are both now working NORTH of the Naivasha highway - one working at tower 991 and the other working at tower 872. They will inform Ketraco when they are ready to move back to tower 992; their intention is to leave this section till last, so that the DEK foundation design is complete before they go there. In the meantime, Isolux will work on all the skipped foundation locations elsewhere.

May 8th Update: Even though Ketraco had mobilized security to the towers south of the Narak-Maimahiu highway in early April to enable works to resume, the workers refused to work on tower 992 as they were afraid of being attacked by the locals, should the security not be there. As a result, the teams moved northwards to 984. The crews made up a number of excuses for going northwards, rather than southwards, but at the end of the day, it came down to the fact that the workers were scared of reprisals by the local community against them personally once security was not on hand. As a result, Isolux is going to leave this section to last, to coincide with the arrival of the DEK foundation design (required for the last two/three towers into Suswa), which is still being finalized by Isolux Engineering.

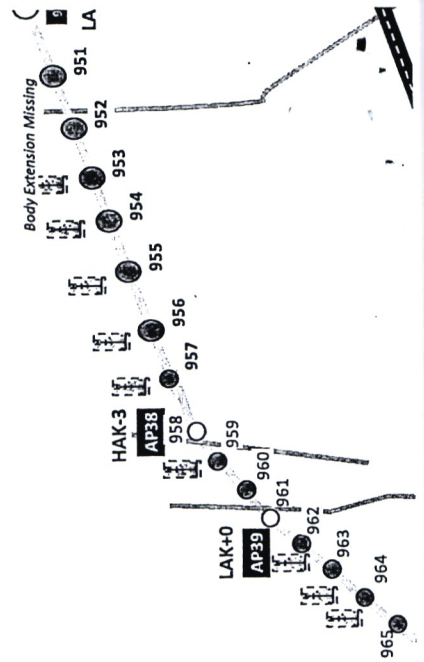
May 19th: Tower 991: Tamani managed to complete concreting works, but during backfilling, they were stopped by the sand harvesters again.

The Tamani supervisor will provide details on any other issues in this section by the end of today. The note on Towers 992-995 under May 8th's entry still applies.

June 8th: Remains that when Isolux is ready to move here, they will inform Ketraco who will in turn arrange for security.

July 14th: No change. Isolux to notify Ketraco when construction south of tower 991 is to commence.

Oct. 13th: The ownership dispute remains. Access will be gained only by the use of security. Since Tamani is very reluctant to work under security for fear of reprisals against their local workers by the person claiming to be the owner, these locations will be left till last. **HOWEVER**, the time is very rapidly approaching when the civil works will have to proceed here: Tamani is excavating at a rapid pace and will run out of locations to excavate very soon.



981: Erection Blocked by locals on Feb. 13th. Only legs erected. Awaiting return on ETL + security to finish this tower

982: Erection Blocked by locals on Jan. 20th. Only legs erected. Awaiting return on ETL + security to finish this tower

n Missing



