

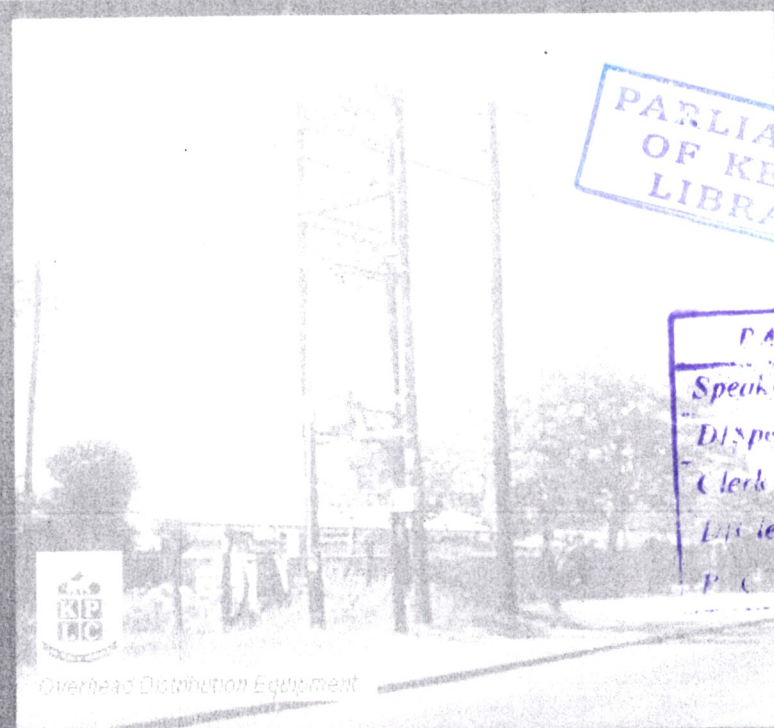
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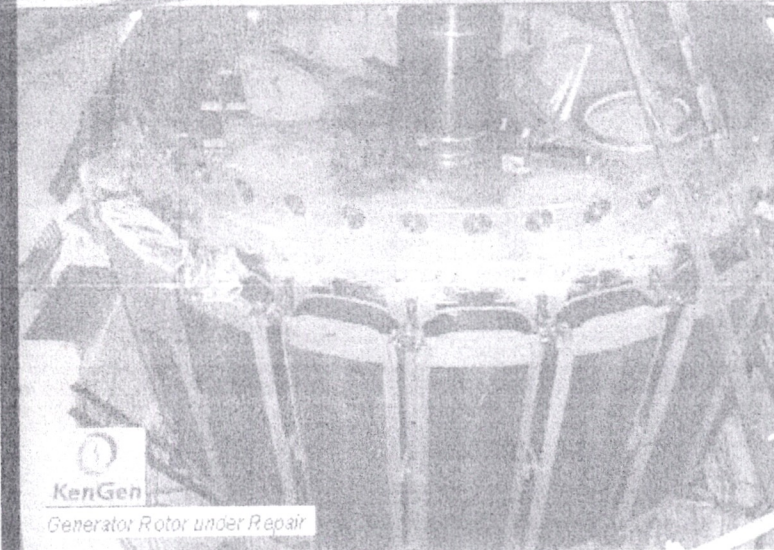


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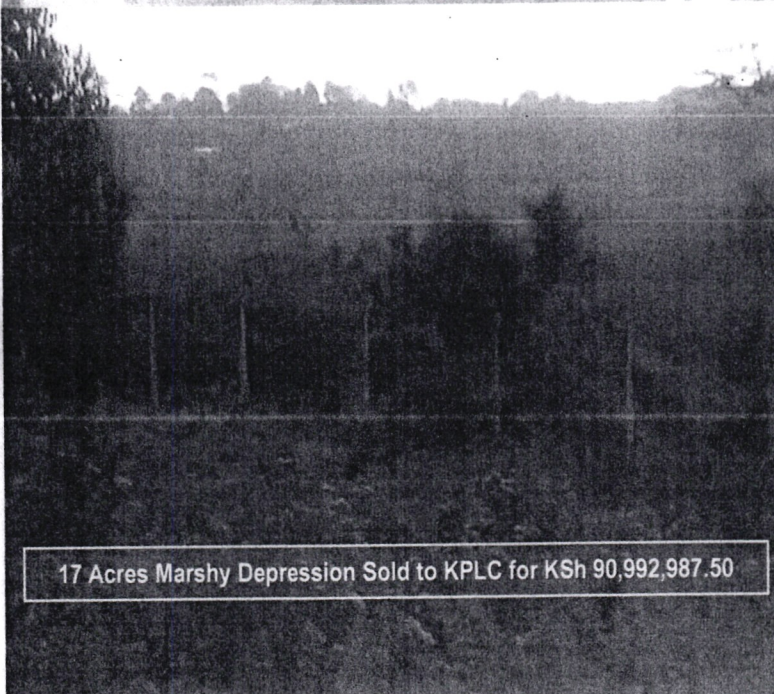
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Overhead Distribution Equipment



KenGen Generator Rotor under Repair



17 Acres Marshy Depression Sold to KPLC for KSh 90,992,987.50

REPORT

of

THE TECHNICAL AND FINANCIAL AUDIT COMMITTEE

on

THE KENYA POWER & LIGHTING COMPANY LIMITED

and

THE KENYA ELECTRICITY GENERATING COMPANY LIMITED

24 OCTOBER 2003

KENYA NATIONAL ASSEMBLY

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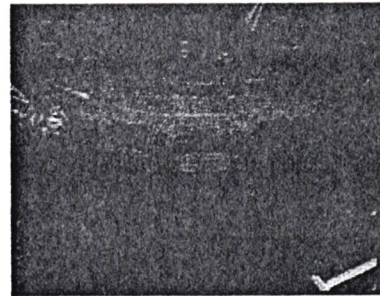
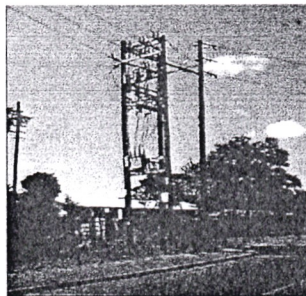
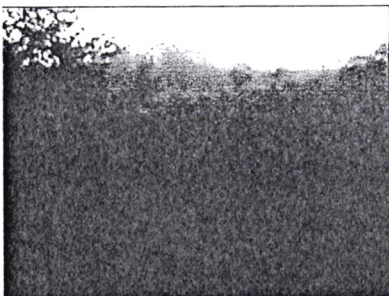




MINISTRY OF ENERGY

REPORT
of
**THE TECHNICAL AND FINANCIAL AUDIT
COMMITTEE**
on
**THE KENYA POWER & LIGHTING
COMPANY LIMITED**
and
**THE KENYA ELECTRICITY GENERATING
COMPANY LIMITED**

24 OCTOBER 2003



LETTER OF TRANSMITTAL

24th October 2003

Hon. Ochilo G. M. Ayacko
Minister of Energy
Nyayo House
NAIROBI

Dear Sir,

**REPORT OF THE TECHNICAL AND FINANCIAL AUDIT COMMITTEE
ON THE KENYA POWER & LIGHTING COMPANY LIMITED AND
THE KENYA ELECTRICITY GENERATING COMPANY LIMITED**

On behalf of the members of the above referenced Committee and on my own behalf, I am pleased to submit to you for your retention and use the Report on the findings the Committee has been able to unearth within its terms of reference.

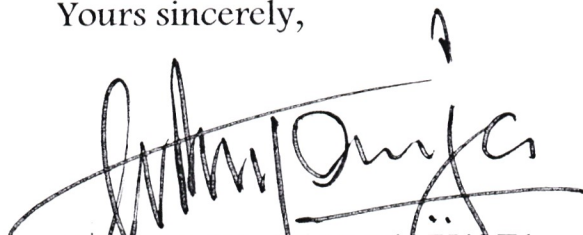
Please accept my apology for the slight delay in submitting the Report. The members felt that the Report would not have been complete without certain crucial issues which had to be concluded and incorporated in it.

We are all very grateful to you to have accorded us the opportunity and privilege to serve the Government in its fight to eradicate corruption and expose the perpetrators of these heinous acts. This Committee has carried out this noble task without fear or favour.

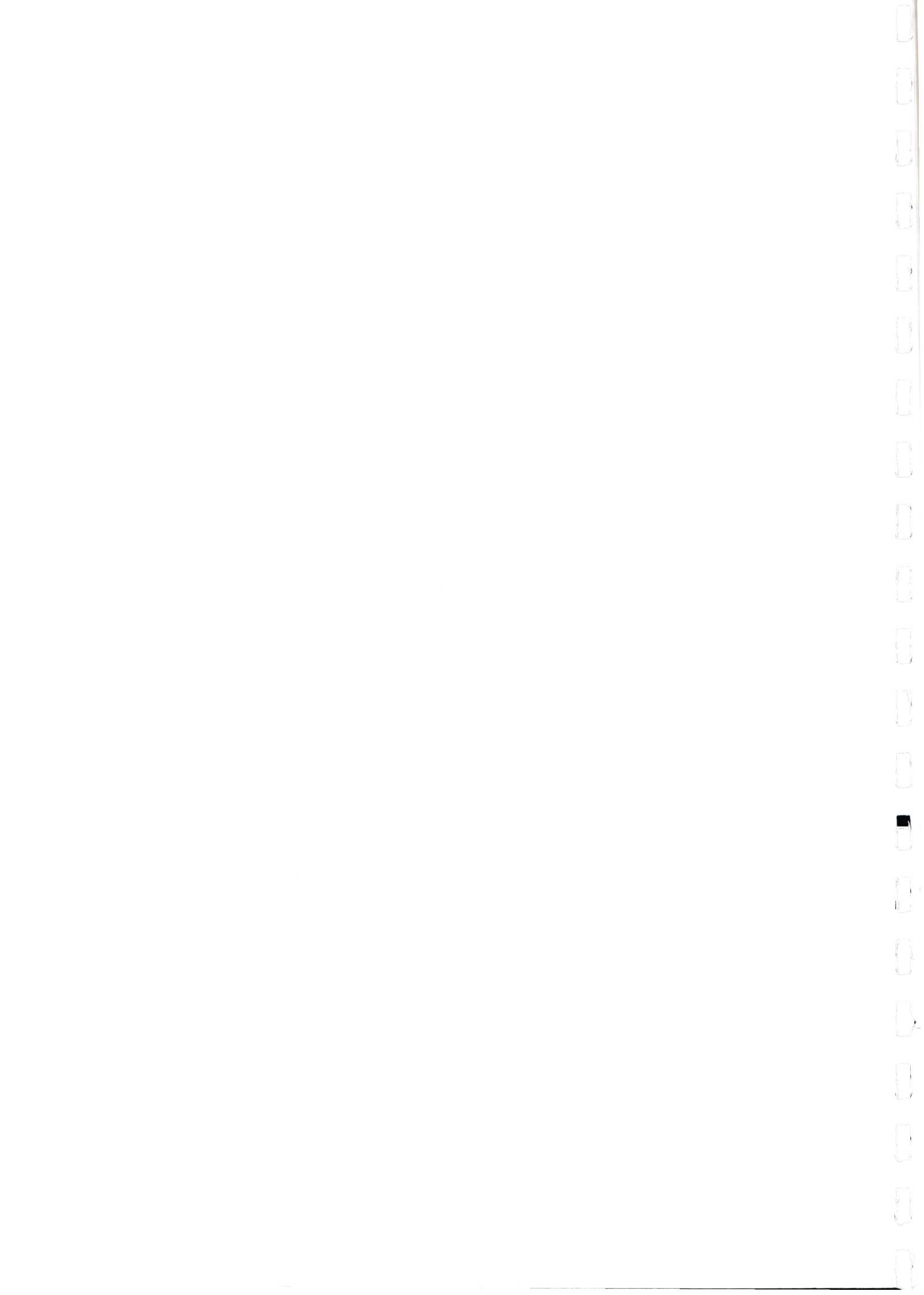
In conclusion, I wish to thank you again and assure you of our steadfast support towards eradication of corruption which has destroyed the economy of our country.

Thank you.

Yours sincerely,



HON. ARCH. GEORGE NYANJA
CHAIRMAN OF THE COMMITTEE



ACKNOWLEDGEMENTS

I would like to thank everyone who has contributed in one way or another in writing this report.

My gratitude goes in the first place to **Hon. Ochilo Ayacko**, Minister of Energy who appointed this Committee on 10th March, 2003. The Committee owes its success to the unwavering support, guidance, understanding and patience that the Hon. Minister has so kindly given to it. I would also like to thank **Mr Patrick Nyoike**, the Permanent Secretary, Ministry of Energy for providing the platform for us to carry out this noble but difficult assignment.

My thanks go also to **all the Members of this Committee** who have worked tirelessly and with a devotion which very few committed and patriotic Kenyans can match. While their terms of reference required that the Committee works for three days a week, the members, realizing the heavy load ahead against the short period given, soon after decided to work two extra days without pay and sometimes late into the night. When the Permanent Secretary, Minister of Energy informed the Committee that the Government had not budgeted any money beyond the gazetted period, the Committee members resolved, as patriotic Kenyans, to work without pay to the logical conclusion of the report. Words fail me when I wish to express my gratitude to them all and in particular to **Eng. Jobab Odeny**, the Committee Secretary, for his diligence and professionalism.

Next, let me pay special tribute to **all our informers** who have given the Committee very valuable tips without which this report would not have been easy to write; and to the **Management of KPLC and of KenGen** for the valuable information they provided.

For work behind the scenes, my special thanks go to **Elizabeth Okaka** for looking after us so well, and to **Peninah Musyoka** for assisting with some of the secretarial work so cheerfully.

HON. ARCH. GEORGE NYANJA
COMMITTEE CHAIRMAN



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MEMBERSHIP OF THE COMMITTEE

Membership of the Committee

The following persons sat on the Committee:

- Hon. Arch. George Nyanja - Committee Chairman
- Eur Ing Joab L. Odeny - Committee Secretary
- Eng. Victor J. Ongewe - Member
- Mrs Bernadette M. Nzioki* - Member (Ministry of Energy)
- Mr. Samuel M. Mwangi - Member (Ministry of Energy)
- Mr. Titus Muriithi - Member (Office of The President)

* Mrs Nzioki, a Senior Deputy Secretary in the Ministry of Energy, was away on overseas study from 5th July to 30th August 2003 and did not participate in the meetings regularly upon her return.

TERMS OF REFERENCE

The terms of reference as spelt out by the Minister in the letters of appointment and in the press release were as follows:

1. Review contract award modalities for consistency with overall Government procurement guidelines and with the Company's procurement guidelines and establish whether procurements were done in accordance with the laid down regulations procedures;
 - For each contract awarded establish whether it was completed on time and as per the contract amount and; if not establish any variations made leading to over expenditure and whether such variations were justifiable, cost effective and regularised;
 - Review any payments made as regards their consistency with procurement guidelines and work done or services rendered;
 - Review the relevance to the core business of all contracts awarded and any in house procurements made;
 - Review the effectiveness of Boards and Management performance and recommend remedial measures to ensure accountability;
 - Review any financial irregularities and impropriety;
 - The Committee in the course of its work should regularly report to the Minister any cases of impropriety requiring either prosecution or disciplinary action or both; and
2. Prepare a comprehensive report on findings and recommendations on actions to be taken to ensure efficiency in resources allocations.

Committee sittings were approved for three days a week and the report was to be submitted to the Minister by 4th September 2003.

FOREWORD

This report gives the findings of *The Technical and Financial Audit Committee on Kenya Power & Lighting Company Limited (KPLC) and Kenya Electricity Generating Company Limited (KenGen)* since its appointment by the Minister of Energy on 10th March 2003.

The appointment of the Committee was in response to the recognition that the once exceptional and respected public electricity supply sector had for a time fallen out of glory; with deplorable service to consumers, dismal financial performance and very low staff morale. The substance of the appointment was to discover what went wrong and to advise the Minister on the way forward.

The Committee has examined the records of the two Companies and interviewed many people from within and outside the Companies. The Committee discovered many irregularities which, together with its recommendations for financial recoveries and proposals for the way forward, are the subject of this report.

The report is submitted in two parts: the full *Report* and the *Summary of the Report*.



METHODOLOGY AND IMPEDIMENTS

Information Gathering

The Committee gathered information as follows:

- Information and tips were received and reviewed from volunteers inside and outside the Companies, and from visits to various sites.
- Large volumes of data and files provided by the Companies on request were scrutinised.
- Past and present members of staff of the two organisations and members of the public who were invited or volunteered were interviewed.

Reporting Criteria and Format

The Committee resolved to be open minded and professional right at the start. The Committee followed up most of the leads it received, but reported only on those that yielded tangible evidence. Persons mentioned in the report are those revealed in the progression of the investigations to be prime movers. Plausible allegations which were not covered on account of time are listed at the end of the report for further investigations.

The prose format chosen is intended to present a fuller background of the events behind the figures.

Difficulties and Impediments Encountered

The Committee experienced the following major difficulties while carrying the tasks assigned to it:

- The field to be covered was very wide and irregularities very common and well camouflaged. Information gathering was very difficult and required much time to uncover the truth.
- Managers whose departments were being probed remained in office during the investigations, thereby making it almost impossible for other staff to

volunteer incriminating information. Ironically, the managers were co-ordinating the flow of information to the Committee.

Recommendations by the Committee for some of the managers to go on leave to facilitate the pace of investigations were not received well by the Ministry, citing operational grounds.

- The Management was sceptical and suspicious. The attitude of "*wait and see if they will discover it*" was common among the senior staff expected to assist the Committee. Only very few managers understood the complementary work of the Committee and rendered uninhibited valuable help.
- Materials (data and files) requested usually took long to come and information submitted was often inaccurate, making it time consuming.
- Although the Committee was appointed in March 2003, gazettelement was effected on 9th October 2003. The delay was a major impediment as one key witness, invited by the Committee, refused to appear before it questioning its legal status.

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COMMITTEE FINDINGS ON THE KENYA POWER AND LIGHTING CO. LTD.

1. PROCUREMENT PROCEDURES

1.1 REVIEW OF PROCUREMENT PROCEDURES IN KPLC: WEAKNESSES AND EXCEPTIONS

The Committee reviewed KPLC Purchasing and Tendering Procedures which revealed that prior to enactment of the Public Procurement Regulations in 2001, The Kenya Power and Lighting Company Limited (KPLC) had developed its procurement regulations and guidelines that were issued from time to time after its exemption on 16th March 1996 from the State Corporations Act, Cap 446 Laws of Kenya.

According to an Internal Memo dated 16th April 1998, KPLC last revised its purchasing and tendering procedures early in that year. These procedures remained applicable until the introduction, by the Minister of Finance on 15th March 2001, of the Exchequer and Audit (Public Procurement) Regulations. These regulations are now operational in all public institutions.

The Committee observed that the KPLC Central Tender Committee (CTC), chaired by the Managing Director was the most senior committee mentioned in the Company regulations. While this committee would authorize and approve tenders and quotations for goods and services rendered to the Company valued at between KSh 1,600,001 and KSh 4,000,000, it was not regulated how goods and services in excess of KSh 4 million would be procured.

Again, where the tender value was in excess of KSh 4 million there was no indication that the tender would be made public with invitation to tender advertised in newspapers of nationwide circulation. The guidelines only stipulate that tender documents would be prepared by the Supplies Division or the user division

and tenders would be invited from not less than three firms through liaison with the Company Secretary. *This is an irregularity as such a procedure should only apply to **quotations** and not tenders.*

Further, the role of the Board in procurement of goods and services was not out-lined therein. However, according to clause (c) (iv), the decision of the Managing Director was final if the CTC failed to reach a unanimous decision on any matter within its terms of reference. The Committee observed that such a matter should have been referred to the Board since the Managing Director was himself a member of the CTC.

In general, the laid down procurement procedures were not comprehensive and the basic principles of competitive procurement through open tendering were compromised. This created a loophole in the procurement system whereby some goods and services were repeatedly procured without competitive bidding or tendering. The Committee was additionally informed that the CTC did not meet regularly and at one time did not do so for three years. (This was the same case with the Management Committee.)

Examples are the lucrative contracts of Independent Power Producers (IPPs) such as Iberafrica Power, Westmont Power, Tsavo Power and OrPower-4, amongst others as highlighted later in this report.

However, the purpose of sound procurement regulations is to promote economy and efficiency in procurement and to ensure that procurement procedures are conducted in a fair, transparent and non-discriminatory manner thereby contributing towards a sound business climate.

2. INDEPENDENT POWER PRODUCERS (IPPs) CONTRACTED BY KPLC

2.1 IBERAFRICA POWER (E.A.) LIMITED: IRREGULAR POWER PURCHASE CONTRACT

The Committee reviewed various Contract Agreements between KPLC and Iberafrica Power and the following irregularities were observed:-

2.1.1 The Main Agreement of 16th August, 1996

Iberafrica Power (EA) Limited is a locally incorporated firm with its principal office on 6th floor Laxcon House, Parklands P. O. Box 32443 Nairobi.

KPLC contracted the firm to supply, erect, operate and maintain a 30-50 MW generating plant at Nairobi South yard under an Independent Power Purchase Agreement (IPPA) signed by both parties on 16th August, 1996.

The contracted capacity agreed upon was set at 44.466 MW; however, Iberafrica was allowed to conduct a contracted capacity test every 12 months and would revise the contracted capacity to not less than 44.466 MW or greater than 105% of that amount, i.e. 46.689 MW.

The duration of the contract was for a seven year period commencing from the full commercial operation date. This was 27th August, 1997 and therefore the expiry date shall be 26th August 2004.

2.1.2 Irregularities in Tendering

2.1.2.1 Non-Advertisement of the Tender

The project was conceived in the 1996/97 financial year and is on-going; *however, the Committee noted with concern that though it was a major project with huge financial implications the tender was not advertised.* According to KPLC, requests for proposals for Tender for Stop Gap IPP Supply were sent to the

following 15 companies and their responses exactly as recorded in the Management paper was as shown below:

<i>Company Invited</i>	<i>Offer Received</i>
1. <i>DHE Ltd</i>	<i>Yes</i>
2. <i>Scotia Energy Ltd</i>	<i>Yes</i>
3. <i>Rotek Engineering (Pty) Ltd</i>	<i>No</i>
4. <i>Lohrmann International</i>	<i>No</i>
5. <i>Pioneer Services & Engineering Co.</i>	<i>Yes</i>
6. <i>Wartsila Diesel</i>	<i>Yes</i>
7. <i>Midlands Power</i>	<i>No (from Stewart & Stevenson)</i>
8. <i>Kapps Ltd</i>	<i>Yes</i>
9. <i>ABB Ltd</i>	<i>No</i>
10. <i>Iberafrica</i>	<i>Yes</i>
11. <i>Eurokapital</i>	<i>Yes</i>
12. <i>Plant Technology</i>	<i>Yes (Sabah Shipyard)</i>
13. <i>Skanska International</i>	<i>No</i>
14. <i>ArcoGlobus</i>	<i>No</i>
15. <i>Marathon Corporation</i>	<i>No</i>

The paper added that "by the closing date, 30th April, 1996, nine of these companies submitted their bids which were given to the Consultant, Mott Ewbank Preece for evaluation."

The Committee observed from the above list that no offer was received from M/s Midlands Power and M/s Plant Technology and wondered how M/s Stewart & Stevenson and M/s Sabah Shipyard (bracketed), respectively, were brought in and eventually won the tender. This procedure is flawed since business relationship with the initial companies that had been invited to bid was not disclosed. It would appear that both firms were substituted at a later stage for the sake of winning the tender. (Note the "YES" and the "NO" recorded for both firms).

The Committee further observed that some of the companies invited as listed above did not have the capacity or the business interest to run an independent power production facility.

2.1.2.2 Tender Analysis & Evaluation

Upon evaluation, KPLC reported that out of the nine companies that responded, six failed to submit a Bid Bond of US dollars 250,000 and the equipment offered by some was not suitable.

They were, therefore, disqualified at the preliminary stage of evaluation. The remaining three compliant bids were subjected to detailed Technical and Financial Evaluation. The purchase cost of Energy from the three compliant IPPs was as follows:-

Firm	US Cents per kWh
Sabah Shipyard	7.984
Iberafrica	10.604
Stewart & Stevenson	11.180

The types of plant offered, their capacities and respective locations were as follows:-

Firm	Type of Plant	Location	Capacity (MW)
Sabah Shipyard	Gas Turbine(barge)	Kipevu*	43.0
Iberafrica	Diesel	Nairobi South	44.5
Stewart & Stevenson	Gas Turbine	Rabai*	39.0

* Kipevu is in Mombasa while Rabai is about 50 km to the north west of it.

It was concluded that "the two bids *with the lowest total energy price*" are Sabah Shipyard (offering a Mombasa based barge-mounted gas turbine) and Iberafrica (Nairobi based diesel plant). The negotiations on the Technical, Financial and Commercial issues were therefore, held with these two firms".

The Committee observed as follows:-

In addition to the fact that the request for proposals had not been sent to M/s Stewart & Stevenson and M/s Sabah Shipyard respectively, it was noted that during the negotiations which were carried out in Nairobi on 25th July 1996, the bid price previously quoted by Sabah Shipyard was increased (by US cents 0.196) from US cents 7.984 to US cents 8.18 per unit, while that of Iberafrica was reduced by 0.534 cents from US cents 10.604 to US cents 10.06 per unit. The tender specifications requested the bidders to quote a price to cover fixed capacity investment payments and energy costs (fuel, lubrication and operation and maintenance). The adjustment agreed upon by KPLC at the negotiations stage is therefore questionable since the initial prices had taken care of the above

requirements. The price review was therefore irregular and outside tender specifications.

Although the other six companies were disqualified due to non-remittance of US\$ 250,000 Bid Bond, the security was neither recognized nor incorporated in the final contract Agreement with Iberafrica and Westmont Power (Sabah Shipyard) thus eroding its importance.

Further, according to Minute No. 13846 of the KPLC Board Meeting held on 13th August 1996, the Managing Director informed the members that *"World Bank Procurement guidelines had been followed in the invitation of Independent Power Producers to the extent applicable and that although the invitation was not advertised in the press the project consultants had ensured wide sourcing so that eligible prospective bidders were involved in accordance with the guidelines"*.

In order to justify the expenditure, the Board was informed in the same meeting as follows:

- (i) With the introduction of the IPPs, estimated generation for 1997/98 would "increase from 3,954 GWh" with the pool cost rising from KSh 2.75 billion to KSh 2.94 billion while revenue would go up from KSh 17.5 billion to KSh 19.5 billion.
- (ii) The marginal increase in pool costs of KSh 0.19 billion would be absorbed by the tariff increase which had just been approved.

Based on this information, the Board resolved that authority be given for the Company to enter into Power Purchase Agreements with the following two IPPs:-

- (a) Iberafrica Power (EA) Limited
- (b) Westmont Power (K) Limited

The minutes were confirmed on 27th August 1996 and signed by the Chairman and the Secretary on behalf of the Board.

The Committee observed that the Company was to spend KSh 0.19 billion in additional generation from IPPs and make an extra KSh 2.0 billion as revenue, i.e. more than ten times the costs incurred. In this regard therefore, the Management misled the Board since this did not happen and the Company's financial woes started soon after the introduction of the IPPs.

2.1.3 Power Purchase Agreement Signed Ahead of Board Approval

While the Board gave the necessary authority on 27th August 1996, the Managing Director had already entered and sealed an agreement with Iberafrica on 16th August, 1996. This was 11 days before approval date and three days after the Board Meeting held on 13th August, 1996 when the matter of IPPs was *first* discussed. The Committee observed also that the Power Purchase Agreement (PPA) with Westmont Power (K) Ltd, signed on 9th September 1996 was, for reasons unclear to the Committee, back-dated to 16th August 1996. This may have been to cover up prior expenditure.

In the light of the above, it is glaring that voluminous contract documents were prepared *before* discussion and approval by the Board. It is obvious that contract documents of this size (228 pages for Iberafrica and 53 pages for Westmont, respectively) could not have been prepared within three days. It is evident that the former Managing Director and the Management or Directors of these firms were ahead of the Board in contract deliberations.

This anomaly indicates strongly that the former Managing Director had some vested interests in these particular firms and the Board may have been used only as a rubber stamp.

It has been alleged that the former Managing Director, Mr. S. K. Gichuru is one of the directors of Iberafrica. The Committee also noted that Mr. Gichuru's daughter had worked in Spain with Union Fenosa which is the mother company of Iberafrica Power.

2.1.4 Further Flouting of Procurement Guidelines

A review of the existing World Bank Standard Bidding documents for 1995, showed that the following are required under Section 1, Invitation for Bids:-

- (a) An advertisement be made in at least one newspaper of general circulation in the borrower's country and in the official gazette, if any.
- (b) An advertisement in Development Business magazine and/or well-known technical magazines for large, specialised or important contracts.
- (c) A letter be addressed to interested bidders who, following the publication of the General Procurement Notice, have expressed interest in bidding for the goods for which the invitation is issued.

The Committee observed that the above World Bank procurement procedures were not complied with by KPLC while sourcing for Iberafrika and Westmont as contained in the remarks made by the Managing Director to the Board.

Furthermore, the Ministry of Energy had previously on 5th July 1996, issued a Request for Proposals (RFP) which apparently sourced Tsavo Power and OrPower-4 companies; this facility could have been duplicated or extended to cover the needs to be fulfilled by Iberafrika or Westmont. It is abundantly clear therefore that Iberafrika and Westmont were hand-picked and the Board was misled to the effect that World Bank procurement procedures had been followed in the invitations of the two Independent Power Producers.

2.1.5 Pre-Financing of Iberafrika Plant by KPLC (Over KSh 600 Million)

An advance payment of a sum of US dollars 7.5 million (about KSh 600 million) was agreed upon, payable 15 days of the signature date.

The deposit represents an advance payment and a guarantee of payments due from KPLC under the Agreement. A counter guarantee (security) was to be put in place within seven days of the signature date, but was not settled at the time of the agreement. Further, the agreement does not make mention of any performance bond. The Committee observed that the hefty advance payment of KSh 600 million was also not secured.

2.1.6 Repayment of the Deposit

The agreement stipulates that the deposit shall be repaid in arrears in 84 equal instalments starting from the month following the one in which the full commercial operation date takes place, and shall continue at monthly intervals thereafter, i.e. from 1st September 1997 to 26th August 2004 when the contract expires. The Committee noted that the agreement has no provision for any interest payable on the deposit although the Management asserts that it collects 11% interest on this deposit.

However, under the agreement, Iberafrica was authorised to use the deposit to pay themselves any outstanding amounts due by KPLC. Thus, the contract was tailored heavily in favour of the IPP and without regard to legitimate interests of the Company or protection thereof.

2.1.7 Additional Funds Advanced to Iberafrica by KPLC (Over KSh 203 Million)

In 2001/2002 financial year, a sum of KSh 203,014,174.00 was advanced to Iberafrica on account of power *to be supplied in the future*. However regular payments continue to be made for power supplied every month and thus the pre-payments are not being utilised. This advance was queried by Company auditors, Deloitte & Touché in their report to KPLC dated 30th June 2002, where they observed that in effect this is an interest-free loan to Iberafrica. This was not the only such advance paid out by KPLC as the Auditors also queried advance payments made to the following suppliers:

- KSh 11,854,773/- paid to Integrated Wood Company for the supply of treated wood poles; the majority of these poles had not been delivered at year-end.
- KSh 1,925,000 advanced to Kenya Electrical Trades Allied Workers Union (KETAWU) in 2001/2002 without a formal loan agreement.

The Management responded that the amount advanced to Iberafrica attracted interest of 11% p.a. on the dollar amount and that the advances were being recovered monthly from the amounts due to Iberafrica. This needs to be investigated further.

Similarly, a sum of KSh 700 million was paid to Iberafrica from the Retirement Benefits Scheme (RBS) funds on the pretext that RBS was acquiring shares in Iberafrica. The RBS was supposed to earn dividends from this investment. However, the Committee was informed that no dividend has been received to date.

2.1.8 Payments Made to Iberafrica for Power Purchase (Over US\$ 230 Million or KSh 18.4 Billion)

Although Iberafrica is a limited liability Company duly incorporated in Kenya and validly existing under the country's laws, the contract document stipulates that payments due to this firm shall be made in US dollars *only*. These payments have been effected from May 1997 to date. Amounts paid are for both Energy (kWh) and Capacity (kW) charges and have been invoiced in US dollars and paid to a local bank named Indosuez located at Reinsurance Plaza in Nairobi.

During the period 1996/97 to 2002/03 (as at February 2003), the total amount paid out was to the tune of US\$ 230,364,881. This is equivalent to over KSh 18.4 billion at an average exchange rate of KSh 80.00 to the dollar.

Details are shown in the table below. It is to be noted that the amounts shown are net of the monthly refunds recovered by KPLC for advance payments earlier made to Iberafrica.

Financial Year	Energy Charge (US\$)	Capacity Charge (US\$)	Total Charge (US\$)
1996/97	562,928	267,845	830,773
1997/98	14,800,824	17,273,423	32,074,247
1998/99	16,004,513	18,663,596	34,668,109
1999/2000	20,081,964	17,815,169	37,897,133
2000/2001	23,738,213	21,300,156	45,038,369
2001/2002	26,505,520	26,335,326	52,840,846
2002/2003	13,608,076	13,407,328	27,015,404
Total			<u>230,364,881</u>

2.1.9 Comparison of Iberafrica and Tsavo Power Charges

In the table below, a comparison is made between Iberafrica Power (EA) Limited and Tsavo Power (Kenya) Limited on monies paid to them, respectively, for units of energy received and power supply capacity charges in the financial year 2001/2002. Both companies are private sector power producers operating in Kenya using similar types of plant. Their investment and operating costs are therefore comparable. Fuel is regarded as a pass-on cost. (Note however that flawlessness in Tsavo Power's PPA is not insinuated by this comparison.)

(Year 2001/2002)	Tsavo Power	Iberafrica Power	Variation from Tsavo Power	
Installed capacity, MW	74	56.4	-17.6	-23.8%
Units dispatched, GWh	550.5	348	-202.5	-36.8%
Energy charges, US\$	4,230,643	26,505,520	22,274,877	526.5%
Capacity charges, US\$	15,583,349	26,335,326	10,751,977	69.0%
Total charges, US\$	19,813,992	52,840,846	33,026,854	166.7%

The table shows that Iberafrica has 23.8% *smaller* installation than Tsavo's and supplied 36.8% *less* energy to KPLC, but was nevertheless paid US dollars 33.0 million more. Fuel charges for Iberafrica were not disclosed separately; for Tsavo this totalled US\$ 19,184,950. Even with this taken into account, the extra payment to Iberafrica still amounts to US\$ 13.84 million (KSh 1.1 billion) in the year or KSh 92 million per month. This cannot be justified on fuel type or fuel transport to the inland plant

location. If this were constant throughout the six years in which Iberafrica has been in full operation, the extra payments would sum up to about US\$ 83 million or KSh 6.64 billion.

Hidden in the US\$ 13.84 million, is a definite US\$ 5.11 million (KSh 34.1 million *a month*) that Iberafrica charges on *Fixed Operations and Maintenance* and *Administration and Overheads* over and above comparable charges by Tsavo. These are made up of items such as *Legal and Professional Fees* (US\$ 1.7 million compared with Tsavo's US\$ 0.16 million) which are simply exaggerated, or items such as *Staff Costs, External Services* and *Management Fees* totalling US\$ 2.58 million which are duplicated because their costs have been charged elsewhere.

The extra amount paid to Iberafrica arises from unfavourable Power Purchase Agreement (PPA) entered into between Iberafrica and KPLC and is a direct loss to the utility which is attributable to corrupt practices.

2.1.10 Suspicious Withdrawals at Indosuez Bank

Some employees of KPLC confessed to the Committee that the former Managing Director used to withdraw huge sums of money from this bank on weekly basis (every Friday) until 1999 when the trend changed to once monthly until he left the office in February 2003. The Committee established that during this time Mr Gichuru continued to occupy his old office at Electricity House despite the headquarters having shifted to Stima Plaza in 1997.

The money was withdrawn every Friday by his body guard in a briefcase measuring approximately 17 inches x 12 inches and five to six inches deep and taken to Electricity House by an office messenger hired on casual terms. As indicated above, KPLC pays Iberafrica huge amounts of money in US dollars to an account in the same bank.

The Committee also established that a lawyer, Ms Jane Njage, who handled proceeds from sales and purchases of land and buildings on behalf of KPLC and its Retirement Benefits Scheme, maintained an account at the same bank.

The Committee wrote to Kenya Anti-Corruption Commission (KACC) to verify and investigate this matter further. The investigation has not been concluded at the time of the report.

2.1.11 Iberafrica Paid US\$ 1.71 Million in Advance for Interconnection Facility

The Committee established that KPLC and Iberafrica signed another agreement on 16th August 1996 for the design, construction and commissioning of a facility to interconnect Iberafrica plant to the KPLC's substation. The works were to be carried out by Iberafrica at a cost of US\$ 1,710,000 (KSh 136.8 million). An immediate down payment of 20% was agreed on upon signing of the contract and the balance of 80% was to be paid on completion of construction and commissioning of the interconnection facility. The Committee again observed that no security was put in place for this advance payment.

Although this tender was not advertised, Iberafrica was allowed to appoint an engineering company from within their parent Union Fenosa Group to carry out the work. The Committee was of the opinion that this portion of the work should have been advertised as a separate tender or, preferably to save money, carried out by KPLC itself as was the case later with OrPower-4. Thus, KPLC also lost an opportunity to make money through self-engagement which could have helped sustain its operations, especially as the interconnection was a fairly small job to link the 66kV substation just across the access road.

2.1.12 Site of Iberafrica Plant Leased for KSh 1,000/- Only Per Year

Iberafrica Plant is in a KPLC building located on a KPLC plot at Nairobi South Power Station. The annual rent for lease of the site was set at a mere one thousand shillings (KSh 1,000/-). However, KPLC is expected to pay all rates and rents in relation to the ownership of the site. The Committee observed that the above sum is very little and amounts to a free lease. This free lease should have been reflected in the PPA to lower the capacity charges.

2.1.13 Supplementary Agreements with Iberafrica

Three supplementary agreements between KPLC and Iberafrica were signed as under:-

(i) 1st Supplemental Agreement in 1997

The first supplementary agreement was made just after one year three months on 1st December 1997. This was to review capacity and availability payments formula earlier agreed on. The financial implication of this agreement needs to be investigated further as the revision came so soon after implementation of the contract.

(ii) 2nd Supplemental Agreement in 2000

The second supplementary agreement was made on 20th July 2000 after an approval was received from Electricity Regulatory Board (ERB) the previous day for KPLC to contract an extra 11.88 MW due to drought that was raging at the time. This brought the total capacity of Iberafrica to 56.346MW. Two additional units were to be installed to be operational by 3rd October, 2000. They were to remain in operation for two hundred days from 5th July 2000, but with stipulation permitting "any extension thereof on a day to day basis". However, these services are still currently being provided though they should have been terminated by February 2001 or when the other emergency power producers were wound up.

(iii) 3rd Supplementary Agreement in 2002

This is a draft agreement which has not been signed. It aims at extending the term of the agreement by 15 years from the date of expiry of the original PPA which should end on 26th August 2004 while revising the capacity charge downwards.

The Committee observed that all this was initiated and driven by the former Managing Director who left office before the contract was finalised.

2.1.14 Recommendations

The Committee observed that the contract between KPLC and Iberafrika was a rip-off and recommends that it should be terminated with immediate effect. If this is not possible the terms should be renegotiated and the contract should not be renewed after the expiry date. Furthermore, because Iberafrika has a finite life up to August 2004, steps should be put in place to ensure that KPLC Retirement Benefits Scheme investment of KSh 700 million is repaid in full.

2.2 WESTMONT POWER (K) LTD.: IRREGULAR POWER PURCHASE CONTRACT

Westmont Power (Kenya) Limited is a company incorporated in Kenya with its registered address as L. R. No. 209/618, Victor House, 4th Floor Kimathi Street, P. O. Box 53195, Nairobi. It was incorporated by Sabah Shipyard. It is noted that both Sabah Shipyard and Westmont Power (Kenya) are wholly owned by Westmont Group of Companies. The business link with Plant Technology who was originally invited to tender is still not clear to the Committee.

KPLC and Westmont entered into a Power Purchase Agreement (PPA) on 9th September, 1996 in respect of a barge-mounted power generation plant near Kipevu Causeway, Mombasa.

The Committee observed that the tender was not advertised as required by procurement procedures and that the approval of the Board was given on 27th August, 1996 only 13 days before the contract date. However, the effective date was backdated to 16th August, 1996 to coincide with the date when the contract for Iberafrika was signed. The backdating was irregular and has financial implications to KPLC.

In the main contract, it was agreed that Westmont shall at all times maintain a stock of fuel called ("Security Stock") which stock shall not be less than the total amount of fuel required to operate the plant at full board capacity for a continuous period of thirty days. However, this clause was revised, by a supplemental Agreement dated 6th November, 1998 whereby it

was agreed that *KPLC shall buy and deliver* the fuel to Westmont to use to generate electrical energy.

The Committee observed that KPLC thereafter ended up buying fuel from M/s Gapco (Kenya) Limited thus directly financing the operations of Westmont Power (K) Ltd., while at the same time buying electricity from the latter at exorbitant prices. This is a fraudulent arrangement and impacts negatively on KPLC's cash flow.

The Committee recommends immediate cancellation of this contract. There is also need to investigate further if the Company has been defrauded into paying for capacity during the period the plant was incapacitated.

2.3 GAPCO KENYA LIMITED: OIL SUPPLY CONTRACTS

2.3.1 Initial Contract Dated 14th May 1999

Gapco Kenya Limited is a limited liability company incorporated under the Laws of Kenya with registered office at Nation Centre, Kimathi Street, and P. O. Box 40908, Nairobi.

The firm was awarded a contract to supply fuel (gas condensate) for use by the barge-mounted Westmont Power plant at Kipevu Causeway in Mombasa. The first contract was entered on 14th May, 1999 between KPLC and GAPCO. The Committee observed that the tender was not advertised and was in breach of procurement procedures.

Payments are based on a price formula as agreed in the contract which works out to a figure not less than US\$ 340.45 per metric ton. The fuel cost is then offset from the monthly energy and capacity charges. The monthly fuel costs amount to about KSh 40 million on average.

The initial contract was for 24 months and was to expire in May 2001. It was observed that its expiry did not stop the provision of services which went on until a second contract was entered

into on 4th October 2002 after an interval of one year and four months.

Invoicing and Payments

The contract stipulates that payments for contracted fuel delivered are to be effected in US dollars by electronic direct transfer to the supplier's bank account (specified here below), "or to such other account as the supplier may direct", not later than sixty days after the receipt of each monthly invoice.

Supplier's Account

Name: Gapco Kenya Limited
Bank: Standard Chartered Bank
Old Mutual Branch
P. O. Box 44865, Nairobi
US\$ Account Number 8702078886600

The Committee observed that payments should have been made in Kenya Shillings since the fuel is purchased in Kenya in local currency and the firm and its account are local. If need be there could have been riders to protect the supplier from fluctuations in local oil prices but this did not warrant dollar payments. This would avoid expenses involved in both foreign exchange losses and electronic money transfers as well as enhance security, accountability and transparency.

2.3.2 2nd Contract for Fuel Supply Dated 4th October 2002

The above contract was signed and sealed by KPLC and GAPCO on 4th October, 2002. The Committee observed that there was a gap of one year and four months between this date and the expiry of the previous contract in May 2001.

The second contract was for a period of 24 months and therefore shall expire in October, 2004 to coincide with that of Westmont Power.

Approval of the award was made by a Special Meeting of the CTC held on 30th September 2002, Minute No. CTC/178/2002 – *Fuel Supply Contract for Barge-Mounted Power Plant*. The

Committee observed that the award was based on two bidders only, with Gapco offering the lower bid. The minutes however have neither disclosed details of the other bidder nor the *prices* offered. It was further observed that it took only *three days* to prepare a voluminous 43 page contract document. That speed is suspicious and questionable. The main reason why KPLC decided or agreed to buy fuel for Westmont is still un-explained. Also, noting that Gapco (K) Ltd is not a renowned oil marketer in Kenya like Shell, Kenol/Kobil, Caltex, etc, one wonders why Gapco was awarded the contract for fuel supply services in the first place.

The Committee observed that since KPLC can afford to supply the required fuel at a cost of KSh 40 million per month then it can as well run this plant given the opportunity.

The Committee recommends that this contract should be terminated immediately and any fraudulent payments made recovered.

2.4 TSAVO POWER COMPANY LIMITED: POWER PURCHASE AGREEMENT FOR KIPEVU II DIESEL PLANT

2.4.1 Power Purchase Agreement of 3rd November 1998

Tsavo Power Company Limited is incorporated in Kenya with its registered office on 9th Floor, IPS Building, Kimathi Street, and P. O. Box 30500, Nairobi.

KPLC and Tsavo Power Company (TPC) entered into a Power Purchase Agreement dated 3rd November, 1998 (the "original PPA") which was cancelled on 29th September, 1999 when the parties entered into a new PPA because Tsavo Power wanted to obtain a non-recourse financing which it needed in order to fulfil its obligations to KPLC. The agreements required certain changes to the original PPA.

The new agreement was subsequently entered into on 28th January, 2000 by both parties. "The long stop full commercial operation date" was to fall 30 months after the signature date i.e. from 3rd November, 1998 to 3rd May, 2001, or any extension

thereof as agreed between the parties. (Any agreements for extension were not availed to the Committee.)

According to the contract document, the firm was sourced pursuant to a Request for Proposals (RFP) dated 5th July 1996 issued by the Ministry of Energy; the firm submitted an offer which was acceptable to KPLC following due process of the RFP resulting in the Power Purchase Agreement.

2.4.2 Term of Agreement Set at 20 Years

The agreement has a life period of 20 years commencing on 3rd May 2001, unless earlier terminated in accordance with its terms. However, the term may be extended by 12 months prior to its expiry and on such terms as the parties shall agree.

2.4.3 Fuel Procurement Process

According to Clause 9.10.1, it was agreed that Tsavo Power shall procure heavy fuel oil for the plant. The firm shall at its own cost call for tenders, evaluate them and prepare and issue to KPLC the Tender Evaluation Report identifying the proposed fuel supplier and thereafter obtain KPLC's consent prior to entering into any Fuel Supply Agreement.

2.4.4 Irregular Oil Procurement Services for Kipevu II Power Project

While the above clause gave Tsavo Power the sole mandate to procure fuel oil for its plant and without the mention of a Fuel Procurement Consultancy Services, KPLC entered into *an undated contract with a "U.K. based" firm* named ENERGY PURCHASING SERVICES (UK) LIMITED for oil procurement services to be provided for the Kipevu II Power Project commencing from 1st November 1999. The Committee was informed that the date was inadvertently omitted when the contract was being signed and the contract is on-going with the same lifespan of 20 years as for Tsavo Power.

However, the terms of reference of the consultants were as follows:

- (i) To advise KPLC on all aspects of oil procurement as it impacts on the company for the Kipevu II Project.
- (ii) To provide a monthly service to check the invoices received by KPLC from Tsavo Power to ensure that all factors within the invoices are correct.
- (iii) To assist KPLC in any contractual disputes involving any aspects of the Fuel Supply Agreement.
- (iv) To monitor oil quality and consent on any logistics issues.
- (v) To negotiate on behalf of KPLC where the Company purchases its own oils (for small Generators, Vehicles etc).

Cost of Consultancy Services – US\$ 0.375 per Tonne

The service fee was fixed at US dollar cents 37.5 (KSh 30/-) per metric ton *for all oil consumed* through the Fuel Supply Agreement between Tsavo Power and Caltex Oil (K) Limited.

The amount due to the consultant shall be obtained by multiplying the quantity of oil invoiced by Tsavo Power to KPLC for each (calendar quarter). Therefore, KPLC shall provide to the Consultants a monthly summary of fuel oil invoiced by TPC.

The Committee observed that the above services were duplicated because KPLC was already verifying the invoices before payment to TPC.

Further, the services are unique and limited only to this firm and are not extended to Iberafrica or Westmont Power plants which have similar operations. This project has been used to fleece the Company of huge sums of money *in sterling pounds*.

The Committee recommends that the consultancy services be terminated immediately and all moneys paid out be recovered from the Management responsible for the swindle. The Committee further recommends that a simpler form of security be applied as there is duplication between letter of credit and specified collections to be banked in dollars.

2.5 ORPOWER-4 INCORPORATED: POWER PURCHASE AGREEMENT FOR OLKARIA III GEOTHERMAL PLANT

2.5.1 Power Purchase Agreement of 5th November 1998

Orpower-4 Inc. is incorporated in the Grand Cayman Islands of the British West Indies with its registered office in Grand Cayman, with an office at 980 Greg Street, Sparks, Nevada USA.

In Kenya, the branch office is located at Queensway House, 7th Floor, Kaunda Street, and P. O. Box 40111 Nairobi.

The company entered into a Power Purchase Agreement with KPLC signed on 5th November 1998 pursuant to a Request for Proposals (RFP) dated 5th July 1996, issued by the Ministry of Energy, whereby the firm submitted an offer which was accepted following due process of the RFP.

The Committee made the following observations:-

(i) Security and Bid Bond

An on-demand performance bond of US\$ 250,000 to be drawn from an internationally recognised bank was agreed upon.

(ii) Construction Bond

An on-demand performance bond of US\$ 1,000,000 drawn from an internationally recognised bank was agreed upon.

The above important securities were not put in place for Iberafrica and Westmont firms while conducting their PPAs for similar business.

(iii) Term of Agreement – 20 Years

The expiry date was set at 20 years from 5th November 1998 unless earlier terminated in accordance with its terms, thus the Agreement will expire on 5th November 2018.

(iv) Inter-Connection Facility (Clause 6.2)

KPLC was given the responsibility to design, furnish, construct, and install KPLC's connection facilities in accordance with the construction programme and so as to comply with the specifications for such facilities in all material respects. (Note, in contrast KPLC allowed Iberafrica to construct the interconnection facility by outsiders at a cost of KSh 136 million.)

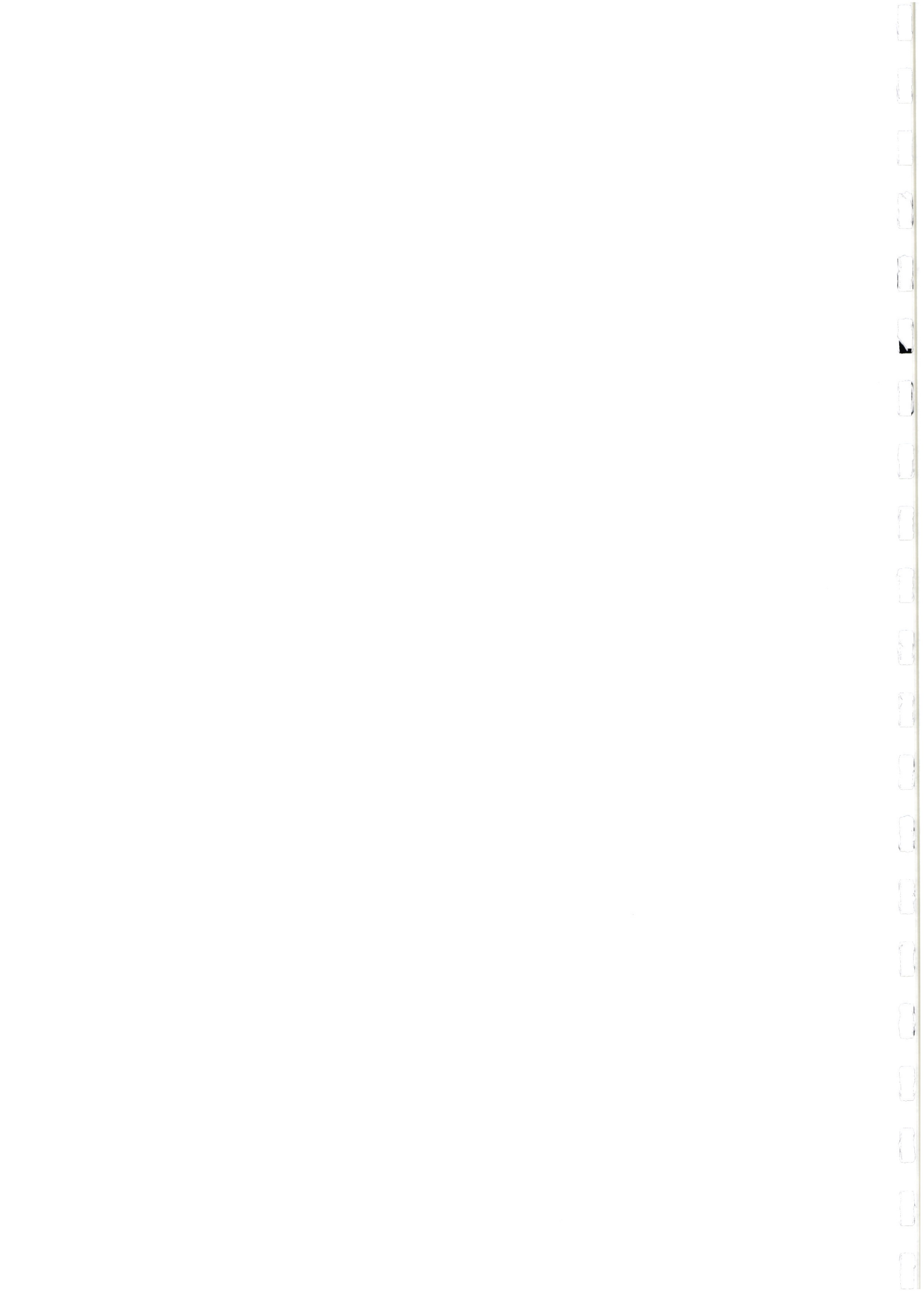
(v) Invoicing and Payments

Payments are effected in US dollars through wire transfer to the account of the firm at a bank located outside the Republic of Kenya or such other bank as may be ratified to KPLC from time to time and such payment is net of all Bank charges payable by KPLC in connection with such transfer.

The Committee observed however that the four wells that OrPower is using were developed by KPLC/KenGen at their own expense and handed over to OrPower free of charge. This represents a national loss and the compensation could have been factored into the PPA to bring down the energy charges. Again, the Committee recommends a simpler form of security to replace duplication of letter of credit and specified collections.

2.6 COST OF ELECTRICITY PURCHASES FROM ALL IPPs

The Company continues to purchase substantial energy from the Independent Power Producers whose unit prices are much more than that charged by KenGen, with a detrimental effect on the Company's financial and operating results. *The unit cost of energy from the IPPs during 2001 and 2002 was higher than the average selling price.* Comparative data received from KPLC on the purchases of electricity from KenGen and IPPs are summarised in the table below:



	2000/2001		2001/2002	
	KenGen	IPPs	KenGen	IPPs
Units purchased, Millions	2560	727	3230	1151
Average Unit price, KSh	5.32	7.45	3.19	8.57
Total Unit cost, bn KSh	13.619	5.416	10.304	9.856
KPLC Average unit selling price, KSh	9.12	9.12	7.18	7.18
Contribution margin/(loss) per unit, KSh	3.80	1.67	3.99	(1.39)

The Committee compared units purchased and sold by KPLC and their prices over the financial years 2000/2001 and 2001/2002. It was observed that KPLC's average selling price dropped by KSh 1.94 per unit from KSh 9.12 to KSh 7.18. During the same period, the price at which the IPPs sold their units to KPLC increased by KSh 1.12 from KSh 7.45 to KSh 8.57 while KenGen's selling price actually dropped by KSh 2.13 from KSh 5.32 to KSh 3.19. In the circumstances, KPLC incurred a loss of **KSh 1.6 billion** from the increase in IPPs unit prices due to a resultant contribution marginal loss of KSh 1.39 per unit, as shown in the table above. The purchases from the IPPs have therefore resulted in erosion of profit margins for the Company.

2.7 ADDITIONAL RECOMMENDATIONS ON INDEPENDENT POWER PRODUCERS

Due to the problems highlighted above, the contracts with the Independent Power Producers should be terminated as soon as possible. Where termination cannot be effected immediately, and while waiting for their natural expiry, the Government should re-negotiate the current Contracts and Agreements with a view to bringing the cost of power supplied to KPLC down to economical levels. The negotiations should also address the issue of standing cost to ensure that they are not so high as to make the cost of electricity from the IPPs un-competitive.

As some of these investments were costed to last only seven years, their residual values should now be low. Where possible therefore, KenGen should purchase the depreciated plant and run them.

Efforts should also be made to utilise a higher percentage of the cheaper hydro-power when available.

3. EXCESSIVE AND IRREGULAR EXPENDITURE ON INFORMATION TECHNOLOGY & TELECOMMUNICATIONS PROJECTS IN KPLC

3.1 INSTITUTIONAL STRENGTHENING PROJECT (ISP)

3.1.1 Project Aims and Scope

The project aimed at enhancing the Management Information System which had been started earlier with a view to modernizing all business areas of KPLC operations including Payroll, Stores, Costing, Fixed Assets Register and Billing. It started soon after another short-lived project from CASTIMA of South Africa which was intended to take over the functions of the aged ICL computer had *messed up the billing system completely.*

The Institutional Strengthening Project *was conceived with 'performance and image improvement as the priority objectives';* its first task was to address the chaos in the billing system.

3.1.2 Project Approvals

According to documents availed to the Committee, proposals were received and evaluated from the following six firms:

- IBM (SA),
- International Generating Co. (USA)
- NRG Energy Inc. (USA)
- SAP (Germany)
- Tardiran Information Systems (Israel)
- Union Fenosa (Spain).

The documents indicate that the Central Tender Committee approval for the project was not obtained as required in the Tendering Procedures.

Board Approval for expenditure of US\$ 18,041,656 (approximately KSh 1.443 billion) was obtained on 30th May 1995 vide Minute No. 13723(a). The Contract between KPLC and Union Fenosa was signed on 15th June 1995. Although the project was about institutional strengthening of KPLC systems, it did not include supply of computer hardware.

3.1.3 Variations to the Project

3.1.3.1 Office Furniture

The Consultant was provided with all office accommodation requirements on the 4th floor at Stima Plaza, complete with secretarial services and computer equipment.

Under Minute No.13814 (c) of Board Meeting of 30th April 1996, an additional expenditure of KSh 5,834,760 plus VAT was authorized for the purchase of furniture for these same offices from Messrs Metcraft. The Committee observed that the purchase was single sourced from M/s Metcraft at an exorbitant amount and without CTC approval.

3.1.3.2 Project Acceleration

When the project was only ten months old, a case was put forward to the Board to spend additional amount in order to accelerate the project completion date from five years to three and a half years. Once again, no Central Tender Committee approval was obtained for the same, although the matter was passed over to the Board.

Under Board Minute No. 13814(a) of 30th April 1996, an amount of US\$ 4,871,920 (about KSh 326 million) was approved in order to accelerate the project.

The acceleration was justified on the grounds that *"some products to be implemented were of immense benefit in monetary value and Company image, and to remove anxiety of customers and the general public that would arise from long period of waiting"*. The validity of the above statement has not

been demonstrated and there was no Management paper to support it. It appears that this was a scheme to inflate the price of the project by over 27% after appointment of the Consultant. The Project was 'accelerated' to last 3.5 years in total instead of the original five years.

3.1.3.3 Project Extension

After paying for *acceleration* of the project by 18 months, the Board, under Minute No. 14168(a) of 29th January 1999, approved a further US\$ **7,722,484** (about KSh 618 million) for *extension* of the Consultancy Services for a further 15 months. This cost over 42% of the original tender price while the period was only 25% of the original scope.

Once again, the minutes for approval by the Central Tender Committee for the Project Extension have not been availed and no evidence has been adduced to support such approval.

The following facilities were to be covered under the extension project:-

- Database for online access to network information, etc
- Distribution and Transmission Maintenance Management System (automatic generation of works orders for field maintenance, etc)
- Distribution and Transmission Network Improvement Plan.
- Geomaps (digitised cartography and network drawings) to be made available in all drawing offices, etc.
- Additional computer hardware at a cost of \$1,396,754.

3.1.3.4 Expected Benefits of the ISP Extension

Financial benefits that were supposed to be derived from the facilities of the ISP project extension in Distribution Area alone were expected to accumulate to the figures indicated in the tables below by the year 2003:-

Table I: Facilities Data Base Implementation		Total US\$
(a)	Reduction in the number and duration of network breakdowns affecting consumers (assuming no generation shortfall)	3,652,000
(b)	Savings due to elimination of duplication of load check tasks between OHM and DACE divisions	172,000
(c)	Reduction in Customer application duration (Requiring more information from the applicant)	2,470,000
(d)	Reduction in Customer application duration (Maps production faster/load checks available)	800,000
(e)	Savings in optimisation of Drawing Office resources	1,512,000
Total		8,606,000

NOTE: The total is equivalent to KSh 675.8 million.

Table II: Maintenance Management System Implementation (Distribution & Transmission)		Total US\$
(a)	Savings in labour costs in Operation and Maintenance	3,206,000
(b)	Savings in overtime expenditure in the OHM Division	11,975,000
(c)	Reduction in Transformers failure rate	1,952,000
(d)	Reduction in maintenance materials	1,624,000
(e)	Saving in technical losses	10,323,000
Total		29,080,000

NOTE: The total is equivalent to KSh 2.284 billion.

On examining the above table, the Committee observed the following:-

- The savings expected from reduction of technical losses were US\$ 10,323,000 per annum. This claim cannot be substantiated as the system losses have actually gone up to over 20% from about 19.2% at the time.
- Savings through reduction in transformer failure rates were expected to be US\$ 1,952,000. Again, this claim cannot be substantiated as evidence shows that the failures have actually increased.
- Savings in Operations and Maintenance costs were expected to be US\$ 3,206,000. This allegation also cannot be demonstrated.
- Reduction in maintenance materials was also expected to be US\$ 1,624,000 but this is not evident.

The expected savings in the other areas indicated in the above tables could not be demonstrated.

The Committee requested a demonstration of some of the above facilities that were expected to improve system design operations "in all drawing offices". A visit to Stima Plaza confirmed that no such facilities were available there. At Electricity House, it was observed that the compilation of the field data for use in the Facilities Data Base (FDB) is still going on and is far from complete. Thus, nearly five years after implementation, the purposes for which these facilities were paid have not been realised.

However, in a *Project Completion Report* written by Mr Johnson Ole Nchoe, Chief Manager Information Technology and dated 19th March 2001, the Management informed the Board of Directors that the ISP project was *complete*. It gave the benefits accruable from the Facilities Data Base as KSh 571 million. However, as noted above some of these facilities, *including the Facilities Data Base*, are far from complete.

3.1.4 Observations

The Committee observed that the Institutional Strengthening Project might have been conceived with a good intention of benefiting the Company. Indeed, it brought many benefits of new information technology and a new way of working in KPLC. The Committee was however concerned with the *process of acquiring the goods and services* under the project which flouted tendering and procurement rules in many cases with the result that the project ended up squandering resources of the Company instead of being an asset to it.

Furthermore, the reasons to pay for project acceleration were not justified as the benefits were not adequately or realistically quantified. In any case, the impact of the Project on the Company's operations should have been envisaged and fully appreciated before the start of the project ten months earlier, making this early review unnecessary and suspicious.

The Project Extension at a cost of US\$ 7,722,484 (about KSh 618 million) was also not justified because none of the systems that were proposed has been effected even today, and the savings of KSh 2.96 billion or so that were expected could therefore not have been realised. A colossal sum of US\$ 1.1 million (about KSh 86.4 million) was used to purchase computer hardware for the project extension.

Tendering and purchasing procedures for furniture and hardware for the project were not followed in most cases and several requests for repeat orders were noted.

Many of the expected cost benefits of the project, especially those under the Project Extension, have not been realized to date.

Some 1,600 computers worth over KSh 165,000,000 were purchased during the 5 year period between 1997 and 2002 for a workforce of about six to seven thousand. The cost of these computers including the printers, licenses and software maintenance came to over KSh 730,000,000. The implied ratio

of one computer to every four employees of the Company is rather high and suspicious considering that many of these employees are field workers. An inventory of the physical location of these computers was requested but was not availed to the Committee.

The total project cost of the ISP came to KSh 1.792 billion at the end of the exercise. If the consultancy services are included, the cost of the project comes to more than KSh 2.5 billion during the five years of implementation.

The Committee therefore came to the conclusion that the Institutional Strengthening Project was used to fleece the Company of large sums of money both in consultancy services and procurement of computer hardware because not all its objectives were realized or completed.

Recommendations

The Committee recommends that Mr S. K. Gichuru, the former Managing Director, be called upon to explain the following:

- *Why there was no tender for such an expensive project; this could have determined and controlled the costs.*
- *How the high rates were worked out from the beginning.*
- *Why the costs escalate so much.*

Furthermore, Mr Johnson Ole Nchoe, the Chief Manager Information Technology and Telecommunications, should be called upon in regard to the following:

- *Why he misinformed and misled the Board about the successful completion and achievements of the Project Extension while that is not the case, even up to now.*
- *Why some facilities have been paid for while they are not completed.*
- *Physical verification of all computers purchased (type, location, use and cost).*

3.2. PURCHASE OF MICROWAVE RADIO SYSTEMS FROM MOTOROLA COMMUNICATION (ISRAEL) LIMITED

3.2.1 Unprocedural and Costly Tender Variations

Flouting of Procurement Procedures

Approval for communications improvement project was obtained from KPLC Board under Minute No. 14066(d) of 10th December 1997. The main portion of the tender was awarded to Motorola Communication (Israel) Limited at US\$ 6,337,900 for the supply and installation of microwave radio equipment to serve Mt Kenya area. Motorola (Israel) operated through a local company, Amiran. A contract worth US\$ 366,695 was awarded to Asea Brown Boveri (ABB) for supply of a fibre optic cable link between Juja Control Centre and Stima Plaza. (A fibre-optic link is far superior to microwave and suited the latter section which has high traffic from all over the country.)

The Committee noted that even though ABB had offered a much superior radio system than Motorola Communications (incidentally from the *same manufacturer* in New Zealand) and at a much lower price, KPLC chose to go with Motorola. *The evaluating engineer was instructed by the Personal Assistant to the former Managing Director, Mr Maina Kamau, to rewrite his assessment report in favour of Motorola.* Variations that had not been tendered for were then added. Because of this, KPLC lost US\$ 797,959 (KSh 53,463,253) as the radio contract was not awarded to the lowest compliant bidder.

The Committee further noted that the tender for the fibre-optic link was not followed up even though a letter of award was issued to ABB. The connection between Juja Control Centre and Stima Plaza was changed to microwave radio link and was also given to Motorola without any further bidding. This was highly irregular and a clear breach of the tendering procedures.

Expensive and Wasted Mast on Kiambere Hill

Under CTC Minute No. 104/99, a total of KSh 12,123,309 was awarded to three contractors for the erection of medium sized

radio masts at Electricity House and at nine other places, excluding Kiambere hill.

After the above approvals, a similar radio mast was erected at Kiambere at a further a cost of KSh 6.266 million. The ten previous masts of various heights and for various locations cost an *average* of KSh 1.21 million per mast. Thus, the Kiambere hill mast was five times more expensive. This seems excessive even given the location. However, this mast was later *abandoned* at site as KPLC argued that it would cost them *a further* KSh 42 million to construct a power line to the site and an extra KSh 5.3 million for access road.

The Committee observed that from the onset, there was no enthusiasm to install the radio equipment at Kiambere. The cost implications of constructing a power line and access road to the hill top should have been seen at the start of the project and an appropriate decision made to avoid such wastage.

The installation of equipment in the Seven Forks area has now been overtaken by events when KenGen implemented an alternative scheme using VSAT communications equipment at a cost of KSh 2.5 million. Equipment worth over KSh 6 million was therefore abandoned at the hill top and will never be used.

The Committee noted that Motorola Communications (Israel) was used by the former Managing Director, Mr. S. K. Gichuru, and his cronies, especially his Personal Assistant, Mr. Maina Kamau, as a conduit to rip off the Company. The Committee recommends that the officers be surcharged for the loss incurred.

3.2.2 Microwave Equipment at Umeme Plaza

Some of the equipment that were purchased under this contract but not installed in the Seven Forks Area (such as Kiambere), were reported to have been installed at other locations. The Committee was informed that one of the places where these items were installed was Umeme Plaza at Dagorette Corner.

Members of the Committee visited this place and found the equipment placed on the floor in front of the cabinet. It had not

been commissioned and was inoperative. The Committee also noticed that a radio mast had been erected at the station but was not in use. The antennae cable, installed during the month of July 2003 when the Committee had already launched the investigations, was not terminated on the server.

The Committee confirmed that the computers at this depot were linked to the central servers at Stima Plaza through telephone lines leased from Telkom Kenya - since November 2001. These lines are inferior to microwave radio equipment in data transfer speed and accuracy, and such linkage was not the original intention of the project. However, Motorola was fully paid *for installation and commissioning* of the microwave equipment.

After the Committee launched investigations in March this year, there have been frantic efforts to get the radio equipment working.

According to the brief submitted to the Committee, a Management report had been made to the KPLC Board stating that the equipment had been *fully installed and commissioned*. This is again the Management misleading the Board.

3.2.3 Radio Trunking at Nakuru Office

Under Board Authority Minute No. 13757(i), a Radio Trunking System for the Central Rift area was purchased from Motorola at a cost of KSh 105,174,404/-. The Committee was informed that the work on this system was successfully completed in 1996. However, the equipment is not fully in service even as of today. The repeater link between Nakuru and Turkwel Power Station *was paid for as delivered and installed* but the equipment was never installed. The radio trunking system had also been originally dimensioned to incorporate the Company's computer network in the Central Rift area at a later stage. However, KPLC seems to have settled on using telephone lines leased from Telkom Kenya to link the computers in the area; so the investment in the higher specification may not be utilised.

3.2.4 North Rift Area Radio Trunking System

This project was approved under Board Minute No.1402(f) for KSh 129,860,000 and awarded to Motorola. Similarly, the system was also dimensioned for later extension to link the computers in the area for data transmission. Again, the Committee noted that the computers are still linked using leased Telkom lines.

3.2.5 IT Services Carried Out Without Prior CTC Approval

A number of Information Technology (IT) consultancy services and maintenance of central computer servers were contracted out without prior approval of the Central Tender Committee (CTC), even in cases where no urgency was dictated. Between October 2000 and December 2000 consultancy services worth KSh 1,900,954 was carried out by Union Fenosa without the required authority. In February 2001, the paper requesting for ratification of this expenditure was queried by the CTC but no explanation was offered to it.

Minute No. 189/99 of the Central Tender Committee meeting of 21st December 1999, indicates that the IT Division assured the CTC that they had developed the necessary skills within the Division to carry out the required maintenance in future. By June 2001, these skills were still not availed and the CTC was yet again asked to ratify another expenditure of KSh 8,069,784 for maintenance. Under its Minute No. 23 of 2001, the CTC reminded the IT Division of their earlier commitment. No explanation for the lack of development of these resources and skills within the IT Division was availed to the probe Committee.

3.2.6 Recommendations

The Committee recommends as follows on the microwave contracts:

- *That the officer, Mr Johnson Ole Nchoe, be disciplined for misleading the Board that the radio project was complete.*
- *That Mr S K Gichuru, former Managing Director, be brought to book for the award of irregular tenders to Motorola.*
- *That the amount of work not done by Motorola be costed and the amount recovered from the Contractor (Motorola of Israel).*

4. SALE AND PURCHASE OF KPLC ASSETS

4.1 SALE OF COMPANY MOTOR VEHICLES

The procedures to be followed for the sale of motor vehicles are clearly spelt out and require that a valuation by the Automobile Association of Kenya (AA) be obtained. There should also be a public advertisement and authority from the Treasury before the sale of the Company asset is made to the highest bidder.

The Committee has made the following observations:-

- a) Authority was not sought from the Treasury for disposal of these assets.
- b) Some vehicles were sold to particular people at the Managing Director's discretion. In many cases, vehicles were sold at below market or AA valuations.

The Committee examined in detail the sale of seven vehicles that were attached to the Managing Director's office. Of these, the following three had serious anomalies: -

- Vehicle Reg. No. KAE 280B, a six year old Peugeot 504 Saloon, was sold to Mr John C. Waweru for KSh 155,000/- while the AA valuation was KSh 483,800/-, thus occasioning a loss of KSh 328,800/-.
- Vehicle No. KAH 901E, a six year old Hyundai Sonata 2000, worth KSh 1 million was sold to Mr Simon Mwangi

Wanjohi at KSh 165,000/- again occasioning a loss of KSh 835,000/-. There was no CTC approval for the sale of this sale as it was excluded from the list approved in CTC Minute 181/2002.

- Vehicle No. KAA 587Q was purchased by a senior manager, Mr. Frank K. Muchina, at KSh 200,010/- while the valuation was KSh 436,600/- making the Company lose KSh 236,590/-.

The Committee further observed from copies of sale receipts provided that the sale of some of the vehicles was done *as early as April 2002 while the Special Central Tender Committee that approved these sales (under Minute No.CTC/181/2002) met on 4th November 2002.* From the few receipts seen, many vehicles were sold just before the last General Elections in December 2002.

Recommendations

The number of vehicles examined was only a small percentage of the total of 206 sold between year 2001 and 2003. These examples portray wasteful disposal of Company property and gross abuse of office. The Committee therefore recommends as follows:

- *That the sale receipts for all the vehicles sold be examined to determine whether they were actually sold at the AA valuations or to the highest bidders.*
- *That all persons who purchased the vehicles at below market values (AA valuations) be made to pay the difference.*
- *That the former Managing Director, Mr S K Gichuru, be held accountable for any shortfall realised by the sale of motor vehicles at below market values.*

4.2 IRREGULAR PURCHASE BY KPLC OF A 9.4 ACRE PLOT IN EMBAKASI (LR NO. 209/12119)

4.2.1 Application and Allocation of a Plot to Mr. S. K. Gichuru along Old Mombasa Road

Mr. S. K. Gichuru, vide a personal letter dated 27th March 1990 applied to Mr. W. Gachanja the then Commissioner of Lands, Ministry of Lands for allocation of a plot with an intention to develop factory sheds for an industrial manufacturing venture. He indicated that his bank was prepared to give him full financial support for the investment programme. However, the Committee was not able to ascertain the financial support his bank had promised.

Mr Gichuru's letter had identified a plot in Embakasi area along the old Mombasa Road which he marked "X" on an attached map. The letter however did not disclose the land registry number of the plot, nor was there a map attached to the copy availed to the Committee. Efforts to trace the map at the Commissioner of Lands Office were fruitless.

Surprisingly, the letter applying for the plot allocation though addressed to the Commissioner of Lands landed on the former President's desk in unexplained circumstances and he approved it *on the same day*. Assuming that the President's signature was not forged, this was an outright abuse of office by Mr. Gichuru in that he used his high office to get his requests approved by the President while pretending to address the Commissioner. This implied that the office of the Head of State and that of the Commissioner of Lands at this time and for the purposes of this application, were synonymous.

4.2.2 Proposal to Purchase Land by KPLC along Mombasa Road

In a KPLC Board meeting held on 8th August, 1995, the Board considered Circular No. 5100 on purchase of land, LR No. 209/12119 off Mombasa Road for development of a Research and Development Institute. The Circular to the Board of Directors was prepared by Messrs Maina Kamau who was then

the Personal Assistant to the Managing Director and J. N. Kimani, the then Company Secretary. The Management justified the purchase of the land for the development of the Research centre. Subject to Government approval, the Board authorized the Management to spend KSh 50 million on purchasing the land, and a further KSh 500,000/-, or so, on stamp duty and legal fees.

The Committee established that the two officers who prepared the circular to the Board were not working in the Research and Development (R&D) Department and further that the Chief Manager in charge of R&D was not consulted and was not even aware of this new development. This was against the set procedures since technical papers always originated from the user departments. This course of action shows that there were sinister motives in the conceptualisation of the R & D Institute and the purchase of the land. The Committee observed that if there was genuine need for the alleged centre, then KPLC would have applied for the land directly from the Government, or else reserve one of its plots which were being sold away during this period.

4.2.3 Size of Plot, Buying Price and Valuation Reports

The plot identified measured 3.805 hectares or 9.41 acres along Mombasa Road. The Committee observed that the purchase price of the plot was highly exorbitant at KSh 5,313,496/- per acre which was far above the then prevailing market prices of KSh 1.5 to 2 million per acre. The purchase of this piece of land was even more irregular since the Management also did not seek Government approval as directed by the Board.

Information availed to the Committee reveals the following:-

- The Government Chief Valuer Mr. Joseph B. K. Mwaniki, vide his letter Ref. No. VAL.852/111/(29) dated *23rd June 1995*, gave the plot a value of KSh 50,000,000/- which works out at KSh 5,313,496 per acre. The professional fees for the services rendered amounted to KSh 101,250 but were discounted by 50% to KSh 50,625.00. (If this was

indeed a Government service, one would wonder where he got authority to discount official rates!)

- A more recent valuation carried out by Lloyd Masika Limited for KPLC and dated *30th May 2002*, gave the *same* plot a value of KSh 28,000,000/- which translates to KSh 2,978,058/- per acre. The difference in the valuation amounts is very huge, considering also that the second valuation is taken seven years later on the same undeveloped land and when demand for land in the city is much higher, and inflation has eaten into the value of the shilling. This can only imply that the "Chief Valuer" was compromised in a conspiracy to swindle KPLC.

4.2.4 Title Deed and Sale Agreement

A search at the Lands Office revealed that this piece of land LR No. 209/12119 measuring 3.805 hectares was first granted to *Eels Estates Limited* by the President of the Republic of Kenya on a 99 year leasehold basis as from the 1st September 1994, and was registered by the Registrar of Titles on 21st November 1994. The land was transferred to KPLC on 1st November 1995.

The transfer documents dated 1st November, 1995, drawn by M/s J M Njage & Company Advocates indicates that *Eels Estates Limited and the President of the Republic of Kenya* jointly transferred the land to Kenya Power & Lighting Company Limited. This implies a unique and ridiculous case in which *Eels Estates Limited and the President of the Republic of Kenya* jointly owned the land which they sold to KPLC, noting that the Office of the President or the Presidency does not sell land to parastatals!

4.2.5 Proprietors of Eels Estates Limited

The Committee was not able to establish who the directors of *Eels Estates Limited* were because both the original and duplicate copy of the files could not be traced in the Registrar of Companies. However, the Committee observed that *Eels Estates Limited* shared the same postal address with M/s J. M. Njage & Company Advocates who acted as the lawyer for both

the vendors and the buyer (KPLC) of the plot. The Committee interviewed the lawyer who owned up that she registered M/s Eels Estates Limited as a nominee of some individuals whose names she was not willing to disclose citing lawyer/client confidentiality. This clearly shows that there were vested interests in this transaction and casts suspicion on whether the Company got the true value of the KSh 50 million spent on the purchase of the said piece of the land. M/s Njage and Company Advocates was also rendering other legal services to KPLC and has continued to do so up to the moment; with some cases rather questionable. This deal casts grave doubts on the transparency of the transactions where KPLC bought the land at a cost of over KSh 5 million per acre while the market price was not more than KSh 2 million. KPLC ought to have spent no more than KSh 18.82 million while it actually paid KSh 50 million, thus losing at least KSh 31.18 million to fraudulence in the purchase of this land.

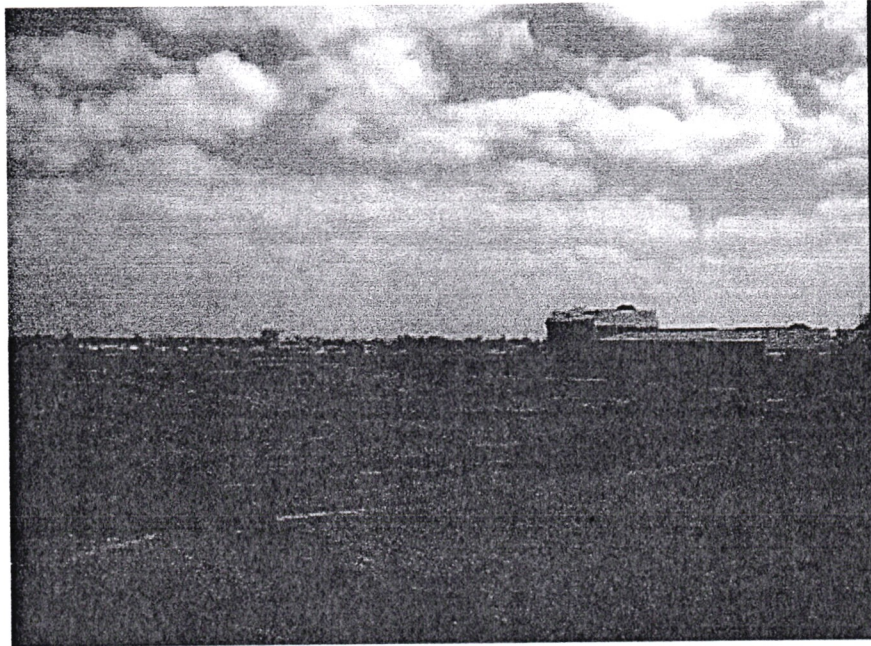
In the absence of the registration files of Eels Estates Limited in the Registrar's office, coupled with the difficulties Ms Jane Njage of J M Njage & Company Advocates expressed in naming a principal of a proxy company, the Committee opinionated that Eels Estate Limited belonged to Mr. S. K. Gichuru or to one of his close friends or allies and was used as a front to swindle large funds from KPLC. While Ms Njage told the Committee that Eels was a short life company formed for this "one-off" transaction only, the Committee has established that Eels is very much alive and is *currently* leasing twelve flats in Westlands to KPLC for which it receives KSh 436,800/- as rent every month!

Recommendations

The Committee recommends that KSh 31,180,000 which the Company lost through this transaction be recovered from the officers who were involved in the fraudulent transaction. These are:

Mr Samuel K Gichuru, the former Managing Director, Mr Maina Kamau, his then Personal Assistant and Mr Justin Kimani, the then Company Secretary.

The lawyer, Ms Jane Njage, should be black-listed from any future business with KPLC or any other parastatal for that matter.



EMBAKASI PLOT (Above): Conmen have subdivided it for sale because it has remained vacant. **LORESHO PLOT** from KARI Compound (Below): Notice the depression beyond.



PLATE NO. I

5. SALE AND PURCHASE OF ASSETS OF THE KPLC RETIREMENT BENEFITS SCHEME (KPLC/RBS)

5.1 IRREGULAR SALE OF KPLC RESIDENTIAL PROPERTIES TO TRUSTEES OF THE RETIREMENT BENEFITS SCHEME

The KPLC Board in its meeting held on 1st August, 1995 approved the sale of Company residential properties to the Board of Trustees of the Retirement Benefits Scheme (RBS). The KPLC Board subsequently approved the sale of the properties from time to time "at market value subject to ability of RBS to pay". The objectives of the sale of the properties were as follows:-

- (i) To relieve the Company of the burden of developing the plots without relinquishing the responsibility of housing its employees, and to concentrate application of its scarce funds on its core business.
- (ii) RBS to select suitable plots for development, sell or rent the houses to its members at fair prices, dispose of those not suitable for KPLC requirements and utilise the proceeds (margins) on further development to encourage employees to own houses.
- (iii) To make maximum utilisation of the plots by both KPLC and RBS and to relieve KPLC of the burden of expenditure on ground rent, rates and related maintenance costs.

The KPLC Board in the same meeting resolved and directed as follows:

- (a) Specific approvals for sale of the plots by the Management would only be given by the Board, and
- (b) The Management should seek Government approval to dispose of the residential houses to the Board of Trustees of RBS.

The Committee observed that no Government approval was sought by the KPLC management for authority to dispose of the

residential houses to RBS, thus rendering the whole process irregular.

The KPLC Board in its meeting of 10th December 1997 discussed Circular No. 5399 on Disposal of Company Residential Properties to the *registered Board of Trustees of the Retirement Benefits Scheme Fund*. This was done as an "A.O.B." and the Board, pursuant to their earlier Minute No.13740 (b) of 1st August 1995, authorised the sale of 29 properties with specified market prices to the Fund, for the purposes of disposal and/or re-development.

Observations

The Committee made the following observations:-

- (i) The properties listed for sale to RBS were all located in Nairobi, specifically in the very prime areas of the city.
- (ii) The market values of the properties listed for sale were doubtful and the information availed did not indicate whether the values were determined by the Management or by a genuine registered valuer.

The Committee further made the following observations:-

- (iii) The intention of the disposal of the Company houses was one of the modalities of awarding the Management and some of the close allies and friends of the former Chief Executive, Mr. S. K. Gichuru with prime properties at throw away prices.
- (iv) The sale of the Company properties was riddled with the following gross irregularities. Some of the houses which were not advertised were sold to well-connected people. Some of the purchasers acquired houses which they had not tendered for and therefore denied those who tendered and paid for the bid documents the opportunity to buy.

Examples of Irregularities in the Sale of Company Houses

A company called *Oriental Health and Beauty Clinic* associated with one of the brothers to Ms Bilha W Gachoki, former Chief Human Resources & Administration Manager purchased a total of seven houses at a cost of KSh 42,399,000 between the year 2000 and 2003. This gives an average of KSh 6.06 million per house. Ms Gachoki was the Chief Manager in KPLC under whose docket the sale of KPLC property fell. She was also the Secretary to the RBS Trustees. It is alleged that one of the houses is presently occupied by Mr Gichuru's elderly mother.

M/s School of Excellence associated with Mr. Frank Muchina bought four houses at a cost of KSh 23,380,199 between 2000 and 2003, at an average price of KSh 5.85 million per house. Mr Muchina was a Principal Human Resources Officer in KPLC working under and closely with Ms Bilha W Gachoki. He was also assigned administrative and secretarial duties in RBS.

Mrs Grace Wamiti Keru also bought four houses at a cost of KSh 22,750,000 within the same period, an average price of KSh 5.69 million per house.

- (v) As the Company was disposing off its properties, it was also at the same time buying land. The main reason for this haste in buying and selling of land was only meant to defraud of the Company of its assets and also to enrich some members of the Management since the purchase prices of land bought was exorbitantly high compared to the prevailing market prices, as shown here below, while the disposal prices were low in comparison with prevailing market levels.

As an example, in 1996 KPLC-RBS bought 58 acres of a chunk of undeveloped land in Karen at KSh 250 million, that is KSh 4,310,345/- per acre, while in 1997 M/s Mwau Limited bought *from KPLC* a 4.34 acre land LR No. 7336/38 also in Karen at KSh 10,500,000. This gives a

price of KSh 2,419,355 per acre. This was outright looting of the Company properties since the plots were sold with houses already developed on them.

Recommendations

The Committee further observed that there are still on-going transactions on the sale of Company properties. In this regard, the Committee recommends that the transactions process should be discontinued and the properties reverted back to the Company.

The houses already sold should be revalued and the purchasers made to pay the difference from the market price.

5.2 KPLC LEASES MORE HOUSES WHILE SELLING ITS OWN

KPLC still leases residential houses from individuals and other companies. The current Government policy on accommodation banned leasing of residential houses in the year 2001. The Committee observed that the lease rates are quite exorbitant and is one of the schemes or methods of ripping off the Company's funds. Notable among them is a lease of twelve flats of three bedrooms each in Westlands from Eels Estates Limited at a cost of KSh 436,800.00 per month. This property is virtually down in the river bed and far from the main road and public transport. It was leased for a period of five years, ending in May 2004.

Noting that "Eels Estates Limited and the President of the Republic of Kenya" sold a piece of land in Embakasi in 1996 to KPLC at KSh 5,318,583 per acre, it is apparent that these are the companies which were associated with the former Managing Director for the purposes of ripping off KPLC's funds under cover of doing business.

It also noteworthy that KPLC sold land with already developed houses *in Westlands* between 1999 and 2002. It is therefore baffling that they could at the same time in the same period and in the same location lease residential houses from other parties!

According to the information received from the Company, KPLC spends over three million shillings per month on leased residential houses. The occupancy rate of the leased houses is 90%, based on a survey they did three months ago. Thus, the Company loses KSh 300,000 a month. This figure may be higher as the Committee noted that on the Westlands flats alone the Company is currently losing KSh 109,200/- from unoccupied flats.

Recommendations

The Committee recommends that KPLC should henceforth discontinue the lease of all residential properties in compliance with the current Government Housing Policy, and that the amount spent on the irregular leases be surcharged to the officers involved in making the double decision of selling assets while leasing others.

5.3 IRREGULAR AND FRAUDULENT PURCHASE OF 17 ACRES OF MARSHY LAND IN LORESHO (LR NO. 21080/38)

Massive Irregularities Detected

Under Minute No. RBST 6/99 of 24th June 1999, the Board of Trustees of the KPLC Retirement Benefits Scheme (KPLC/RBS) approved the purchase of 6.837 hectares (16.90 acres) of land in Loresho, Nairobi at a cost of KSh 78,000,000.00 from M/s Libra Setting Limited.

Members of the KPLC/RBS Board of Trustees interviewed all said they did not know the location of the plot, thereby confirming that the Board had not seen the land before "investing" in it. Indeed, the new Chief Manager Human Resources and Administration had to be shown the piece of land by lawyer Jane Njage as no one in the Property Office could identify it.

A study of the documents availed to the Committee revealed gross irregularities and anomalies regarding the purchase of this piece of land, as follows:-

- (i) The sale/purchase transactions of the aforementioned piece of land started without the approval of the Trustees. This was highly irregular since on 15th June 1999, the Secretary to the Trustees authorised payment of 10% of the purchase price as a deposit prior to signing of the sale agreement and without the Trustees approval. This shows that the management of KPLC/RBS funds was vested primarily in the hands of one or two people.
- (ii) On 18th June 1999, KPLC/RBS paid KSh 7,800,000/- being 10% deposit of the purchase price of LR 21080/38, Loresho, while on 26th June 1999 (eight days later) *another* KSh 7,800,000/- was paid being 10% of the purchase price of the same piece of land! Both payments were made through the same lawyer M/s J M Njage & Company Advocates, who represented the buyer. Thus, KPLC/RBS paid a total of KSh 15,600,000.00, which is double the amount required as deposit. This was an outright theft of KPLC/RBS funds.
- (iii) In addition, the lawyers for both the vendor and the purchaser drafted the sale agreement on 11th June 1999, which is proof evidence that some members of the Board of Trustees were managing the scheme funds without the full knowledge of the Board. The Trustees behind this scheme were Mr S K Gichuru, who was the Chairman of the KPLC/RBS Board of Trustees, and Ms Bilha W Gachoki, who was its Secretary. Mr Gichuru was also the Managing Director of KPLC while Ms Gachoki was the Chief Manager, Human Resources and Administration in the same Company.
- (iv) *M/s GIMCO Provides Doctored Valuation Report*
- Records show that on 29th September 1999, M/s GIMCO Limited, a valuation company was paid KSh 273,987.50 by KPLC/RBS as professional fees for *inspection and preparation of a Valuation Report*. The Valuation Report dated 8th June 1998 advised on the market value of the property *"taking into consideration the existing elaborate sub-division scheme and auxiliary services which were provided at the time"*. Surprisingly, Nairobi City Council

did not at any time approve the purported sub-division mentioned by M/s GIMCO Limited. The purported sub-division comprised 29 half-acre residential plots and one nursery school. The report did not indicate the auxiliary services existing at the time of the valuation as cited above. The report gave the open market value of the unencumbered leasehold interest of the LR No. 21080/38 at Loresho a value of KSh 93,500,000.00. The Committee after analysing the information availed concluded that the Valuation by M/s GIMCO was based on assumption of subdivided plots and not a chunk of undeveloped property as was the case at the time (and is even today)! The Committee further observed that the Valuation Report was also prepared before the Trustees Meeting of 24th June 1999 which approved the purchase of the land. This too is highly irregular.

- (v) The Committee visited the piece of land and established that it is a massive depression of loose soils and steep sides. About 60% of the land is swampy especially during the rains and most of the remainder is a slope into the depression. Access is difficult. A network of low quality bituminised roads and cut stubs of what may have been street lighting pillars were evident. The roads were cracking on the surface and the pillars, if any, had been sewn off and removed. The Committee concluded that this deal was a design by some members of the Trustees to defraud KPLC/RBS of its funds.
- (vi) At the Registrar of Company's offices, Libra Settings Limited file was missing and therefore the Committee was unable to establish who the directors of the company were. However, the Committee was reliably informed that one of the directors is Mr Hosea Kiplagat, who has featured prominently in the sale of materials to KPLC.
- (vii) ***Retirement Benefits Scheme Lost KSh 91 Million Including Outright Theft of KSh 7.8 Million***

KPLC/RBS spent a total of KSh 90,992,987.50 on this scheme as shown in the table below. It is noted that the amount paid by cheque No. 002477 as outstanding

balance includes the KSh 7.80 million already paid again as double deposit.

DATE	EVIDENCE	AMOUNT (KSH)
18/6/99	Receipt No. 712 (10% deposit)	7,800,000.00
26/6/99	Receipt No. 717 (10% deposit)	7,800,000.00
29/9/99	Valuation fees GIMCO Ltd	273,987.50
22/9/99	Cheque 002477 Balance of purchase price, stamp duty & Registration fees	73,325,000.00
25/10/99	Legal fees J M Njage & Co. Advocates	1,794,000.00
Total Payments for Loresho plot		90,992,987.50

Recommendations

In view of the aforementioned irregularities and in recognition that 60% of the land is swampy and impassable during the rains, the Committee recommends the total amount of 90,992,987.50 spent by KPLC/RBS be recovered from the Trustees who were behind the scheme since this was the amount of money which was lost through this fraudulent deal. KPLC/RBS should release the land to them in exchange, as it has very little development potential so that it does not waste any more money on land rent and rates. The total amount spent was KSh 90,992,987.50. In addition to this, land rent and rates have cost RBS Fund about half a million shillings every year since registration. The Trustees responsible for the loss were Mr S K Gichuru, former Chairman, and Ms Bilha W Gachoki, former Secretary to the Trustees. The two officials and their accomplices should also be prosecuted for the overall fraud and for the specific and direct theft of KSh 7,800,000/-.

The Committee further recommends that M/s GIMCO Limited and any of their director or companies associated with their directors, be blacklisted from carrying on any business with KPLC, or, for that matter, with any parastatals. M/s GIMCO have featured adversely in other shady land deals with KPLC top management.

5.4 FRAUDULENT AND IRREGULAR PURCHASE OF A 58 ACRE PLOT LR NO. 2259/311 AT KAREN

The idea of buying a plot at Karen was mooted in a KPLC/RBS Board of Trustees meeting held on 9th August 1996. Minute No. 4/96 of that meeting states that "the Board received an offer" of a plot at Karen and postponed deliberations on the same until they visit the site. *The minutes of the meeting were confirmed as a true record of the deliberations on 15th August 1996 although the Trustees had no meeting on that date.* The idea of buying the plot was floated by the Chairman of the Trustees, Mr S. K. Gichuru and although the matter was recorded as a substantive agenda item, there was no Board paper on the same to the Board of Trustees to justify its need or intended use. The Committee observed that all the Trustees were present at the meeting of 9th August 1996. The Committee was informed that the majority of the Trustees objected to the purchase of the said plot and the minutes were doctored to suit the interests of the Chairman and other collaborating members of the Board.

At a Trustee's meeting held on 7th October 1996, which was not attended by all the Trustees, the purchase of the 58 acre plot at Karen, LR 2259/311 at KSh 250 million was approved vide Minute RBST/3/96. The minutes indicate that the vendor's selling price "was KSh 300 million but had agreed to sell at KSh 250 million after renegotiation". The Board noted that the plot was "located in an appropriate area for future development" and there were many options on the utilisation of the land.

Observations

The Committee made the following observations regarding the purchase of this plot:

- (i) The meeting of 9th August 1996 postponed deliberations on the purchase of the land to give time for the Trustees to visit the site. The subsequent minutes of the Board do not indicate when the Board visited the plot prior to approving the purchase of the said plot of land. It is

important to note that at the time there was no valuation report of the plot.

- (ii) The Valuation Report prepared by M/s Gatheru Irungu Mugo Co. Ltd (GIMCO) is dated 4th October, 1996 while the Board of Trustees meeting approving the purchase of the land was held on 7th October 1996; that is *three days* after the submission of the valuation report.
- (iii) The owner of the said piece of land was M/s Rapsel Limited. However, the Committee was not able to establish the directors of the M/s Rapsel Limited since both the original and duplicate files were *missing* in the offices of the Registrar of Companies.
- (iv) The Valuation Report indicates that Nairobi City Council (NCC) in March 1995 approved a sub-division scheme of the proposed Karen plot. This is a big lie since up to date NCC has not approved the purported subdivision.

The Valuation Report highlighted problems facing the area as perennial water shortage, inadequate sewerage works, and heavy traffic on both Langata and Ngong Roads. The report further indicates that the valuers were aware that the issues were being addressed and the solutions to the problems were to be implemented *in not too distant a future*. The proposed sub-division scheme was to yield a total number of five commercial cum residential plots, one school plot, and thirty three half acre residential plots with clear unencumbered titles. Further the provision of the civil works, street lighting, survey beacons and other sub-divisional requirements *though not on site were to be provided in the next six months*. Thus, the valuation report was *for a proposed multi-purpose comprehensive scheme* and not for one chunk of undeveloped land as was the case on the ground. The Committee observed that M/s Gatheru Irungu Mugo Co. Ltd. did not indicate the market value of the chunk of land at the time but only based their value on assumed development.

However, the Committee was privy to the following confirmed information: In 1990, a developer bought ten

acres of land across the road and on the same side as the plot in question and also fronting Ngong Road. He paid KSh 9 million for it. Around the same time KPLC/RBS was buying the plot, he subdivided his piece of land into half acre plots and sold them for KSh 1 million each. The Committee argued that when a developer is selling land, he does it at the maximum price the market will absorb. Then *if a half acre subdivision sold for KSh 1 million, a one acre subdivision would normally sell for slightly less than KSh 2 million, and a **58 acre chunk of land** will sell for much less than KSh 2 million per acre.* The Committee estimated the true value of the 58 acre chunk of land (with no roads, no sewer lines, no street lights, no subdivisions, etc) at no more than KSh 1.7 million per acre at the time. Hence, total price would be KSh 98.6 million for the 58 acres, or say, KSh 100 million. The KPLC Staff Retirement Benefits Scheme therefore **lost KSh 150 million** in this fraud.

- (v) Director of Surveys Map Folio No. 281, Reg. No. 56 approved on 25th May 1998 shows the sub-divided plots of the Karen land. An amount of KSh 9,832,562.50 was paid to M/s Tel Point who apparently was the surveyor who did the survey and sub-division works. The Committee visited the chunk of land and established that the land has not been sub-divided contrary to the documents in the Department of Surveys. KPLC/RBS paid KSh 9,832,562.50 for work done on paper as aforementioned and yet there was no survey (sub-division) of the said piece of land on the ground. This is a further drain of KPLC/RBS funds.
- (vi) The valuation fee for valuing the proposed multi-purpose complex by M/s Gatheru Irungu Mugo Co. Ltd was not availed to the Committee by the KPLC/RBS or by the valuer even though it was requested for in order to determine exact amount was lost by KPLC/RBS in the valuation of the shady deal.

Recommendation

In view of the above observations, the Committee recommends that the total amount of KSh 159,832,562.50 be surcharged to the Trustees who approved the purchase and the payments of the same from the KPLC/RBS. These are Mr. S. K. Gichuru – Chairman, Mr. S. N. Oduori, Mr. J. Kimani and Mrs. Bilha Gachoki Ndubai (Secretary).

5.5 IRREGULAR CONSTRUCTION OF OFF-STREET CAR PARK IN THE ROAD RESERVE OF LIMURU ROAD

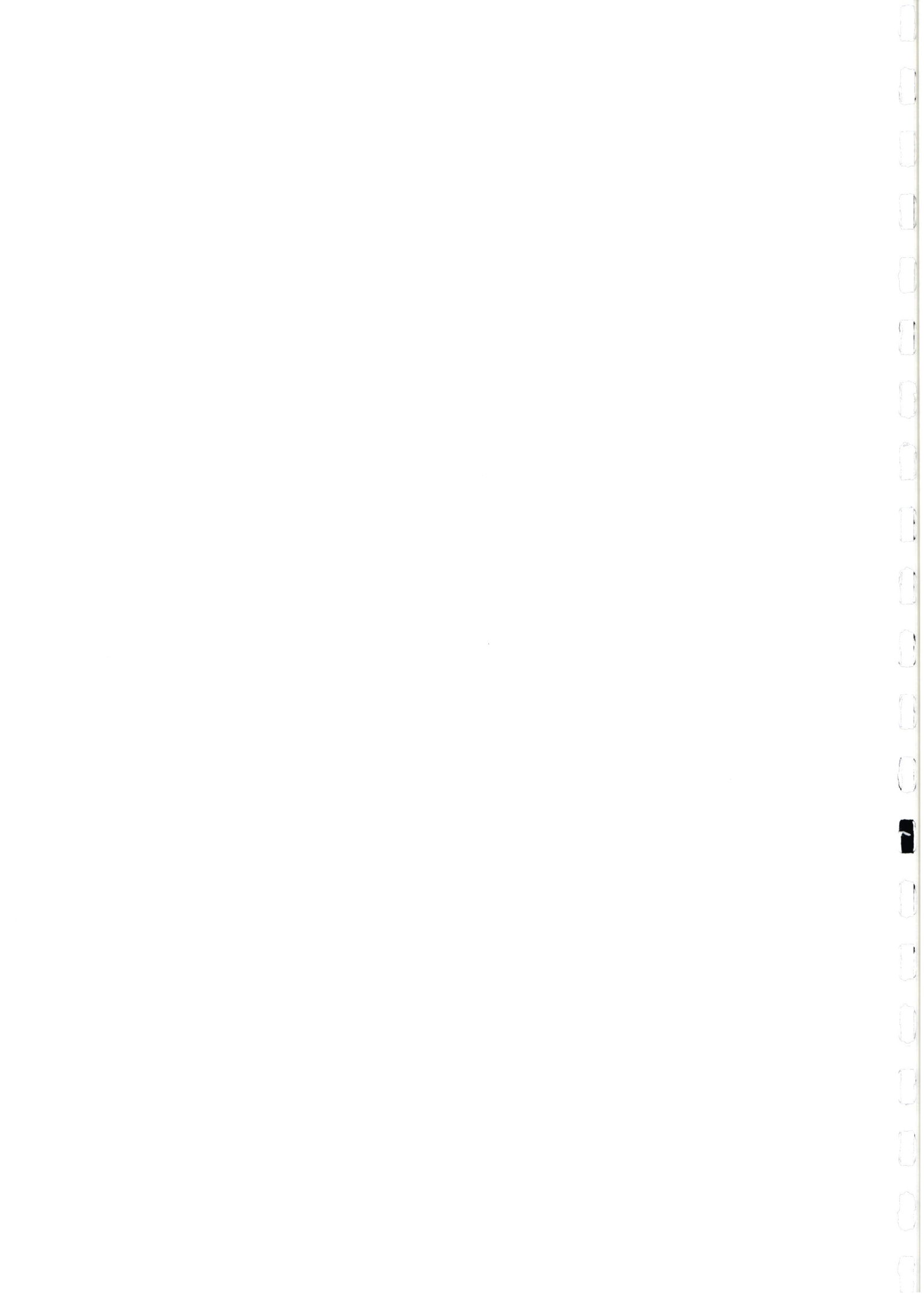
Due to pressure by its customers and tenants at Stima Plaza on parking space, the RBS Trustees resolved to create a temporary parking space for 66 cars on a road reserve along Limuru Road. Nairobi City Council approved the construction of this temporary car park on 11th April 1997 subject to KPLC submitting detailed designs for their endorsement. (This approval has not been availed to the Committee for verification.)

5.5.1 Tender Documents

A tender was floated and the following firms returned their bids as indicated below for the construction of the off-street car park. The tenders were opened on 1st December 1997.

	FIRM	AMOUNT (KSh)	DELIVERY (Weeks)
1	Vakkep Building Contractors	3,521,270.00	10
2	Nyoro Construction Co. Ltd	3,623,991.20	5
3	Cheransons Ltd	3,797,969.30	6
4	Crescent Construction Co. Ltd	No Tender	-
5	S.S. Mehta & Sons	No Tender	-

The Committee observed that the Management contracted the services of M/s Armstrong & Duncan as Project Managers to oversee the construction of the off-street parking. The tenders were evaluated by the Project Managers *and at this stage*, they realized that the space available could only accommodate 40 cars and not 66 as tendered for. As a result, the Project



Managers discussed with M/s Vakkep Building Contractors and reduced their bid price to KSh 2,653,365.00.

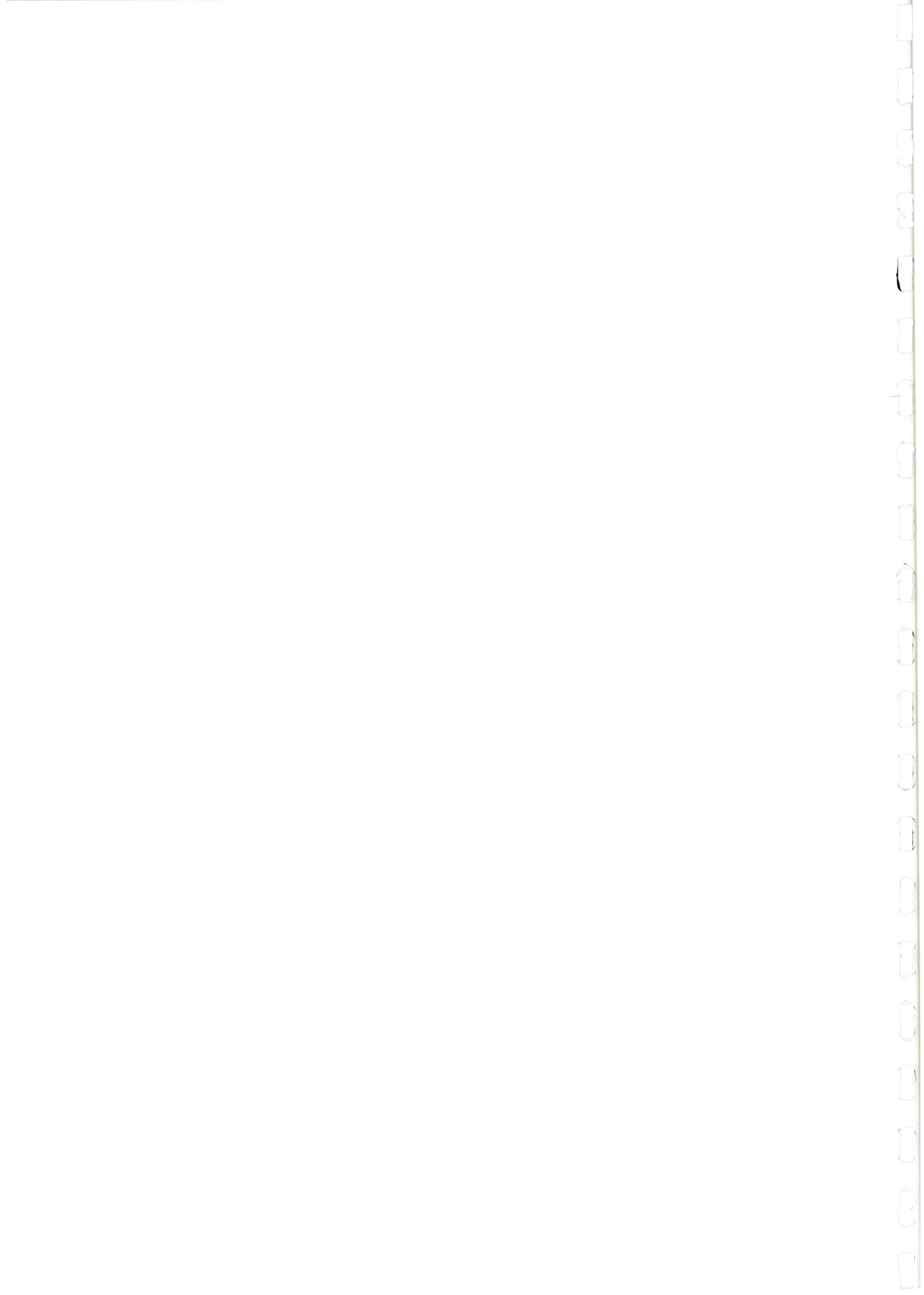
It is important to note that the contract was not advertised and the modality of forwarding the contract documents to the contractors is questionable; and so was the appointment of the Project Managers. The failure to advertise the proposed works makes the whole exercise irregular right from the initiation of this project. Furthermore, the size of the project was small and could easily be handled by KPLC engineers to save money.

5.5.2 Project Implementation

In a letter dated 5th February 1998, Mr. A. Mwaniki of M/s Armstrong & Duncan informed the KPLC/RBS management that M/s Vakkep Building Contractors would commence works on 9th February, 1998 at a cost of KSh 2,653,365/-.

In a letter dated 19th February 1998, the RBS Secretary, Mrs. Bilha W. Ndubai wrote to the Chairman Mr. S. K. Gichuru requesting him to approve the contract to construct the off-street car park at a cost of KSh 2,653,365. The Chairman approved the same on 3rd March, 1998 *although the contractor had already commenced the construction works on 9th February, 1998.* The works were completed on 20th April, 1998.

The Committee observed that the project was ill-conceived, and it was a conduit of spending public funds in unplanned projects with personal gains in mind. The award of the contract was irregular since the regulations require that a Committee was supposed to award the contract but not the officers or the Chairman. Further to this, the approval of the contract to Vakkep Building Contractors by the Chairman was belated since the works had already commenced. On 15th May, 1998, M/s Vakkep Building Contractors submitted her invoice to the Project Managers detailing the scope of works undertaken and demanding for the payment of KSh 2,679,899/-. The Committee was not able to cost the works done by the contractor since the Management failed to provide the Bills of Quantities showing the scope of the works as requested; whereas the Project Managers had already forwarded the same



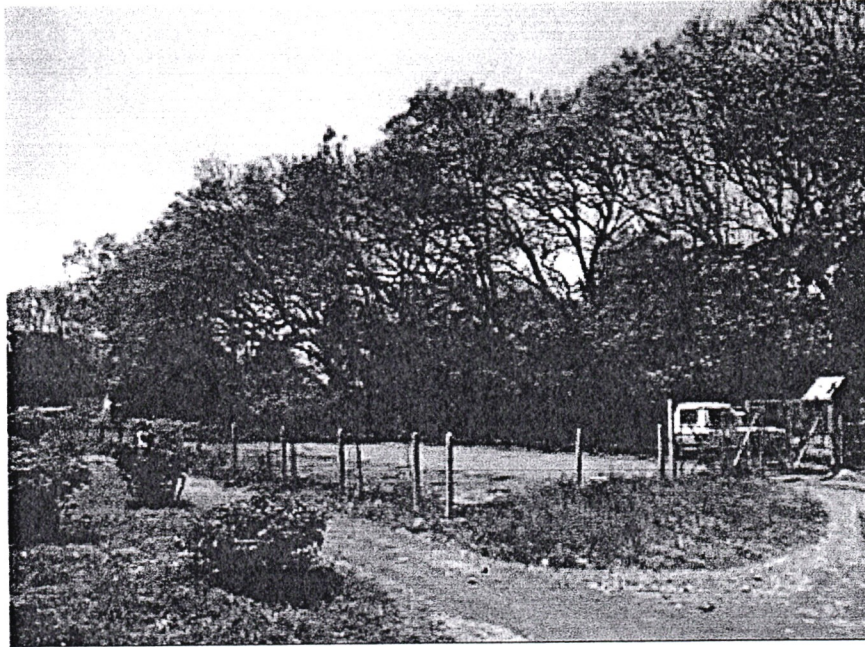
to the Board of Trustees in May, 1998. From measurements and inspection of the materials used, the Committee estimated that the contracted works would cost in the region of KSh 500,000/- rather than the KSh 2.68 million the contractor was paid. It is quite clear that all these motions were a pre-arranged affair to swindle KPLC/RBS funds by the Project Managers, Armstrong & Duncan, the contractor and the Management of KPLC/RBS.

The Retirement Benefits Scheme was to finance the construction of the car park and thereafter rent the same to KPLC. However, there are no details available of the revenues received from this investment on a road reserve since the Committee established that RBS has not been paid a single cent by KPLC on this car park as was agreed.

Recommendations

The Committee recommends that KSh 2,179,899 which was lost be recovered from the officers who were responsible for the loss of the funds. Those implicated are Mr. S. K. Gichuru, the then KPLC Managing Director, Mrs. B. W. Ndubai, former KPLC Human Resources Chief Manager (both of whom were also, respectively, Chairman and Secretary of RBS) and Mr. Frank Muchina, a KPLC Principal Human Resources Officer who used to handle RBS tasks for Mrs Ndubai.





OFF-STREET CAR PARK (top and bottom)
Note thin ballast and poor quality pillars with exposed steel.

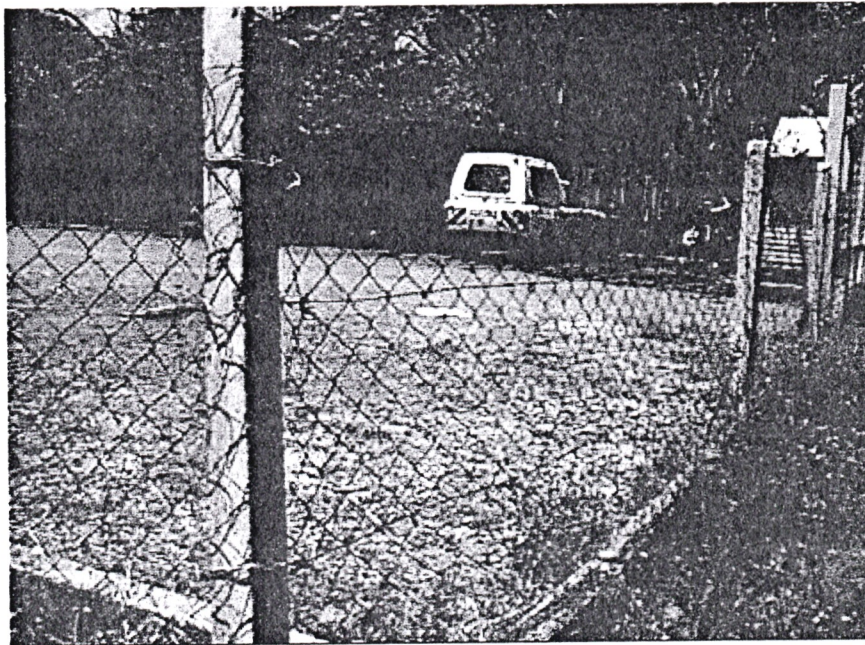


PLATE NO. II

6. PROCUREMENT OF GOODS AND SERVICES AND GENERAL CONTRACTS IN KPLC

6.1 CONTRACTED DEBT COLLECTORS

Between the years 1999 and early 2003, KPLC appointed *External Debt Collectors* to collect debts owed to it from 'difficult' customers. They were required to pay a deposit of KSh 80,000/- as security for the services they were to render. They were in turn paid commission at the rate of 20% of all the money they collected.

The appointments of the thirty or so Debt Collectors were never approved by the Central Tender Committee but were approved solely by the former Managing Director, except for one which was approved by the Company Secretary. The Committee observed that the appointments were irregular and contravened procurement procedures for services.

A scrutiny of the list of External Debt Collectors given to the Committee suggests that some debt collectors were operating under more than one company's name as some of the companies have the same postal address. It has been alleged that some of the companies were associated with senior managers at KPLC.

The Committee received information that some debt collectors such as a Mr Kinuthia and a Mr Matheri were favoured and were provided with office accommodation on the sixth floor at Electricity House where they also had the use of Company computers. Mr Kinuthia, who owns Mujoh Securities, is alleged to be a relative of the former Managing Director. He has nevertheless been receiving some of the most lucrative debt collection assignments in KPLC. Witnesses interviewed claimed that some debt collectors are given files of consumers whose accounts are within normal credit-period and who would therefore have paid the bills without any pressure. However, such debt collectors would still charge their normal commission of 20% of the money collected. This needs to be investigated further and the necessary recoveries made.

Among the thirty or so debt collection firms operational between July 1999 and January 2003, Mujoh Securities handled cases worth over KSh 91 million out of a total of KSh 175,736,395. This accounts for over 51% of all the debt collection services and represents an average monthly payment by KPLC to him of over KSh 423,000/-.

The Committee has reason to believe that there was exercise of a high degree of corruption and nepotism in the irregular appointments and duty allocations. Furthermore, the Committee observed that the appointment of these debt collectors was done at the sole discretion of the Managing Director and no justification for the procurement of these services was availed to the Committee.

Recommendations

The Committee therefore recommends further investigations on the activities regarding Debt Collection services, especially the debt age, disconnections, duty allocations and remission of any payments that may have been made directly to the collector. This will enable appropriate recoveries to be done.

The Committee further recommends that apart from any other culprits identified in the investigations recommended above, the former Managing Director be held accountable for any losses that the Company may have suffered from these services.

6.2 SUBSTATION CONTROL ROOMS CONSTRUCTED AT EXORBITANT PRICES

Building Contractors have been hired in the past by KPLC to build small control rooms in various substations, and also other facilities such as stands at show grounds. Scrutiny of the documents by the Committee revealed that these buildings were put up at exorbitant prices with the connivance of senior officers of the Company. The fraudulent high prices were partly concealed in unnecessary and extravagant specifications to which some of these facilities were constructed. It was evident

that the buildings were just another way of ripping off the Company. It is noted that a substation building is largely a metal-roofed hall intended to house switchgear panels weighing about 250kg each; there may be some cable trenches along the walls and three or so other small rooms for the attendant, batteries and toilet.

The following examples illustrate the problems:

- *Extension to Parklands Substation Control Room*

M/s Njururi Contractors extended this substation building by about 30 sq. meters and was paid KSh 1,690,240/- under authority of CTC Minute No. 59/2001. The cost works out at over KSh 56,000/- per sq. metre which is exorbitant.

- *Extensions to Rabai Control Room (Mombasa)*

An extension of about 35 sq. meters to this control room, which was originally budgeted at KSh 1.5 million and was due for completion in November 2001, was later executed by M/s Binlaw Contractors at a cost of KSh 3,137,000/- under CTC Minute No. 136/2002 after a change in specifications. The new cost works out at KSh 89,628/- per sq. metre. This is highly exorbitant. The original plan was adequate.

- *Embakasi 66/11kV Substation and Control Room*

This project consisted of a substation Control Room measuring about 126 sq. meters, an access road 367m long by 6m wide, one transformer plinth, some cable trenching and yard surfacing. Under CTC Minute 138/2002, the tender was awarded to M/s Njururi Contractors at a value of KSh 13,332,005/-.

It was alleged that a KPLC Projects Officer was colluding with the contractor and was reported to visit the site every weekend to lend him physical help.

Observation

The Committee visited the site, where the construction was still ongoing, on July 2003 and observed that the specifications for some of the works were way beyond what would normally be required for such a facility. For example, the Committee was informed by the Foreman that the access road within the KPLC plot was specified for a 40 ton load. This was way beyond the specifications for the access road in the adjacent 220kV substation yard, which has to carry much bigger loads. The Foreman informed the Committee that 6,019 tons of hard core had already been delivered to this site for use on the road and the yard!

The Committee observed that the load in question is a power transformer, which, on all probability, once installed will remain in position for over ten years; and that in such a case, it is the mode of transport that must be addressed. The Committee concluded that the specifications were exaggerated to create work and fleece KPLC of its money.

The Committee has also observed that a subcontractor, DKM Contractors, might be on site illegally as the Company Secretary denied signing his letter of approval, which is on KPLC letterheads. Another subcontractor, M/s Ino Niaz & Niaz, who bid for the work, had forged a Bond Document for KSh 518,681/- from Habib Bank.

The case of Embakasi is revealing as it demonstrates corrupt practices and unhealthy associations between senior staff members and some doubtful contractors that often results in loss of large amounts of money from the Company.



**KIKUYU SUBSTATION CONTROL ROOM (Top) and the
and Oversized Switchgear Room which is still unused (Below)**

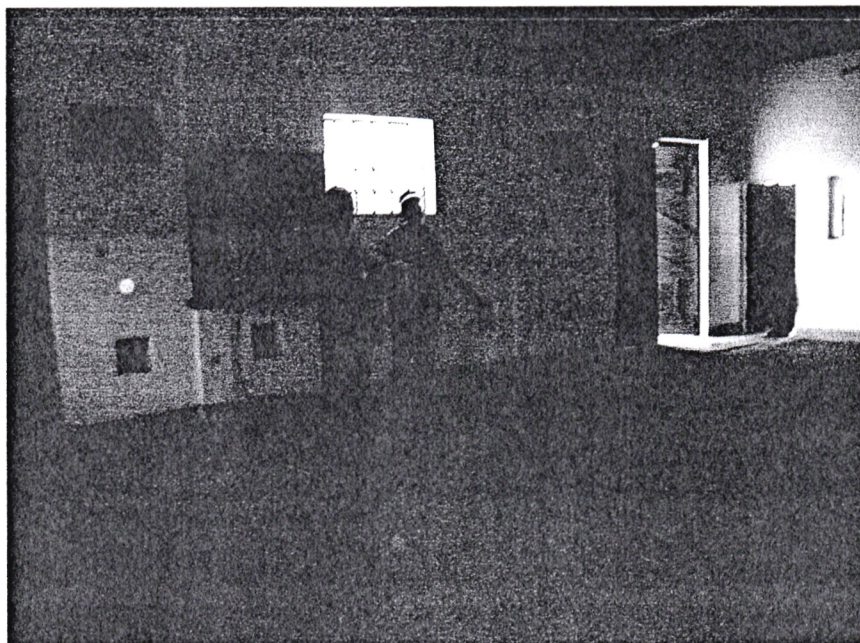


PLATE NO. III

- *Kikuyu 66/11kV Substation Control Room*

The contract worth KSh 3,202,395 for the construction of this substation room was awarded to M/s Rajwa Building Contractors under authority of the Central Tender Committee No. 137/2002. The Committee visited the site and observed that the specifications for this control room were extravagant and way beyond the purposes to which this shed could be usefully put. This was yet another avenue for ripping off the Company.

6.3 EXTRAVAGANT PERMANENT BUILDINGS CONSTRUCTED AT AGRICULTURAL SOCIETY OF KENYA SHOW GROUNDS

6.3.1 Expensive and Idle Show Stands

Expensive permanent buildings have been erected at ASK Show Grounds around the country as follows:

ASK Show Ground	Starting Date	Contractor	Tender Amount (KSh)
Nairobi	Feb 1997	Lalji Meghji Patel & Co.	44,397,000
Mombasa	Feb 1997	Srihari Ram Construction	53,528,000
Nakuru	Feb 1997	Seyani Brothers Co. Ltd.	52,140,000
Total			150,065,000

This was contrary to all commercial sense and business rationale as the ASK shows are conducted only once a year with doors opening to the public for only one week each time. Preparation, showing and dismantling are all accomplished within the month. Further details are as follows:-

(a) Show Stand at Jamhuri Park, Nairobi

A large permanent stand was constructed at the Nairobi ASK Showground without the approval of the Central Tender Committee at a total cost of KSh 44,397,000/-. The building was glazed throughout with wall and floor tiles, and replaced a

temporary but adequate structure in which KPLC has traditionally won top trophies in many categories over the years.

During an inspection tour of the facility, the Committee was dismayed at the exorbitance and meaninglessness of the "investment". Furthermore, as the facility is only used during the short period of the shows, the only reasonable conclusion the Committee could arrive at is that this project was a conduit to siphon money out of the Company. A heap of rubbish seen on the floor of the locked-up structure suggested an element of disuse, a manifestation that the facility had not been visited since the previous Nairobi Show closed its doors.

(b) Show Stand at Nyali Showground, Mombasa

Again, a total of KSh 53,528,000 was spent for the construction of a permanent stand at the Mombasa A.S.K. Showground under circumstances similar to that obtaining for Nairobi.

(c) Show Stand at Afraha Stadium, Nakuru

Similarly, a total of KSh 52,140,000 was used for the construction of a permanent stand at the Nakuru A.S.K. Showground.

(d) Show Stand at Eldoret Showground,

A similar permanent building was earlier erected at the Eldoret ASK Showground. Despite many requests, details of this stand were not availed to the Committee.

The Committee however observed that although Eldoret Showground was a new site with no shed to replace, there was no justification to put up a permanent structure there.

6.3.2 Board Authority Obtained through Misinformation of the Directors

The paper presented to the Board of Directors by the Managing Director justifying the construction of the show stands claimed that the structures would be used for hire during other times of the year when the shows were not taking place. Only a business requiring temporary space like a bazaar would consider

renting such a building as it would have to give way to the owners during the show month. However, the Showground is generally a place of inactivity and low population except during show time and no business can be expected to thrive in it. The claim of alternative use was therefore false and ill-intentioned.

Board approval for the construction of the permanent stands in Nairobi, Mombasa and Nakuru show grounds were all sought and given on the same day, 28th January 1997. From the timing of the approval and the subsequent transactions, the Committee concluded that negotiations between KPLC management and the contractors were already in progress and at an advanced stage before the Board approval was sought. Furthermore, the

Consultants for the project must also have been carrying out their work in advance of the approval.

Hardly one month after the Board approval, were large payments made to both the consultants and contractors for the projects at the three sites. It is obvious that the projects were proceeding ahead of Board approvals and the process of going to the Board was a mere formality or a cover up as the decision had already been taken by the Management. The process of appointing the consultants was not transparent either, and it was noted that the same team of consultants led by Messrs Armstrong and Duncan have carried out many questionable jobs for KPLC.

A justification paper for the construction of Nairobi Showground stand was presented to the Central Tender Committee in December 1996 by the then Commercial Manager, Mr. Julius Riungu. The CTC did not approve the proposed construction citing lack of budgetary provisions. The following month in January 1997, the author wrote a Board Paper for the Managing Director's signature but now claiming that funds were available for the construction. The paper was signed by the Managing Director and presented to the Board the following week; the Board approved it. It is significant to note that neither the Managing Director nor the Chairman of the Board attended that meeting. Tenders for the construction of the showground stands on the other two sites were also approved the same day.

The following month, February 1997, a paper was again presented to the Central Tender Committee for ratification. According to the minutes of that CTC meeting, the CTC *noted that construction work had started at all the three sites* and went no further. The minutes are silent about ratification.

Seven months later, at a meeting held on 28th July 1997 under a new Chairman, the Board, which had just attended the Nakuru ASK Show, asked the Management to justify the permanent stand in Nakuru, wondering what use the building would be put to on a full time basis outside the shows. This was recorded under Minute No. 14029(c). However, no paper explaining the same was availed to the Committee.

6.3.3 Observations

The Committee observed that the construction of the showground stands in the various sites was therefore started without the relevant Central Tender Committee approvals. The Board was misled and was only brought into the picture when negotiations and arrangements for the projects were at an advanced stage. Construction of the permanent stands at the show grounds was therefore only a means to fleece the Company of large amounts of money.

6.3.4 Recommendations

The Committee recommends that the former Managing Director should therefore be surcharged for the unauthorized expenditure on the construction of the permanent stands totaling KSh 150,065,000/-. His deputy, Mr. Julius Riungu, who was at the time the Commercial Manager, should be severely disciplined for collusion and for misinforming the Board.



**The Old KPLC Stand
at Nairobi Showground
(Left):** The Company has
won numerous trophies
every year in this stand.

**The New Permanent
All-Glazed Stand
(Below):** It must lie idle
for 11 months in the year.

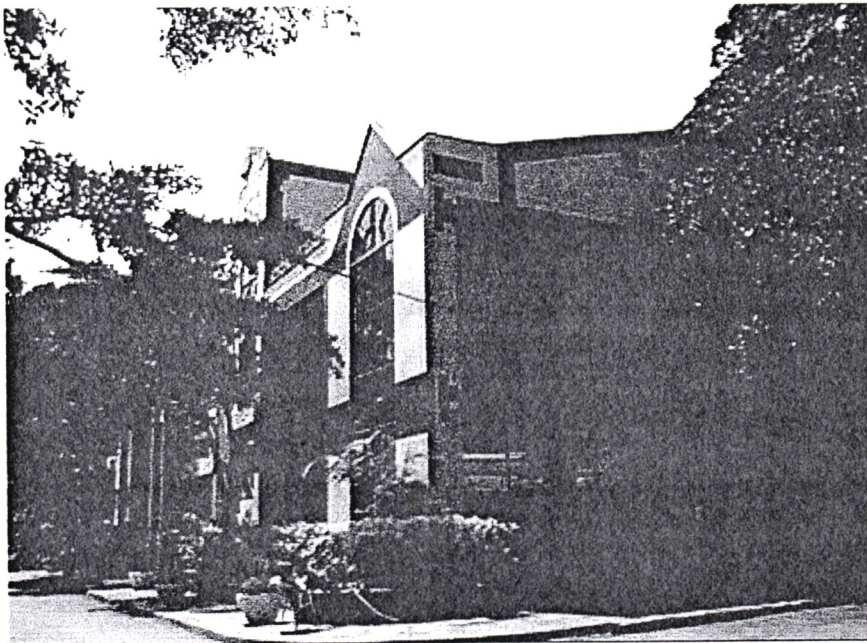
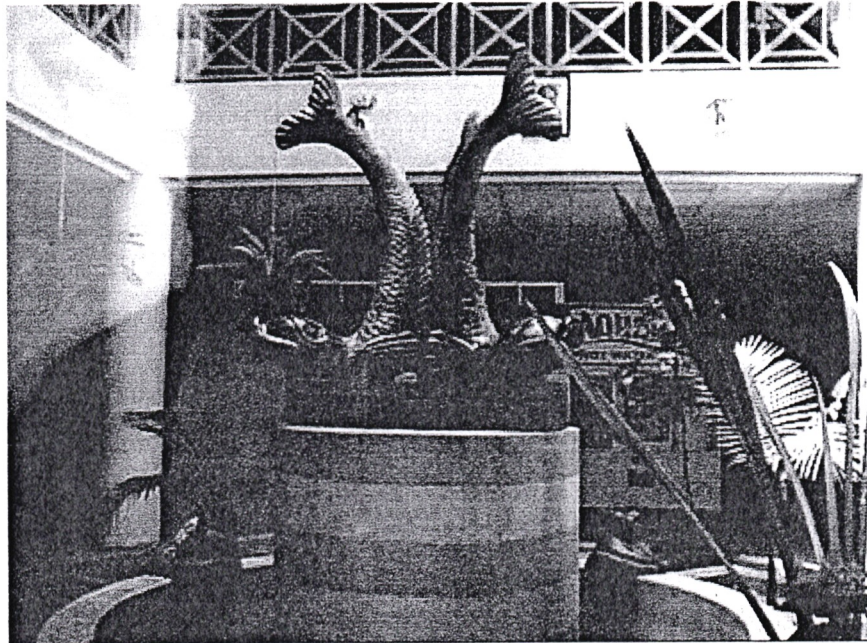


PLATE NO. IV



MORE SCENES FROM NAIROBI SHOWGROUND:
The Effigy in the Entrance Hall of the Electrical Utility's Exhibitor's Stand (Top).

Side View of the New Stand (Below).

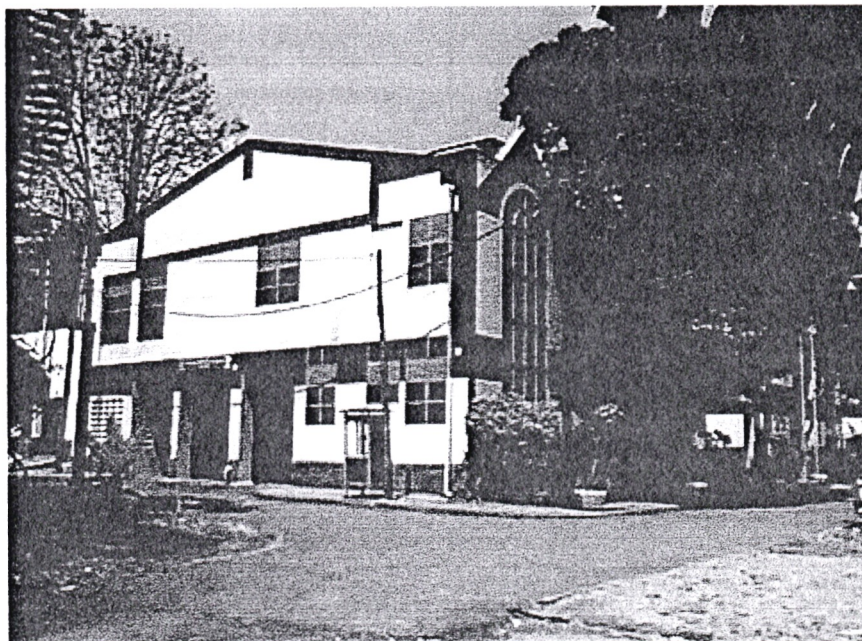


PLATE NO. V

6.4 IRREGULAR PAYMENTS FOR A TEMPORARY PREFABRICATED OFFICE STRUCTURE

6.4.1 Construction of a Prefabricated Structure at Dagoretti Corner (Site of Umeme Plaza)

KPLC management at its meeting held on 16th February 2000, decided to put up a prefabricated structure to "accommodate staff whose offices were demolished to give room" for construction of a new development (the Umeme Plaza Building) at Dagoretti Corner. The construction of a prefabricated structure in the same site was viewed as a better option than leasing alternative offices for staff for a period of 24 months at an estimated cost of KSh 2,240,000.00. The prefabricated structure was initially planned to have an area of 220 square metres, at a cost of KSh 1,777,520.00 *inclusive* of external works.

Records availed to the Committee indicates that the final cost of the temporary prefabricated structure *exclusive cost of plumbing and electrical works* was KSh 3,704,797.45. Records further show that whereas the initial estimate of KSh 1,777,520 was based on a prefabricated office with an area of 220 square metres, the final area of the prefabricated offices for which payments were made was 454 square metres. The Committee observed that the contract documents were falsified to rip off the Company of its funds since some members of the Management confirmed to the Committee that the area on the ground "was about 300 square metres".

6.4.2 Demolition and Transfer to Roysambu Sub-Station of the Prefabricated Structure

A Central Tender Committee (CTC) Meeting chaired by Mr. J. Riungu, Deputy Managing Director, held on 9th September 2002 considered a paper prepared by Ms. Irene Maina, Chief Property Officer on the proposed relocation of a pre-fabricated office structure from Dagoretti Corner to Roysambu Sub-station in Ruaraka at a cost of KSh 3,598,382.90. Records availed to the Committee indicate that the CTC awarded the contract to Messrs

Samar (TS) Limited as "the lowest evaluated bidder" whereas this tenderer was actually the third lowest. The reasons given for the prefabricated office was to accommodate 50 members of staff from Kiambu/Ruiru Zone and another 41 of Nairobi North Sub-region Common Services team, thereby "facilitating efficiency in operations by getting services closer to the customers".

M/s Samar (TS) Limited was given a letter of award of the tender on 20th September 2002 which detailed the terms and conditions of the contract and a draft Letter of Acceptance which he was supposed to sign and return. M/s Samar (TS) Limited returned the Acceptance Letter duly completed on 24th September 2002 as was required by KPLC. The contract period was 13 weeks with effect from the date of the Acceptance Letter. To date KSh 3,183,177.03 has been paid to M/s Samar (TS) Limited. A balance of KSh 415,205.87 is still outstanding and KPLC is holding it as retention money although this was not included in the Contract Agreement.

6.4.3 Observations

The Committee made the following observations:-

- (i) The cost of the temporary office at Dagoretti which was initially KSh 1,777,520.00 rose to KSh 3,704,797.45. Documents availed to the Committee indicate that the final area was increased from the original 220 square metres to 454 square metres. The Committee established that there was no actual increase in the physical area except on paper, and that no approval had been given by the CTC or the Board to increase the area of the office space. In this regard, payment of extra money to the Contractor amounting to KSh 1,927,277.45 was irregularly.

Further, the tender for constructing the prefabricated office structure amounting initially to KSh 1,777,520 was not tendered as required by the regulations. This shows that proper procurement procedures were not followed and therefore the award of the contract was irregular. In view of this anomaly, the Committee observed that the

Management colluded with the contractor in both *pricing and construction* of the prefabricated structure.

- (ii) The Dagoretti Corner prefabricated office structure constructed in the year 2000 cost the Company KSh 3,704,797.45. In the year 2002, the structure was demolished and materials transferred to Roysambu Substation to construct a similar structure using the same materials at a cost of KSh 3,598,382.90. The Committee observed that the cost of relocating the building from Dagoretti Corner to Roysambu was almost the same as the original contract price of constructing the original building at Dagoretti Corner. *This is an outright plunder of public resources.*
- (iii) To relocate the prefabricated structure from Dagoretti Corner to Roysambu, the Central Tender Committee in its meeting of 9th November 2002 awarded the contract to the third lowest tenderer M/s Samar (TS) Limited. The lowest tenderer quoted KSh 2,943,920.00 while the second lowest tenderer quoted KSh 3,293,436.50. The CTC Minutes do not indicate the circumstances of awarding the contract to the 3rd lowest tenderer in a task that is not at all complicated. Notwithstanding other irregularities in this tender, the Company lost KSh 654,462.90 *at the stage of contract award.*
- (iv) The Committee visited Roysambu depot where the prefabricated structure was relocated and established that it has an area of only 242 square metres while documents availed indicate that the prefabricated office structure was 454 square metres. This shows that the Company's funds were siphoned out through collusion between the Management and the contractor.
- (v) The Committee observed further that the office structure at Roysambu has never been occupied since the completion date of January 2003, neither has Umeme Plaza in Dagoretti Corner where the prefabricated structure was removed to pave way. The need for the prefabricated structure is therefore questionable and the high alternative rent mentioned of KSh 2,240,000/- for 24 months, i.e. KSh 93,333/- per month, was a false and

fraudulent justification since the premises earlier occupied by staff at Dagoretti Corner could and did not hold such numbers.

- (vi) From the aforementioned, the original planning was to construct a prefabricated office structure at an estimated cost of KSh 1,777,520 whereas the same eventually cost a total of KSh 7,303,180.35.

Recommendations

The Committee recommends that the amount of KSh 1,927,277.45 paid out under the pretext of increased area be surcharged from the officers who made the Company lose this money through their conduct.

The Committee recommends also that the difference of KSh 7,303,180.35 less KSh 1,777,520.00 which is KSh 5,525,660.35 be surcharged from those who were responsible for the loss.

These officers were Mr S K Gichuru - former Managing Director, Mr Julius Riungu – his Deputy who chaired the CTC , Ms Bilha W Gachoki - former Chief Manager Human Resources and Administration and Mr Frank Muchina - Principal Human Resources Officer.

6.5 MASSIVE AND IRREGULAR PAYMENTS TO CORPORATE RISK MANAGEMENT (CRM) INTERNATIONAL (PTY) LIMITED

6.5.1 Three Year Strategic Plan for Risk Management Programme from 1st June 1995 to 30th June 1998

A Risk Management Programme for the Kenya Power & Lighting Company was conceived in January 1994 between Corporate Risk Management International (Pty) Limited (CRM) of South Africa and KPLC. An agreement for provision of Risk Management Services was made by Managing Directors of both firms on 17th June 1994 for a three year service contract commencing on 1st June, 1995 and ending on 30th June, 1998.

The objective of the programme was supposed to identify and address numerous risks and other issues which together caused excessive and unnecessary costs and inefficiencies that could significantly affect the performance potential of KPLC and its composite workforce as a whole. In order to set off the programme it was claimed that through addressing the risks, indications were that potential savings over the next three years after correction of identified risks and deficiencies would be in excess of KSh 200 million as direct savings. This excluded composite amounts of indirect savings through improved system operations and performance flows, which could far exceed the direct savings mentioned.

Further, the expected benefits were identified as both tangible and intangible in that tangible benefits were to be directly equated with savings, such as decrease in number of loss incidents, insurance premium reduction, etc, whilst other benefits of more intangible nature would realise improved performance levels, such as in production and system operations, etc.

6.5.2 Structure of Fees Payable to CRM

On 17th June, 1994 directors of both companies endorsed a fee of US\$ 200,000 to be paid in three instalments of US\$ 100,000 on 1st July 1994, a further US\$ 50,000 on 1st August 1994 and the balance of US\$ 50,000 on 31st January 1995. The purpose of this payment is not clear to the Committee as the service contract was to commence in June 1995 and end in June 1998. Nonetheless, the Committee observed that this payment represented an *advance payment* of one year contrary to procedures.

On 14th August 1995, the directors endorsed a further schedule regarding fees payments for three year in order "to complete the Risk Management Programme", as follows:

YEAR OF CONTRACT	AMOUNT IN UNITED STATES DOLLARS	INCREASE ON PREVIOUS YEAR
1995	225,000	12.5%
1996	260,000	15.5%
1997	300,000	15.4%
TOTALS	785,000	

The above payments notwithstanding, on 17th February, 1996, the Managing Director KPLC extended the contract by bringing in two additional assignments to be undertaken outside the agreed Risk Management Programme, viz. *Risk Management Enhancement* and (b) *Insurance Placement Intervention*.

The additional work for Risk Management Enhancement was to cost US dollars 250,000 extra. For involvement in Insurance Placement Intervention, CRM was to levy a service fee equivalent to 45% of the actual premium savings that was to be achieved through negotiating best renewal terms, premium rating structures, funding options, composite verses individual placings, assistance with claims reserving and claims management.

It was noted that the work was complimentary to the role undertaken by brokers and underwriters already contracted by KPLC; nevertheless the Company decided that this was necessary since it was intended to realise substantial savings by involving CRM.

Through this arrangement, CRM was paid service fees to the tune of US\$ 1,096,169 between 1996 and 1999. The firm was also paid an additional US\$ 81,239 as disbursements though no provision was made in the contract Agreement for this. The Agreement required that fees are net of amounts exclusive of travelling and accommodation charges and exclusive of any withholding/withdrawal taxes or any other such levy applying.

The Committee noted that an Addendum to the main Agreement dated 8th June 1996 authorised Robert Gordon Group to raise

invoices and receive payments to and on behalf of Corporate Risk Management (Pty) Limited.

The Committee observed that during the six year period between 1994 and 1999, Corporate Risk Management (Pty) Limited of South Africa was paid a total of US\$ 2,162,408.00 by KPLC; however, it was difficult to establish the criteria used by the Company to measure the work done or services rendered. This amount is equivalent to KSh 169,986,892.88 at today's exchange rate of KSh 78.61 to the dollar. (This is the Kenya Shilling amount that would be in KPLC's kitty today if it had not been thus spent.) The payments are summarised in the table below:

YEAR	REASON FOR THE PAYMENT	AMOUNT IN US DOLLARS
1994	"Commitment fees"	200,000
1995 to 1997	Agreed annual fees for the Risk Management Programme	785,000
1969 to 1999	Additional work due to <i>Risk Management Enhancement</i>	250,000
1969 to 1999	Additional work on <i>Insurance Placement Intervention</i>	846,169
1994 to 1999	Disbursements (This was against the provisions of the contract)	81,239
TOTALS (1994 to 1999) in US\$		2,162,408

Observations

The Committee observed the following irregularities:-

- (i) KPLC failed to advertise the tender for provision of services for a risk management programme. In the circumstances, it was difficult to establish how CRM was identified all the way from South Africa.

- (ii) The contract appears to have been administered single-handedly by the former KPLC Managing Director, since neither Board Minutes nor CTC minutes were availed; precisely, the Committee learnt there was none.

It is noted that an Addendum to the main Agreement dated 8th June 1996 authorised Robert Gordon Group to raise invoices and receive payments on behalf of Corporate Risk Management (Pty) Limited. The Committee could not establish the reasons behind this amendment.

- (iii) Although the initial idea may have been good, the programme eventually failed to address effectively the numerous risks that caused excessive and unnecessary costs. It was difficult to establish where the work was actually done or how. Savings of over KSh 200 million was not realised, thus within a short period of one year after its expiry in Year 2000, KPLC experienced heavy losses for three consecutive years. The programme may therefore have *accelerated* these losses, especially the huge amounts paid for additional assignments.
- (iv) It is the opinion of the Committee that all payments made to CRM were not genuinely earned and were not bonafide payments. Consequently, KPLC lost money to the tune of US\$ 2,162,408.00 (equivalent to KSh 169,986,893/-).

6.5.3 Recommendation

The Committee recommends that the former Managing Director of KPLC, Mr Samuel K Gichuru, be surcharged for the loss of KSh 169,986,893/- which came as a result of his personal interest with South African firm, CRM.

6.6 PARKLANDS - CATHEDRAL 66KV UNDERGROUND POWER TRANSMISSION CABLE PROJECT

6.6.1 Objective and Scope of the above Project

The above project to connect Parklands and Cathedral 66kV substations in Nairobi with an underground power cable was executed in financial year 2001/2002, being commissioned in November 2002. The objective was to improve the electrical system operational flexibility and to enhance the security of power supplies to the Central Business District.

The project entailed 3 km of trench excavation along city roads; spreading of suitable river sand on the trench bed; laying a total of 10.8 km of 300 mm² 66 kV cable in the excavated trench; laying 24-core fibre optic communications cable along the length; spreading the sand over the laid power and fibre-optic cables; and Reinstating the trench and finishing as provided for in the City Council bye-laws. The project was estimated to cost KSh 49,519,723.00.

6.6.2 Contracted Works Were Not Advertised

The above works were contracted out to *M/s H. K. Builders and General Contractors*, except laying of the cables which was to be carried out by KPLC as specialised work. M/s H. K. Builders was picked from a list of 22 contractors which had earlier been "pre-qualified" for opening, cutting and ducting of roads and pavements for cable work in the City of Nairobi and its environs. The invitation for the pre-qualification was advertised by KPLC on 13th July 2000.

The Committee observed that though 34 firms showed interest in the pre-qualification exercise, no details of contracts or tenders were specified in the press; thus, the firms were not responding to any specific tender. It appeared that the purpose of the pre qualification was to have a "pool" of convenient companies which KPLC could pick from and award contracts from time to time as the need arose. This cannot replace the essence of a tender. The arrangement is irregular and contrary to procurement procedures which, requires that all tenders must

be advertised and properly documented. In the absence of proper checks and balances, the anomaly created a loophole where projects were awarded to selected contractors at exorbitant prices.

6.6.3 List of Pre-qualified Firms from Which H K Builders Was Picked

Normally tenders are evaluated against their price and quality ratings as the major criteria. According to a memo from KPLC's Chief Manager O&M, Mr Julius Riungu, dated 19th January 2001, this was not the case with the above exercise where other criteria such as banker's name, experience, tools and equipment, and physical location played a major role in the evaluation.

The Committee observed therefore that the list of 22 firms thus pre-qualified by the Company lacked credibility in terms of quality of work and competitive pricing. The Committee further observed from KPLC's submissions that only five of the 22 firms listed as pre-qualified have been assigned any work "between 1996 and March 2003". These are shown in the table below where "LIST REF." is the positioning on the Pre-qualification List. A total amount of KSh 133 million has been paid out.

LIST REF.	FIRM PICKED FROM PRE-QUALIFIED LIST	TASK ASSIGNED	AMOUNT PAID (KSh)
4	Rabmas Enterprises	(Not shown)	1,132,681.50
9	Gesa Building & Civil Engineering Limited	Excavation	99,306,109.33
10	Samar Technical Services	Road cutting & reinstatement	7,979,730.75
15	Crescent Construction	(Not shown)	11,292,405.15
17	H. K. Builders & General Contractors	Road cutting & reinstatement	13,284,076.72
Total Paid Out by KPLC (1996 – March 2003)			132,995,003.45

The Committee also established that several firms not included in the above pre-qualification list were also awarded contracts

without any advertised tenders. Some of these were paid huge amounts as shown in the table below.

S/N	FIRM PICKED FROM PRE-QUALIFIED LIST	TASK ASSIGNED	AMOUNT PAID (KSh)
1	Electro System & Services	Hole digging/poles	7,645,930.50
2	Njamba Developers	Hole digging	12,973,598.05
3	Mwihando Suppliers & Services	Hole digging	8,342,424.50
4	Guy Engineering Ltd	Hole digging	6,728,411.25
5	Neo-Electric Company Ltd	Hole digging	4,487,789.60
6	Havi Transcontinental	Hole digging	5,623,693.80
7	Matic General Contractors	Excavation	23,666,871.36
Total Paid Out by KPLC			69,468,719.06

The Committee concluded that the list of Pre-qualified Firms from which H K Builders was picked was not a result of effective tendering and that the so called Tenders for Road Cutting and Reinstatement Works and for Hole-digging were awarded irregularly. KPLC therefore failed to exercise good practice to ensure that it obtained best value for its money. The Committee strongly suspected that the services rendered by these firms were not free from malpractices and defects and a substantial portion of the total of KSh 202,463,722.51 paid to the twelve contractors above could have been misappropriated.

6.6.4 Work Performance by M/s H. K. Builders

The scope of the contracted works was as follows:-

- (i) Excavation of 3 km of cable trench (excluding cutting and reinstatement for bituminised road and footpaths which had been done earlier).
- (ii) Supply and spreading of 1000 tones of river sand on the trench bed and on top of the cables after they had been laid by KPLC.
- (iii) Reinstating the trench and finishing as was before excavation to the approval of City Council and KPLC.

The Committee observed that:-

H. K. Builders commenced the work in September 2002 and was paid KSh 2,462,756.12 without approval of the Central Tender Committee (CTC) or the Board. However, the anomaly was ratified through CTC Minute No. CTC/187/2002 after the work was already completed. This was to enable the Contractor to be paid his final dues of KSh 2,757,876.06, inclusive of VAT, according to a Paper prepared by the Chief Engineer, Business Development & Construction seeking authority for the payment. Instead, for unexplained reasons, the CTC ratified an amount of KSh 3,438,324.50 which was subsequently paid to the contractor. This was an excess of KSh 680,448.44.

The Committee noted the following anomalies:

- KSh 680,448.44 paid out to the Contractor was an irregular payment facilitated through the ratification process.
- KPLC staff assisted the Contractor to speed up completion of the works to give room for Nairobi University's annual graduation ceremony. However, the contractor was paid the full amount of KSh 5,901,080.62.
- A sum of KSh 1,175,600.00 was paid for the supply of 1000 tones of "suitable river sand to be spread on the trench bed and on top of the cables". However, reliable information reaching the Committee indicated that no such sand was delivered to the site. The payment was therefore irregular and an apparent loss.

6.6.5 Exorbitant Project Cost

Actual costs translated to KSh 46,228,706.43 from the initial budget of KSh 49,519,723.00. This expenditure was summarized as follows:

DESCRIPTION	ACTUAL COSTS (KSh)
Materials	27,699,792.09
Transport	2,103,668.90
Labour	16,425,245.44
TOTAL	46,228,706.43

The Committee observed that M/s H. K. Builders received a sum of KSh 5,901,080.62 out of the above KSh 16,425,245.44 paid out for labour services. However, the recipient of the large balance of KSh 10,524,164.82 was not disclosed to the Committee.

It was further noted that labour cost was exorbitant, considering that a sum of over KSh 16.4 million was paid for excavating a distance of 3 km. This translates to a staggering KSh 5,475/- per metre.

Based on KPLC average excavation and reinstatement rates awarded to other contractors, the Committee assessed that the labour component should not have exceeded KSh 5.0 million (that is, KSh 1,600/- per metre). This in effect supported the actual amount paid to M/s H. K. Builders. Therefore the extra expenditure of KSh. 10,524,164.82 is not accounted for and is considered as an apparent loss

6.6.6 Recommendations

The Committee recommends that the above losses totalling KSh 12,380,213.26 as summarised below should be surcharged from KPLC staff involved in the implementation of this project.

DESCRIPTION	AMOUNT (KSh)
Sand purported to have been supplied	1,175,600.00
Labour cost not accounted for	10,524,164.82
Overpayment on final dues	680,448.44
Total Overpayment to H K Builders	12,380,213.26

6.7 BURU BURU PHASE 3 & 4: LOW VOLTAGE CABLE SYSTEM REINFORCEMENT PROJECT

6.7.1 Objective and Scope of the Project

The project was conceived in 1998/99 financial year with work earmarked to start May 1999 and end in December 1999. This was a voltage improvement project intended to improve the quality of electricity supply to the customers in the sprawling Buru Buru Estate.

The main activities of the project were excavation and subsequent reinstatement of low voltage cable trenches, and laying of cables from the turrets to the houses. This part of the project was concerned with Buru Buru Phase 3 and Buru Buru Phase 4 only, with a budget allocation of KSh 24,797,323.00 split as follows:

DESCRIPTION OF WORKS	BUDGET (KSh)
Cables & other materials	8,297,323.00
Trench Excavation & reinstatement	16,500,000.00
TOTAL	24,797,323.00

Cost overrun was experienced during the execution of the project, making it necessary for the in-house project managers to seek additional funds "as a result of the anticipated increase in the extent of the work". Expenditure in the works order shot to KSh 60 million. The budget overshoot and other problems identified with the contractors prompted KPLC management to institute an internal audit investigation on the project.

6.7.2 Contracted Works: Initial Loss of KSh 585,524.00

Cable trench excavation and reinstatement work was initially contracted to M/s Njamba Developers. However, according to Internal Auditors who investigated this project, "there was no systematic approach or instructions in the initiation of work on the contract. The tender was not advertised and M/s Njamba Developers commenced the works without written documents of

award (of the contract) or any written specifications on the nature of work to be done”.

The Auditors further noted that, “the firm was neither approved by the City Council nor pre-qualified by KPLC to undertake road cutting and reinstatement jobs”. The Committee noted that this firm had in the past been involved in hole-digging jobs only. KPLC subsequently stopped Njamba Developers from continuing with the above works which appeared too complex for them and replaced them with M/s Matic General Contractors Limited.

The Committee observed that upon stoppage the contractor was paid KSh 585,524.00, but the work they had done was below standard and had to be repeated and invoiced afresh by M/s Matic General Contractors. Consequently, KPLC lost over half a million Kenya shillings it paid to M/s Njamba Developers.

6.7.3 M/s Gesa Building & Civil Engineering Limited: Fraudulent Payment of Over KSh 26 Million

The Committee observed that KPLC first engaged Gesa in road cutting, pavement opening and reinstatement works in March 1999. However, the firm was not registered as a contractor by the Ministry of Roads & Public Works. According to their letter referenced PRE/NP/03/69 of 7th November 2001, the Ministry listed only seven firms out of the 18 firms (including Gesa) that KPLC had sought clarification on regarding the issue of registration as contractors. From this response, it was clear to KPLC that Gesa was not registered for the work.

The above deficiency notwithstanding, M/s Gesa was awarded a portion of the Buru Buru project (which they now shared with M/s Matic) and billed KPLC for a total of KSh 10,877,912. Upon investigation, this amount was scaled down by the Auditors to KSh 9,354,466.00. The Committee established that the amount paid by KPLC to M/s Gesa between October 1996 and October 2001 totalled KSh 99,306,109.33.

The Auditors also discovered that during invoicing between October 1999 and October 2001, Gesa’s proprietor submitted forged documents for works not done alongside genuine ones

and defrauded KPLC of KSh 26,388,937.75, through collusion with a few employees of the Company.

Unearthing of the KSh 26 Million Fraud

The Committee observed that a senior KPLC Manager detected anomalies in some documents that were presented to him for his cheque signature on 1st November, 2001. Upon enquiry, it was discovered that there was fraud.

KPLC Internal Auditors exhaustively investigated this fraud and issued a report dated 23rd April, 2002. In the report, the auditors obtained written statements from the proprietor of M/s Gesa and KPLC staff who had facilitated the payments.

Although the proprietor and a few KPLC employees owned up to the investigators and clearly explained their role in the fraud, no serious action was taken by KPLC management towards recovering the above KSh 26,388,937.75. Evidence adduced in the form of personal statements from those involved, forged LPOs and cleared cheques was enough to prosecute the culprits. Instead the Managing Director on 20th April 2002, appointed a Committee of the following five senior managers *"to look into the matter and advice him accordingly"*:

Mr David Mwangi	Chief Manager Planning, Research & Performance Monitoring	- Chairman
Mr Jonathan Ciano	Chief Manager Finance & Procurement	- Secretary
Mrs Bilha Gachoki	Chief Manager Human Resources & Administration	- Member
Mrs Laurencia Njagi	Company Secretary	- Member
Mr Zachary Ayieko	Internal Audit Manager	- Member

The members shunned prosecution on assumption that it would cause KPLC damage due to adverse publicity and that criminal action was counter productive. Consequently, KPLC lost over KSh 26 million. However, the intention was to cover the fraud since some KPLC senior staff were strongly implicated in the malpractice. Those most implicated in the Internal Audit Report and that of the above committee were as follows:

Mr Zachary Ayieko	- Then Chief Manager, Finance
Mr Jonah Bett	- Then Chief Manager, Transport & Supplies
Mr Joseph Njoroge	- Then Area Manager, Nairobi
Mr Job Githinji	- Then Chief Engineer, Operations & Maintenance
Mr Charles Mwaura	- Regional Distribution Engineer
Mrs Joyce Ochieng	- Then Area Accountant , Nairobi
Mr Ken Onyinsi	- Accountant II, was dismissed
Mr Benson Kiarie	- Accounts Clerk, was dismissed
Mr George Bosire	- Casual Employee, Costing Section, was dismissed

The Committee however noted that while the junior/subordinate staff were dismissed, their seniors were only reprimanded. Thus, fair play was compromised.

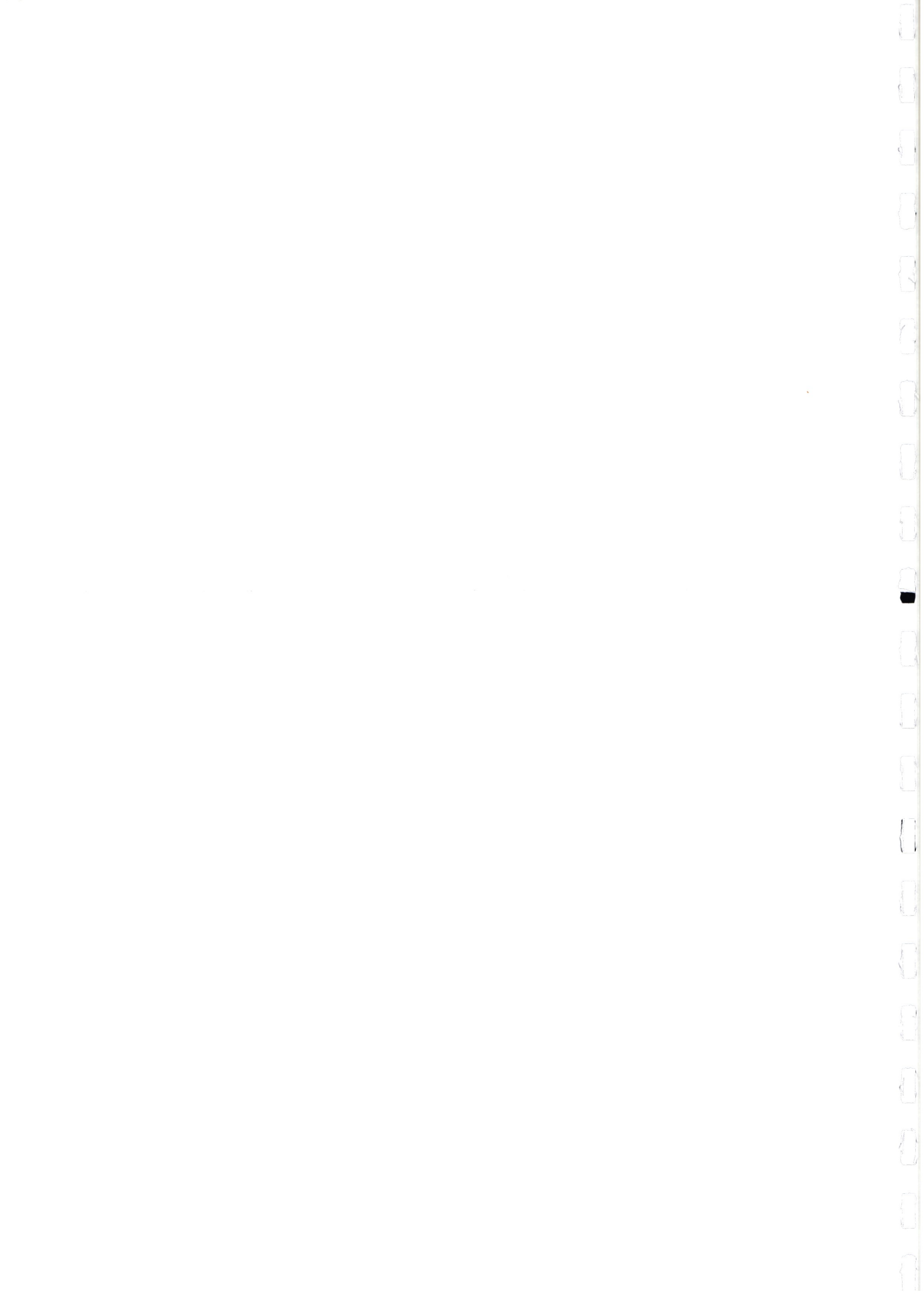
6.7.4 Further Irregular Payment of KSh 16 Million to Gesa

M/s Gesa Building & Civil Engineering was blacklisted by the Central Tender Committee, and was not eligible to carry out business with KPLC, due to its involvement in fraud as described in the above section. The Committee observed nevertheless that between January 2001 and March 2003, KPLC paid Gesa KSh 16,165,626.70 for excavation works without the authority of the Tender Committee or the Board. This amount is therefore an irregular and fraudulent payment since it was not supported by any Minutes.

Further, M/s Gesa's contracts with KPLC since Year 2000 were extended severally by the Chief Engineer Operations and Maintenance, Mr Job Githinji and the Company Secretary, Mr Justin Kimani, without CTC approval; thus the payments made, running into millions of shillings, were not fully authenticated.

6.7.5 M/s Matic General Contractors Limited: Legal Suit against KPLC for KSh 108 Million over the Same Project

KPLC originally issued the contractor with a letter of award for road cutting, pavement opening and reinstatement on 10th March, 1999 following a pre-qualified tender dated 4th August 1998. The contract was for a period of 12 months ending on 10th March 2000.



The Committee observed that:

- Matic was registered on 3rd July 1997 as a Roads and Bridge Engineering Contractor by the Ministry of Roads, Public Works & Housing and was pre-qualified and registered for tenders for projects in the category designated "unlimited".
- The firm obtained a permit from Nairobi City Council to carry out excavation work for KPLC at Buru Buru site on 23rd September, 1999 and thereafter commenced the work.
- On 15th October 1999, through a letter referenced CC3.7/JKK/awn, the Chief Superintendent, Central Construction formally requested M/s Matic General Contractors to correct and complete the work done by M/s Njamba Developers by reinstating the opened up gates. The Contractor was given a rate of KSh 1,990/- per cubic metre to do this job.
- The Contractor billed KPLC KSh 13,881,810.00 which was for work that was previously done by M/s Njamba Developers. In total, the contractor billed the Company KSh 36,458,216.00.
- However, the Auditors assessed the amounts against the work done and arrived at KSh 11,602,700.00 which was KSh 24,855,516.00 less than the amount billed. The Auditors later on in their memo to a Committee on Evaluation of Buru Buru Reinforcement Project Payments dated 9th August 2000, computed the sum payable to M/s Matic to be KSh 17,204,021.05 as follows:-

Description	Amount (KSh)
Reinstatement of M/s Njamba's works	695,707.52
Work on Phase III & V	12,800,787.85
Work on Kyuwa & Kyamanyatu	3,707,525.68
Total	17,204,021.05



Although the above amounts were eventually paid by KPLC, the contractor was not satisfied and sued the Company for the balance together with interest and legal fees which amounted to KSh 108,480,070.60. The case is not yet determined thus no loss could be quantified as at this stage.

It is important to note that the Contractor had offered in writing to be paid KSh 36,651,295.25 out of the KSh 108 million, as a final settlement but on condition that he be allowed to continue doing business with KPLC. However, the request was turned down by the former Managing Director.

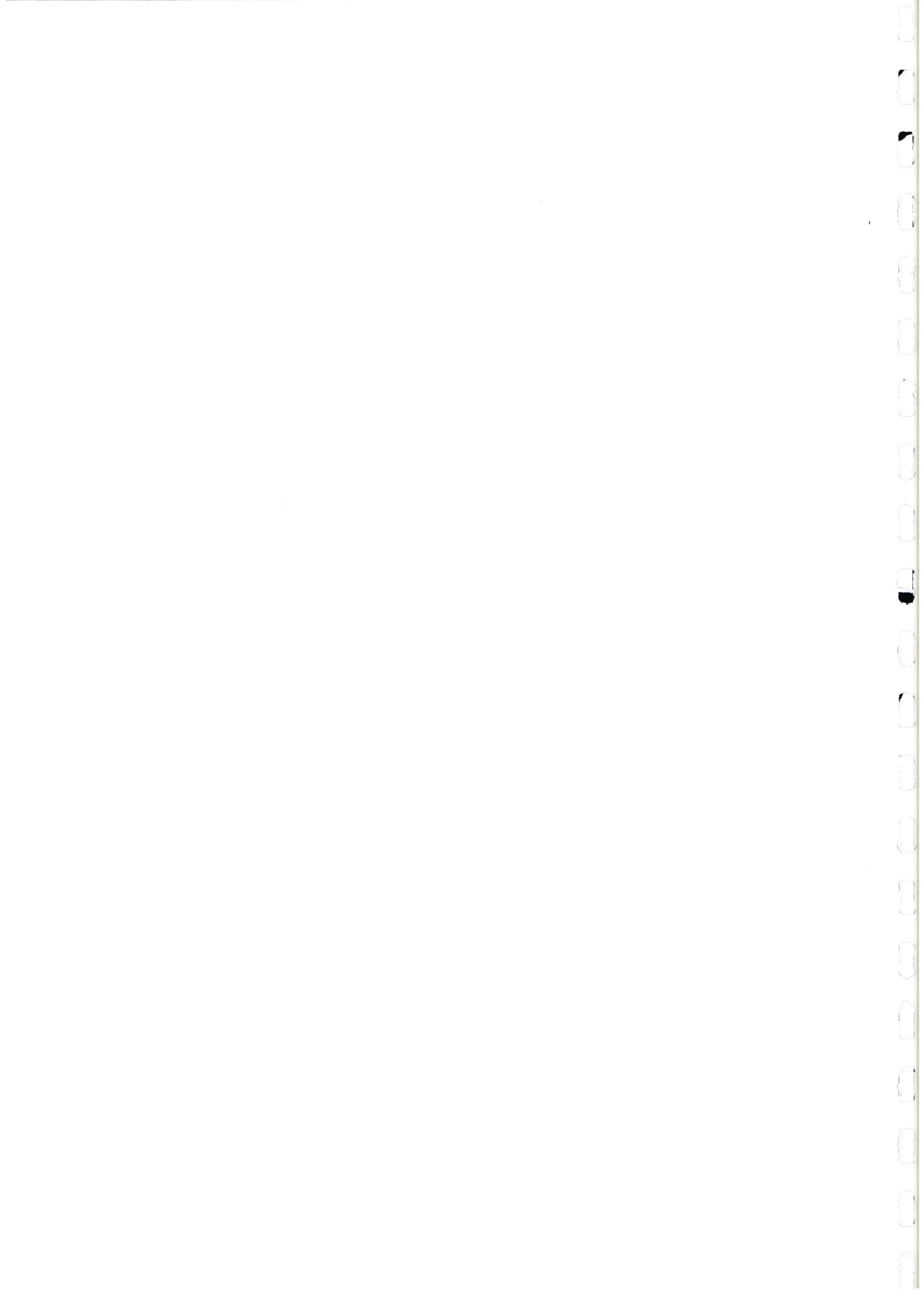
6.7.6 Project Cost over KSh 27 Million in Labour Only

The Committee observed that though labour for the whole Buru Buru project was budgeted at KSh 16.5 million, the final cost was KSh 27,144,011.05, an excess of KSh 10,644,011.05. The excess may have arisen from poor planning, lack of supervision, poor bookkeeping and co-ordination. However, KPLC has disciplined the officers involved in these errors of commission and omission.

6.7.7 Recommendations

The Committee recommends that:

- *The above matter be reviewed by the Board with the intention of recovering KSh 26 million from the M/s Gesa Building.*
- *Payment of KSh 16,165,626.70 to M/s Gesa Building & Civil Engineering Ltd should be investigated to establish how the contractor was awarded contracts to undertake excavation works without CTC authority, even after the CTC had blacklisted them for their involvement in earlier fraud.*
- *Severe disciplinary action should be taken against the KPLC staff named above who covered up or were involved in the fraudulent activities.*



6.8 PROCUREMENT OF INSURANCE SERVICES

The Committee established that KPLC has a long history of Insurance Services for its assets and liabilities. As at 2002/2003 financial year the Company had a total of 39 Insurance Policies over its properties, installations, cash, personnel and motor vehicles. The insurance covers were placed through Insurance Brokers who were awarded annual contracts for provision of the services. These policies expire on 30th June of every year and are renewed in advance. The Committee observed that while insurance services are procured from reputable insurance firms through a few selected insurance brokerage firms, some of these brokers have done the lucrative business uninterrupted since 1968.

6.8.1 Procurement of Insurance Brokerage Services without Tendering

Yet again, officials of KPLC, ignoring established principles of competitive bidding, simply picked on a few selected firms instead of advertising open tenders for the insurance services. KPLC started advertising in the press for provision of Insurance Brokerage Services only in May 2001 for 2001/2002 financial year. Prior to that, the Company used to renew or extend these contracts to the selected brokerage firms, usually six in number. It would appear that KPLC was compelled to advertise following the enactment of the *Exchequer and Audit (Public Procurement) Regulations of 2001* by the Treasury which came in operation in March 2001 and made open tendering mandatory for such level of expenditure.

The firms that were frequently selected and the periods of their engagement are shown in the table below:

Appointment of Brokers from 1968 up to 30th March 2003

BROKER	YEAR OF APPOINTMENT	YEAR TERMINATED	YEARS IN SERVICE
J. H. Minet/(currently) A.O.N. Minet	1968	Active	35 years
Hogg Robinson &	1970	1980	10 years



Collin Hood (current) Alexander Forbes	2001	Active	2 years
Consolidated Insurance Brokers	1981	Active	22 years
Pelican Insurance Brokers	1981	2000	19 years
Widescope Insurance Brokers	1981	1994	13 years
Kabage & Mwirigi Insurance Brokers	1989	Did not participate fully in 2001	13 years
Sifa Insurance Brokers	1992	2000	8 years
Thabiti Insurance Brokers	1993	2001	8 years
Prime Ken Insurance Brokers	2000	2002	2 years
Sedgwick Insurance Brokers	2002	Active	1 year
Clarkson Notcutt Insurance Brokers	2002	Active	1 year

The Committee observed that KPLC terminated the services of Pelican, Widescope, Sifa, Thabiti and PrimeKen after some interval but retained J. H. Minet (currently AON Minet) who has served uninterrupted for 35 years. Also retained were Consolidated Insurance (22 years) and Kabage & Mwirigi (13 years). These brokers are the longest serving firms and were still in business with KPLC as at the time of this audit, but the mode of selecting them was through single sourcing until 2001/2002 when competitive bidding was enforced by the new Public Procurement Regulations. A tender advertisement was put up again for brokerage services in 2002/2003 financial year, and the six successful bidders included still the three long serving firms above. The successful firms were Kabage & Mwirigi, Consolidated, AON Minet, Alexander Forbes, Segwick and Clarkson Notcut.

The Committee is suspicious of the manner in which the brokers are selected and recommends that the conduct of the tender exercises be further scrutinised and streamlined.

The above is also in recognition of the fact that the KPLC Board of Directors in their meeting earlier this year indicated it was possible to reduce some of the expenditure by more than half. This suggests that the provision of insurance services has not been handled transparently by KPLC. (A graph under "Clause 2b" below shows that the premiums paid in 2002/03 to Alexander Forbes, one of the firms the Board took issue with, was clearly exaggerated.)

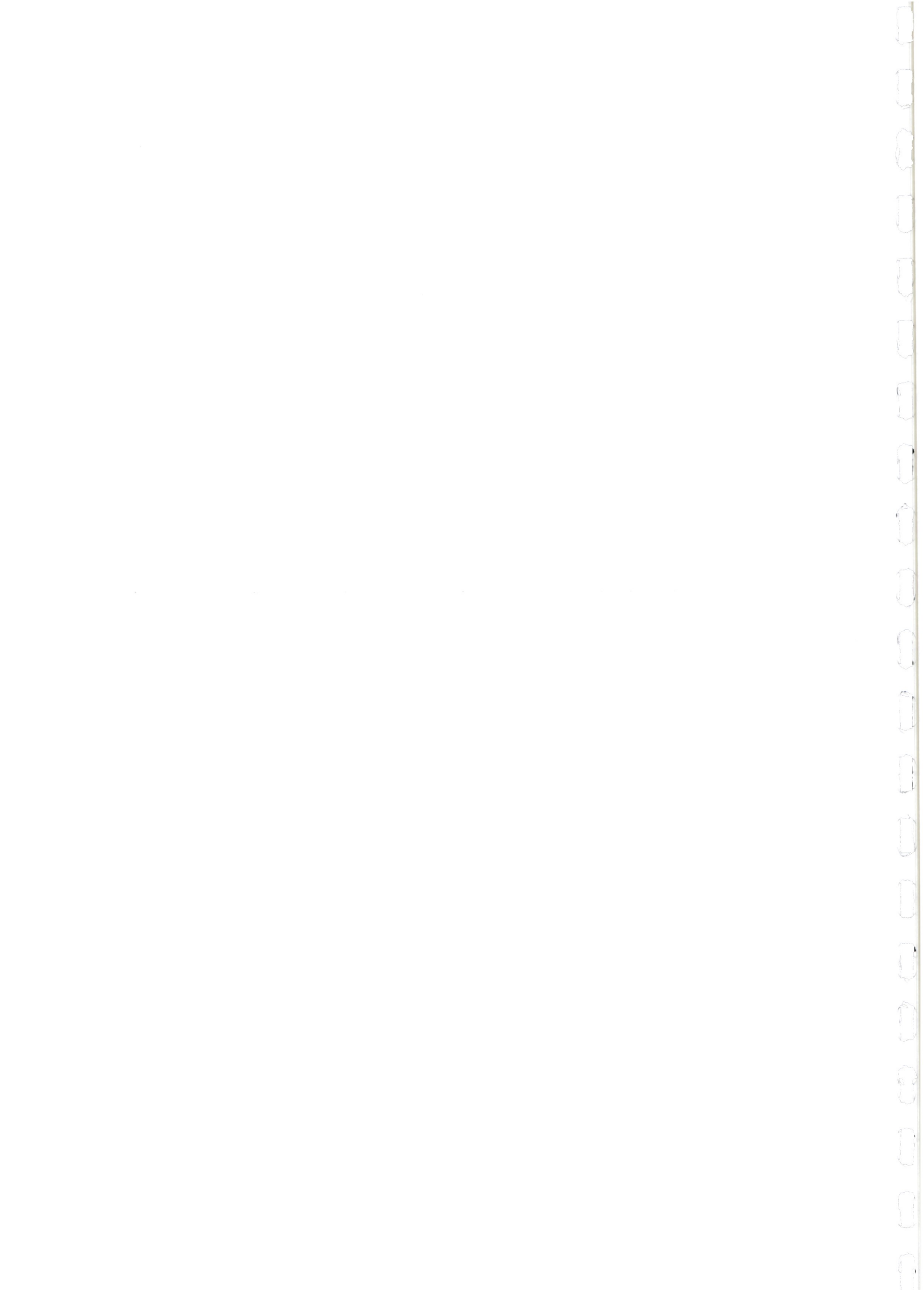
6.8.2 Volume of Insurance Business Handled by Brokers

According to information received from KPLC, the scope of service to be provided by insurance brokers included the design of the policies, placement of covers with underwriters and administration of the policies jointly with the Company's Insurance Section. Every financial year, at least six brokerage firms were selected and awarded contracts. Premiums paid to each one of the brokers over the period 1996/97 to 2002/03 were as follows:-

PERIOD	1996/97	1997/98	1998/99	1999/2000	2000/01	2001/02	2002/03
BROKER	KSh (Million)	KSh (Million)	KSh (Million)	KSh (Million)	KSh (Million)	KSh (Million)	KSh (Million)
Kabage & Mwirigi	215.67	266.85	168.5	217.12	156.1	14.46	109.13
Consolidated	66.57	65.96	70.08	80.22	85.23	41.11	24.46
Minet	57.78	58.66	49.76	56.41	37.38	49.78	22.55
Pelican	75.79	60.65	54.94	87.26	76.98	-	-
Thabiti	18.42	24.88	33.96	72.32	4.37	4.02	-
Sifa	11.54	11.59	10.12	9.89			-
Primeken	-	-	-	-	4.64	-	-
Jardine	-	-	-	-	-	153.64	-
Alexander Forbes		-	-	-	-	-	200.43
Sedgwick	-	-	-	-	-	--	1.19
Clarkson	-	-	-	-	-	-	1.69
TOTAL	445.77	488.59	387.36	523.22	364.7	263.01	359.45

The Committee observed the following:

- (a) During this period as a whole, lucrative insurance policies were awarded specifically to *Kabage & Mwirigi Insurance Brokers* who commanded 40.5% (KSh 1.148 billion) out of



the total of KSh 2.832 billion. They were *followed by Consolidated Insurance* with 15.3% (KSh 433.63 million). Pelican who was stopped in 2001/02 came third with 12.6% (KSh 355.62 million) while AON Minet was fourth with 11.7% (KSh 332.32 million). The Committee was not able to establish how the brokers were awarded the work. It was further alleged that a son to the former Managing Director was one of the directors in Kabage & Mwirigi while its Chairman had other close business ties with the Managing Director himself.

The Committee recommends a more equitable distribution of the business to share the risks.

- (b) There was a general decline in the volume of insurance business observed during the period 2001/2002 and 2002/2003 due to the separation of KenGen from KPLC. KenGen henceforth had to insure its assets and liabilities separately. However, this major change did not generate any drastic savings in KPLC's total premiums paid for this period, especially in the year 2002/2003 when an upsurge was already evident. This needs further investigation.
- (c) The Committee noted with concern that the procedure of single sourcing was open to abuse and corruption. Single sourcing is the very negation of transparency.

6.8.3 Comparison of Premiums Paid Against Values Insured For Different Classes of Policy

A review of insurance premiums paid between 1995/96 and 2002/2003 revealed that there was no proper and regular valuation of Company assets. Depreciation was not recognised as provided for in the Annual Accounts during these periods. This would have saved KPLC millions of shillings when negotiating for the renewal premiums. In the absence of proper valuation of assets, it was not possible to establish the basis of value insured *viz a viz* premium paid. However, the Committee was informed that insured values in all classes of policy were decided upon by the Managing Director, Mr S. K. Gichuru and the Company Secretary, Mr Justin Kimani. Examples of some classes of insurance policies showing value insured against



premium paid and their percentage ratios are given below. (The ratio is a measure of *premium paid per unit cover received*.)

I. Fire & Perils: Hydro Stations

The policy covered all the Seven Forks Hydro Stations and Turkwel Power Station. The asset composition was different from that of thermal power stations; hence a classification of risks in the three categories shown below.

- Power house, administration block, camp, switchyard, plant, and machinery therein including electrical equipment at spillway and intake - **against risks of** fire, lightning, earthquake, bushfire, explosion, flood, strike, malicious damage etc.
- Main dam intake, penstocks, tailrace, spillway, emergency spillway but excluding electrical equipment elsewhere insured - **against the risks of** earthquake, aircraft impact, falling rock, riot, strike, malicious damage etc.
- On residual and all other assets not specifically insured, including roads, drains, foundations, shafts and tunnels - **against risks of** earthquake and volcanic eruption.

Details of values insured against premiums paid are shown in the table below.

TABLE I: CLASS OF POLICY: Fire & Perils (Hydro)

YEAR	VALUE INSURED	PREMIUM PAID	INSURANCE BROKER	% OF COVER
1995/96	65,773,592,820	56,386,987	Minet ICDC	0.086%
1996/97	76,320,353,260	64,409,038	Kabage & Mwirigi	0.084%
1997/98	85,468,406,300	61,778,721	Kabage & Mwirigi	0.072%
1998/99	85,468,406,300	51,364,593	Kabage & Mwirigi	0.060%
1999/00	85,468,406,300	53,457,149	Kabage & Mwirigi	0.063%
2000/01	85,468,406,300	26,318,444	Kabage & Mwirigi	0.031%
2001/2002	-	-	-	-
2002/2003	-	-	-	-

Committee's Observations:

- *For four consecutive years from 1997/98 to 2000/01, the Company did not make any effort to update the value of the assets insured.*
- *During the whole period from 1995/96 the premiums fluctuated erratically. This parameter is by and large expected to decline and settle due to no-claim rate discounts.*



- *Kabage and Mwirigi monopolised the business. .*

Note that these same observations generally apply also to the other classes as shown in the tables below and that figures for 2001/2002 and 2002/2003 missing in most of these tables were not availed to the Committee by KenGen. These figures would have provided a good comparison during the period after the companies separated.

IIa. Fire & Perils: Thermal Power Stations

This policy covered generating plant of thermal oil, thermal gas and diesel types at Kipevu, Nairobi South and at Lamu, Garisa, Mandera, Wajir, Marsabit, Moyale and Lodwar - **against risks** of fire, lightning bushfire, full explosion, earthquake, volcanic eruption, riot strike, malicious damage, and special perils and included the Company's stock stores, unused cables and poles. Details are shown below:

TABLE IIa: CLASS OF POLICY: Fire & Perils – Thermal Power Stations

YEAR	VALUE INSURED	PREMIUM PAID	INSURANCE BROKER	% OF COVER
1995/1996	24,538,840,000	39,778,170	Kabage	0.162%
1996/97	13,333,580,000	40,147,245	Kabage	0.301%
1997/98	15,072,842,000	38,884,129	Kabage	0.258%
1998/99	15,072,842,000	35,185,071	Kabage	0.233%
1998/99	16,216,656,000	38,465,779	Kabage	0.237%
1999/2000	15,662,842,000	39,184,226	Kabage	0.250%
2000/2001	15,072,842,000	22,392,497	Kabage	0.149%
2001/2002	-	-	-	-
2002/2003	-	-	-	-

Committee's Observations:

- *There was a marked steadiness in the values insured and there was inconsistency in the premium ratios.*
- *Again Kabage and Mwirigi monopolised the business!*

IIb. Fire & Perils: Power Stations (Substations)

This policy covers all the installations at the Company's named substations, but excluding generator transformers which are a part of power station assets - **against risks** as mentioned above. Details are shown below:

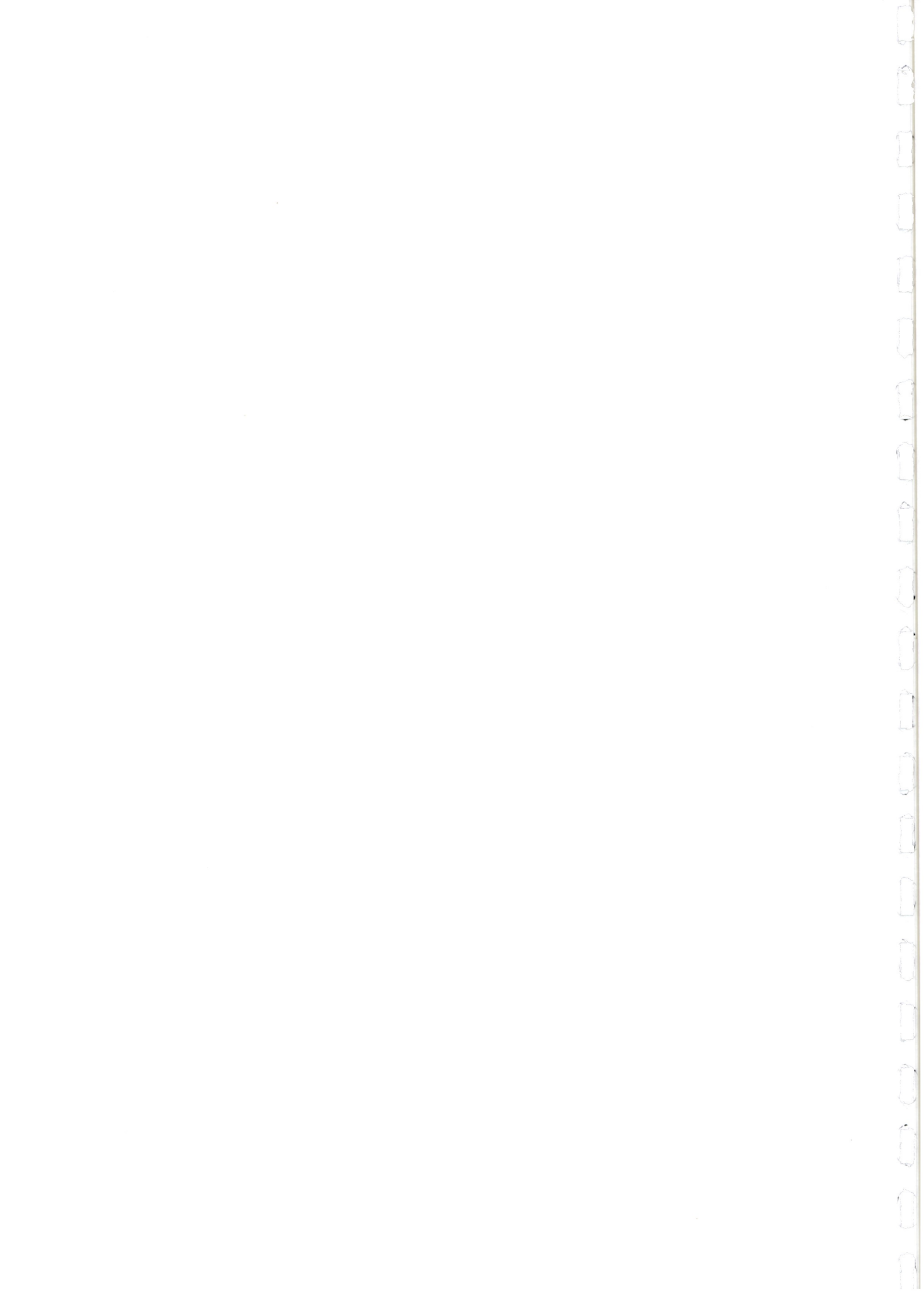
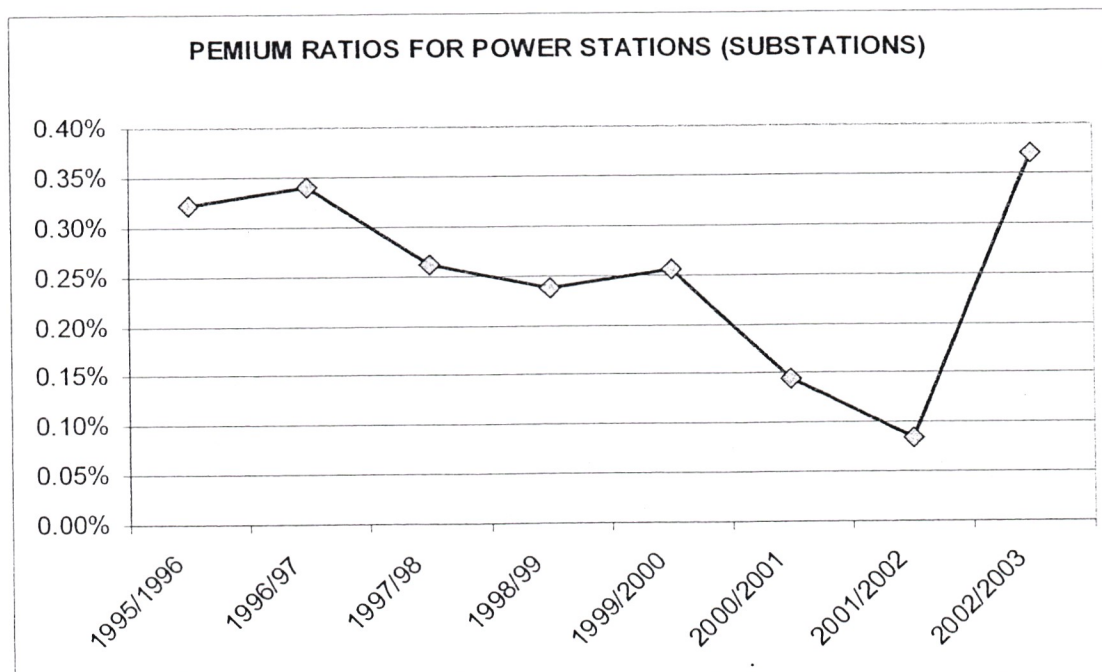


TABLE IIb: CLASS OF POLICY: Fire & Perils - Substations

YEAR	VALUE INSURED	PREMIUM PAID	INSURANCE BROKER	% OF COVER
1995/1996	19,421,039,000	62,632,851	Kabage	0.323%
1996/97	14,101,440,000	47,846,503	Kabage	0.339%
1997/98	16,216,656,000	42,514,808	Kabage	0.262%
1998/99	16,216,656,000	38,465,779	Kabage	0.237%
1999/2000	16,216,656,000	41,375,040	Kabage	0.255%
2000/2001	16,009,611,300	23,266,118	Kabage	0.145%
2001/2002	16,009,611,300	13,580,152	Minet	0.085%
2002/2003	19,312,468,300	71,246,518	Alexander Forbes	0.369%

Committee's Observations:

- *There was a marked steadiness in the values insured, especially at KSh 16 billion for five years. The gradual decline, even with the rather constant values insured, is the expected trend of the premiums, considering claim-based rate discounts, etc, over the years.*
- *The sudden jump in 2002/03 (see graph below) begs questions on the deal the Company reached with Alexander Forbes.*
- *Kabage and Mwirigi still monopolised the business.*



III. Fire Consequential Loss

This policy provides indemnity **against risks** of reduction in gross profit or increase in cost of working following damage to Company property occasioned by fire, bushfire, subterranean fire, spontaneous combustion, lighting, explosion earthquake, bursting or overflowing of water tanks and apparatus, impact with vehicles, riot strike and malicious damage, etc. The policy also covers Auditor's fees incurred in preparation of a claim under the policy. Cover applied to all the Company's premises all over East Africa. (KPLC has substation equipment in Tororo, Uganda.) The total period of indemnity is 24 months down-time.

TABLE III: CLASS OF POLICY: Fire Consequential Loss - Hydros

YEAR	VALUE INSURED	PREMIUM PAID	INSURANCE BROKER	% OF COVER
1995/1996	16,051,000,000	40,474,500	Kabage	0.252%
1996/97	24,871,030,480	58,114,401	Kabage	0.234%
1997/98	20,051,000,000	37,846,629	Kabage	0.189%
1998/99	11,471,000,000	21,658,759	Kabage	0.189%
1999/2000	11,471,000,000	27,044,534	Kabage	0.236%
2000/2001	6,903,000,000	10,273,125	Kabage	0.149%
2001/2002	6,903,000,000	14,181,906	Minet	0.205%
2002/2003	6,903,000,000	14,181,906	Minet	0.205%

Committee's Observations:

- *Again notice the periodic stagnation of values insured and the inconsistency in the premium ratio.*
- *Note again the monopoly of Kabage.*
- *Note also that from financial year 2000/2001, some of the cover was placed by KenGen directly.*

IV. Engineering: Machinery Breakdown and Loss of Profits

The policy covered generating plant at Kipevu Power Station, Seven Forks, Olkaria, and Turkwel. The assets covered were boilers, condensers, turbines and generators **against** sudden and unforeseen damage to machinery while working, at rest, or during dismantling or erecting for or after inspection or repair. The policy excludes the risks covered under the Fire and Peril policy. It stipulates that repairs after damage must be carried out within 12 months unless with permission from the insurers. It covers loss of revenue following sudden and unforeseen damage but excludes

consequential loss claims related to perils normally insured under a fire policy.

TABLE IV: CLASS OF POLICY: Engineering

YEAR	VALUE INSURED	PREMIUM PAID	INSURANCE BROKER	% OF COVER
Engineering - Hydros				
1995/1996	14,409,991,620	35,628,704	Kabage	0.247%
1996/97	16,571,490,369	37,900,034	Minet	0.229%
1997/98	19,077,213,924	29,081,255	Minet	0.152%
1998/99	19,057,213,924	24,869,664	Minet	0.130%
1999/2000	19,057,213,924	26,788,358	Minet	0.141%
2000/2001	260,075,400		Minet	0.000%
2001/2002	-	-	-	-
2002/2003	-	-	-	-
Engineering - Kipevu				
1995/1996	7,698,720,000	30,394,396	Minet	0.395%
1996/97	6,432,000,000	19,881,000	Minet	0.309%
1997/98	8,440,425,000	29,038,160	Minet	0.344%
1998/99	8,440,425,000	18,302,000	Minet	0.217%
1999/2000	9,030,425,000	29,623,358	Minet	0.328%
2000/2001	272,536,900		Minet	0.000%
2001/2002	-	-	-	-
2002/2003	-	-	-	-
Engineering - Olkaria				
1995/1996	2,024,000,400	10,944,364	Consolidated	0.541%
1996/97	2,327,600,000	8,673,569	Consolidated	0.373%
1997/98	2,676,740,000	6,143,118	Consolidated	0.229%
1998/99	2,676,740,000	5,051,158	Consolidated	0.189%
1999/2000	3,079,401,000	5,810,109	Consolidated	0.189%
2000/2001	3,079,401,000	2,928,288	Consolidated	0.095%
Engineering - Turkwel				
1995/1996	1,153,677,500	15,921,137	Consolidated	1.380%
1996/1997	3,070,875,800	6,504,786	Consolidated	0.212%
1997/98	3,531,511,425	5,103,034	Consolidated	0.144%
1998/99	3,531,511,425	4,329,799	Consolidated	0.123%
1999/2000	4,061,238,139	4,978,863	Consolidated	0.123%
2000/2001	4,060,236,139	2,508,984	Consolidated	0.062%
2001/2002	-	-	-	-
2002/2003	-	-	-	-



Committee's Observations:

- *Values insured were constant in many instances over the period covered.*
- *There was marked/erratic variation of the Premium/Value ratios.*

6.8.4 Recommendations

The Committee recommends that the former Managing Director, Mr. S. K. Gichuru and the Board at the various times should be called upon to explain why they ignored established principles of competitive bidding for a long time and simply kept on picking selected firms instead of advertising open tenders as required.

The provision of the services to selected insurance firms was highly irregular since the Company did not get value for money expended in the premiums.

The Committee also recommends that further audit investigations be instituted to determine the actual amounts that may have been misappropriated through the irregularities, and the amounts so detected recovered from the brokers, the Board members and the officers involved.

7. PROCUREMENT OF GENERAL STOCK AND STOCK CONTROL IN KPLC

7.1 BULK PURCHASE AND CONTROL OF ELECTRICITY METERS

7.1.1 Special Approvals

Several purchases of energy meters during the years 1999 and 2000 were done through *special approvals* by the Managing Director and would later be ratified by the Central Tender Committee. Some approvals were done by the Company Secretary, Chief Manager – Finance, and Internal Audit Manager. There is no evidence that any emergencies warranted such approvals which bypassed the Central Tender Committee as required by KPLC Purchasing Procedures.

Some of these purchases took extremely a long time to ratify, an indication that ratification by the CTC was a mere formality. An example in hand is an order for electricity meters worth Swiss Francs 162,615 which was *approved* on 11th May 2000 and ratified more than four on months later 20th September 2000 under CTC Minute No. 55/2000.

Some special approvals for meters do not appear to have been ratified at all by the CTC. An example is the *special approval* of 26th April 1999 through which meters worth Swiss Francs 56,250 were purchased; no records are available when the CTC ratified this *approval*.

7.1.2 Technical Considerations

The Committee has observed that the tender awards for electricity meters were at times manipulated and awarded to suppliers who had not been recommended in the Technical Evaluation.

An example is the award of the bulk of meters under Year 2001 Meters Tender to ISKRAEMECO. This was contrary to the recommendations of the Technical Evaluation engineer who had suggested that they be awarded the supply of only a small quantity for trial. This could have avoided problems that were later experienced with the meters from this supplier, namely that not all displays specified were available in the register and that the ability to override resetting of *kVA Demand* by the push button was not included.

The Committee observed that corrupt practices were evident in the procurement exercise and that sometimes the engineers were ordered to change specifications to suit certain suppliers.

The Committee also observed that quantities purchased far exceeded normal requirements of the Company, judging by customer growth patterns and capacity to repair old meters. Even before the "*global sweep*" (an exercise to detect and normalise all defective and unregistered meters in the system) came into full force, more than 272,000 meters were purchased between 1999 and 2002. The Committee observed that this

quantity far exceeded the requirements during that period since *even after* initiation of the *global sweep* exercise and the demand for meters shot up, it reached only 6,500 meters per month (in 2002).

7.1.3 Handling and Custody of Electricity Meters

Custody of the meters is not transparent and accountable. Lack of strict procedures for monitoring the issue, installation, recovery from site and replacement of meters may place an unaccounted for meter in the hands of an unscrupulous person, giving him room to meter an illegal power installation and thereby authenticate it in the records.

The Committee noted that while various internal and external audit reports have highlighted the same issues in the past, no concerted efforts have been made to address them. The following issues, in particular, had been raised:-

- (i) Meters which were installed in the field but do not appear in the billing system.
- (ii) Meters which have been removed from the system but still remain in the billing system.
- (iii) Meters drawn out of the stores but which cannot be accounted for in the field.
- (iv) Meters which are in the system but are not read regularly.
- (v) Meters which are regularly read and billed but are not paid for.
- (vi) Consumer accounts which disappeared from the system when the new billing system came into force, while presumably power continue to be supplied.
- (vii) Number of monthly bills being consistently less than the number of accounts in the system, at times by up to 10% or more.

Recommendations

The Committee regards the above incidents with concern as they contribute negatively to unexplained high system losses of over 20% in the KPLC network; and recommends that they be addressed as a matter of urgency. The officers involved should be disciplined for ignoring the Audit Report and for the losses so occasioned. Efforts should be made to recover lost earnings from consumers who can be proven to have used electricity without paying for it.

7.2 STOCK CONTROL AT ISIOLO ROAD BULK STORES

A visit by the Committee to the Bulk Stores at Isiolo Road revealed anomalies in stock level controls. The Bulk Stores supplies materials to other stores in Nairobi and other operational regions for construction and maintenance of the power network. It does not stock transformers, conductors, cables and poles which are stored at Nairobi South. Shortage of materials will mean lateness in completion of new supplies and delays in restoration of faulted service. In both cases the delay will translate into reduced revenue for the Company.

The Committee observed that a number of fast-moving items were in short supply while there was evidence of overstocking of other non-critical or slow moving items.

A glaring example was that operations at the Central Plant Workshops next door were virtually at a standstill due to non-availability of "little items" – notable among them, gasket sheeting. At the same time and earmarked for use by the same department was idle stock of 300 alkaline batteries which had been ordered for KSh 5 million and received in August 2000. These batteries were found lying untouched in the stores. (Incidentally, the situation was the same four weeks later even after the Committee had expressed concern over them.)

Again construction and emergency repair works were severely slowed down because there were no wooden ladders in stock.

The single piece in the Bulk Stores was reserved for use as a sample to prospective suppliers. In contrast to this the Committee observed very large stocks of galvanised steel fittings for high voltage line construction.

As an example, the Committee explored the movements in the Company's computers of two items commonly used in the construction of power lines. These were "angle tie straps" and "flat double-holed tie straps". In the table below is the information that emerged:-

	Angle Tie Straps	Flat Tie Straps
Present stock level	30,787	38,558
Stock value, KSh	5,446,475	11,697,988
Moving average price, KSh	190.00	311.39
Last purchase date	Sept. 1996	Sept. 1997
Consumption (Jan-June 2003)	750	622
Monthly consumption rate	125	103
Expected duration <i>in months</i>	246	374
Expected duration <i>in years</i>	20.5	31.2

The general picture painted was that the procurement system favoured purchases that were tailored to benefit certain individuals rather than the operations of the Company. Suppliers were chosen to fit this philosophy. It has been confirmed by the Purchasing Manager that the former Managing Director used to edit (add and subtract names to) the list of suppliers before approving it for invitation for quotations. A corrupt system was thus entrenched.

The Committee further observed that there is a huge stock of materials that had been procured for internal wiring of houses and street lighting. The concept of internal wiring of consumers' premises is against the principles of checks and balances as far as integrity and safety of electrical installations is concerned. It is against the all-time normal practice wherein KPLC is entrusted by the Government to be its agent in ensuring that contractors carry out the electrical installation in buildings and other places according to the Wiring Regulations.

Therefore, purchasing of wiring materials was an abnormality in the first place and was one of the corrupt avenues in the application of Rural Electrification Funds. That notwithstanding, the items left over several years ago when the practice was abandoned should have been sold off to realise the much needed funds.

Likewise, a lot of stock for street light construction and maintenance are still held even though the practice was abandoned. For example, the following items were not moving at all (as at 24/7/03) and could very easily have been disposed of by sale to regular users such as the City Council of Nairobi or the other local authorities:-

Item Description	Stock Level	Stock Value
Mercury lanterns, 160W	739	1,106,460
Sodium lanterns, 90W	200	1,565,484
Sodium chokes, 90W	92	64,308
Total value		<u>2,736,252</u>

It is therefore evident that a corrupt system had been established in the procurement of materials in which what counted were individual gains during the *act of purchasing* and not so much what to do with the material so procured.

Other examples in this category are the over procurement by the Management of electricity meters and wood poles and perpetual procurement of distribution transformers.

7.3 UNAUTHORISED POSSESSION OF COMPANY WATER PUMP BY MR STEVEN KIGERA

Mr Kigera is the Technical Services Manager in KPLC and is in charge of the Central Workshops at Isiolo Road among his other responsibilities. The Committee was informed that a water pump belonging to the Company had been removed from the Workshops, with assistance of senior officers, for Mr. Kigera's personal use. The informers also alleged that the same group of officers at the depot was responsible for thefts of copper

wires and re-introduction of repaired transformers as new units into Nairobi South Stores.

The Committee visited the Workshops and interviewed Mr. Peter Mungai Kinuthia, the Workshop Engineer; Mr Kahoro Wachira, Asst. Workshop Engineer; Mr Samuel Kiboi, a Senior Technician, among others. The Committee, upon information that the pump was installed at Mr Kigera's house in Karen, visited the home in the company of Mr. Mungai to verify the matter.

The Committee established that the 0.37 kW type Pedrollo water pump belonged to the Company and had been removed in exchange of Mr Kigera's faulty unit which was undergoing repairs at the Workshops. Mr. Kigera confirmed the same.

The Committee observed that the above was an example of serious breakdown of working ethics and failure to distinguish between public and personal property, whatever the value.

The Committee recommends as follows:

- The water pump be recovered and costs of repairs of Mr Kigera's pump surcharged to him.
- The officers involved in the movement of the Company water pump and repair of Mr Kigera's pump be disciplined. These are Mr Stephen Kigera, Technical Services Manager; Mr Peter Mungai Kinuthia, Workshop Engineer; Mr Kahora Wachira, Asst. Workshop Engineer; Mr John Kibuchi, Senior Projects Superintendent and Mr Samuel Kiboi, Senior Technician.

The Committee further recommends that investigations be carried out on the alleged theft of copper and reintroduction into the stores of repaired transformers as new units.

8. MANAGEMENT STYLE AND OTHER ABUSES OF OFFICE BY TOP MANAGEMENT IN KPLC

The management style of the long serving KPLC Managing Director, Mr Samuel Kimuchu Gichuru, was focussed on self

preservation and personal gain. He manipulated circumstances and people around him towards this goal.

The incidents in this section illustrate how Mr Gichuru used his position to dictate compliance from those in Union leadership, those in Government who were supposed to supervise him and a selected group of managers whom he manipulated into carrying out his schemes in exchange for promotions and other favours. An incident given under Rural Electrification about Cllr. Stephen Ndungu Njenga also fits in this category. So also are allegations about some long serving Board Members.

8.1 NON-RESPONSIVENESS TO AUDIT RECOMMENDATIONS

The Committee examined a number of reports produced by External Auditors, Deloitte & Touché and by successive Internal Audit Managers, and observed that a number of pertinent recommendations brought forward to the attention of the Management came up again and again because they were not acted upon. There is evidence of efforts to circumvent some. Examples are Electricity Billing and Control of Meters, Investment in Iberafrica, Sale of Company Properties, Contracted Work, Reconciliation of Receipting and Accounting Programmes (ICS and IFS), Shareholder Funds and Insolvency, Stock Levels and Stock Deficits and General Reconciliation of Accounts.

The Committee observed that in an effort to project a good image of himself and the Company he led, the former Managing Director ignored, circumvented or doctored the reports to suit the intended results for public and shareholder consumption. Thus for a number of years high dividends were paid to shareholders even when the financial performance of the Company was dismal, while activities on the queried items went on unabated.

The Committee observed that if the weaknesses were brought out in the open in good time as they occurred, then the decline of the Company might have been prevented.

The Committee finds the former Managing Director, Mr S K Gichuru; the successive Heads of Finance, Mr Z. Ayieko and Mr J. Ciano; and the successive Heads of Corporate Planning Mr M. A. Gupta and Mr. David Mwangi to be responsible for the non-responsiveness and harmful image sustenance through tailored reporting.

The Committee further recommends that the Internal Audit Department in the Ministry of Energy be expanded by two or three officers and their mandate extended to include monitoring of Internal and External Audit Reports and the responses of the respective managements in the various parastatals under the Ministry's supervision.

8.2 IRREGULAR PAYMENTS TO MR JACK OMENDA, FORMER SECRETARY GENERAL OF KENYA ELECTRICAL TRADES ALLIED WORKERS UNION (KETAWU)

The Committee observed irregular and unorthodox practices with regard to payments made to the Secretary General of the Kenya Electrical Trades Allied Workers Union (KETAWU). At the outset it is evident that the payments were inducements by the former KPLC Managing Director, Mr Samuel K Gichuru and his close confidants, so that demands by the staff body would be suppressed. The Committee views this as a bad practice which can be a recipe for labour unrest and low productivity to the disadvantage of the workforce and the Company's operational and commercial interests.

The Committee learnt from scrutinising the files that Mr Jack Amimo Omenda joined KPLC in January 1987 as a General Worker (cleaner) in Electrical Plant Workshops, Isiolo Road, at a salary of KSh 860/- excluding a house allowance of KSh 375/-. He is a holder of Kenya Certificate of Secondary Education Division IV. Mr Omenda was successively promoted in December 1987, September 1989 and December 1991 to Plant operator, Artisan III and Artisan II respectively. He attended an in-house course at the KPLC Training School and qualified as Electrical Fitter Grade III (Ordinary Pass).

Mr Omenda became active in trade union affairs and was in July 1993 transferred to Gogo Power Station so that he could lose his Chairmanship of KETAWU Nairobi Branch. He was transferred back to Nairobi in September 1995 and was posted at Meter and Test Station in Ruaraka. In August 1996 he was promoted to Artisan I at a monthly salary of KSh 12,110/- with a house allowance of KSh 2,930/-

Late in 1996, Mr Omenda, who was still Artisan Grade I in Meter and Test Station, was elected the Secretary General of Kenya Electrical Trades Allied Workers Union (KETAWU). He applied to KPLC for five years unpaid leave to concentrate on Union affairs. This was in keeping with the agreement between KPLC and KETAWU. Approval was granted for the unpaid leave by the Managing Director, Mr S. K. Gichuru on 19th November 1996. Commutation of his pending leave of 28 days in 1995/96 and 16 days in 1996/97 was also approved on 4th November 1996 and the payments effected.

The Committee observed that a loan of KSh 2 million was approved on 13th November 1997 for Mr Omenda to buy a house on LR No. 76/798 in Buru Buru. At this time, he was still an Artisan Grade I in Scale H as far as KPLC was concerned, and his last salary to which he would revert in KPLC was at the time KSh 15,040/- including house allowance. According to KPLC staff mortgage scheme rules agreed between Housing Finance Company of Kenya (HFCK) and KPLC, employees in Grades G and H are entitled to a limit of KSh 1.0 million for house loans – as seen in the following table.

Category	Staff Grade	Amount (KSh)
Union Represented	A - F	850,000
	G - H	1.0 million
	J - K	1.2 million
Middle Management	11 - 12	1.3 million
	8 - 10	1.5 million
	5 - 7	2.5 million
	2 - 4	2.8 million

Category	Staff Grade	Amount (KSh)
Higher Management	Grade 1 & above	3.0 million
	Managers	4.5 million
	Chief Managers	5.0 million

The loan of KSh 2 million advanced to Mr Omenda therefore contravened the rules by being double the authorised limit. This exposed KPLC to unnecessary risks in case of loan defaulting because any position Mr Omenda might have held in the Union leadership was fluid and could not form a basis of calculations for a KPLC-guaranteed loan.

On 1st August 1998 Mr Omenda was suspended by the Union; his leave of absence was consequently suspended by KPLC but he was dismissed soon afterwards for failing to report to a new posting in Wajir, still as Artisan I though his salary now would be KSh 26,339/- with a house allowance of KSh 5,500/-. He also had problems with his house rent arrears amounting to some KSh 54,000/-. Mr Omenda took KPLC to court over the suspension and a threatened eviction from the Company house.

The Registrar of Trade Unions however declared the suspension by the Union as null and void and Mr Omenda was reinstated as Secretary General of KETAWU. He appealed to KPLC for reinstatement as an employee without loss of benefits and with the leave of absence earlier granted. KPLC gave a proviso that he withdraws the court cases, which he did. The Managing Director approved Mr Omenda's reinstatement on 17th March 1999 on the recommendation of the Human Resource Manager but with the *condition and warning that the Management would terminate his services if he engaged in any activities which in the opinion of the Company were "detrimental to its business interests"*. He, however, *successfully argued for the removal of this clause* saying that it was contradictory to his role as the Union's Secretary General.

Mr Omenda was re-elected as Secretary General of KETAWU on 29th September 2001. In the following month, he requested for *paid leave* which was approved by the Managing Director on 19th December 2001 and backdated to 1st November 2001. The

approval had a *condition barring Mr Omenda from engaging in "any activities which in the opinion of the Company were detrimental to its business interests"* otherwise it would be withdrawn on a notice of one week. *This time Mr Omenda did not contest this clause.* The prevailing agreement between KPLC and KETAWU stipulated that leave without pay be granted to such an officer of the Union who would be unable to perform his duties for KPLC on full time basis due to Union work demands.

On 1st March 2002, a second loan of KSh 1.5 million was approved for Mr Omenda to buy a house on LR No. 26739 in Ngong for which he also successfully applied for monthly owner-occupier house allowance of KSh 20,000/- later that October. This was *the second loan in less than five years* to be advanced to him. Mr Omenda's substantive grade in KPLC was still Artisan I in Scale H. Therefore this loan was again in contravention of the rules as it was half a million shillings above his ceiling.

In August 2002, Mr Omenda was paid yet again for commuted leave of 29 days in 2001 and a further 21 days in 1996.

The Committee observed the following anomalies:

- (i) Mr Omenda was paid a monthly salary of KSh 38,049.00 and owner-occupier house allowance of KSh 20,000.00 as from November 2001. He was placed on the Executive Payroll to conceal the arrangement. This was highly irregular first because both salary and house allowance were beyond his Artisan I level and secondly because he was on leave of absence as provided for by Clause 7(d) of the standing Recognition Agreement between KPLC and The Kenya Electrical Trades Allied Workers Union. The total payments made to Mr Omenda from 1st November 2001 until he ceased to be Secretary General of KETAWU and was recalled to KPLC on 7th June 2003 amounted to **KSh 1,114,540.80**. This is a direct loss to the Company and is blamed on corruption and collusion between the top management of the Company and Mr Omenda.

(ii) Mr Omenda was paid commuted leave days as follows:

(a) Through approval of 4th November 1996:

1995/96	-	28 days
1996/97	-	16 days
Total	-	<u>44 days</u>

(b) Through approval of 6th August 2002:

1996	-	21 days
2001	-	29 days
Total	-	<u>50 days</u>

While the first approval and payment were in order for leave days which were pending when he was first elected Secretary General in late 1996, the second approval was irregular for the following reasons:

(a) Pending days in 1996 were already paid for in the first approval of 4th November 1996 since after this date he was on unpaid leave.

(b) In year 2001 Mr Omenda was still on unpaid leave (granted on 19th November 1996), and could therefore not have earned any leave days. Besides, he could not qualify for leave commutation when he was already *on* leave – paid or unpaid.

KPLC incurred a loss of **KSh 134,062.35** due to the second leave commutation, which is again blamed on corruption and collusion between KPLC top management and Mr Omenda.

(iii) Apart from the two loans advanced to Mr Omenda exposing the Company to financial risks in the event of loan defaulting, the second loan also lacked good judgement and fair play as it denied other staff members an opportunity to benefit from the facility.

- (iv) It is noteworthy that in March 1999 Mr Omenda successfully contested the clause requiring him to act without harm to the Company's interests, yet in December 2001, he did not contest the same clause when he was granted his request for paid leave of absence. Again by accepting two house loans beyond his eligibility, it is obvious that Mr Omenda was party to the scheme of corruption and enticement by the Management against the interests of both the Union and the Company. Mr Omenda therefore shares the blame for the irregular practices, risks and losses as well as lowered staff morale and diminished productivity.
- (v) It is evident that top KPLC management sought and managed to gag the Secretary General of KETAWU so as to render the Union ineffective in matters raised by the staff such as corruption within the Company, unwarranted promotions, productivity, remuneration and welfare agenda. By this action the Management acted against the Company's interests in terms of industrial harmony and productivity, while affording itself the opportunity to plunder without the necessary checks and balances.
- (vi) The Committee found the following persons responsible for the irregularities and subsequent direct and indirect losses:-
- (a) **Mr Samuel K Gichuru, Managing Director:** He schemed with Bilha and Omenda to buy out Union leadership. He misused his office at the detriment of both KPLC and the Union which resulted in low morale and low productivity by the staff and consequent heavy financial and operational losses to the Company. He fraudulently paid out the Company's money to Omenda and put at risk more money in loan guarantees.
- (b) **Ms Bilha W Gachoki (Ndubai), Chief Manager Human Resources and Administration:** She was Mr Gichuru's accomplice and trusted adviser. She schemed with Mr Gichuru, Mr Omenda and Mr

Muchina in realising the plot. She misused her office in like manner.

- (c) **Mr Jack Amimo Omenda, former Secretary General of KETAWU:** He was a willing accomplice and accepted the overtures. He schemed with Gichuru and Bilha in realising the plot. Several times he irregularly received payments and favours which he knew he was not entitled to; against this he compromised his responsibilities to the Union and the Company.
- (d) **Mr Frank K Muchina, Employee Relations Manager (KPLC):** He was a willing spanner boy of Bilha's and schemed with her and Mr Omenda in the execution of the plot. He is also reported to have been the conduit for bribing other collaborating Union officials. His reward was job security and probably cash peel-offs from the bribe monies.

Recommendations

The Committee recommends the following actions:-

- (i) *Mr S. K. Gichuru should be prosecuted for abuse of office.*
- (ii) *Ms Bilha W. Gachoki should be prosecuted for abuse of office.*
- (ii) *Mr Frank K. Muchina should be severely disciplined.*
- (iii) *Mr Jack Omenda should be severely disciplined. He should be surcharged for KSh 1,248,603.15 being the amount he irregularly received from KPLC. He should also make immediate repayments of the two loans he irregularly received so as to remove the risks placed on KPLC by their guarantee thereof.*

This episode shows that the administration of KPLC under the long serving former Managing Director, Mr. S. K. Gichuru had become self centred and operated without due regard to the laid down regulations. Therefore the Committee further recommends that the length of service of a Chief Executive Officer of this or any other parastatal organisation should not exceed two terms of four years each.

8.3 IRREGULAR SUPPLY OF ELECTRICITY TO PROFESSOR WILFRED MWANGI'S HOUSE IN KAREN

This project was conceived in December 2002 and its implementation demonstrates abuse of office and misuse of Company assets by the former Managing Director in collaboration with a few senior managers close to him. It shows how easy it had become for the Chief Executive to divert Company resources to his own advantage and those of his friends.

Professor Wilfred Mwangi, the then Permanent Secretary, Ministry of Energy under whose docket KPLC fell, applied for electricity connection to his house on Plot LR. No. 1160/194 on Quarry Lane, Karen on 5th December 2002. The application was processed normally and a quotation for KSh 299,991.00 was sent out on 20th December 2002. This excluded KSh 15,000.00 which would be paid later as supply deposit. The Committee established that no response and no payments were received from Prof. Mwangi. However, in January 2003, KPLC went ahead and constructed the power line using the Company's repair and maintenance funds under works order No. L12003 in circumstances only known to a few staff. The line comprised seven new poles, seven spans of 4-wire PVC-covered conductors, three lengths of 25 mm² service cables and two sets of three phase cut outs. It was to supply a residential house, a swimming pool and a bore-hole.

According to the instructions, the work was to be completed by 28th January 2003 but was actually completed in the first week of February. This was without a single payment being made by the applicant.

It is worth noting that KPLC's procedures require that construction works of this nature must be paid for prior to commencement of the works. In this regard therefore, the work was irregularly implemented against the laid down procedures.

When the parties learnt that the Committee was in hot pursuit of this fraudulent activity, KPLC management issued a second quotation for KSh 298,456.00 on 17th March 2003; this excluded supply deposit *now at KSh 25,000.00*. Payment was received on

20th March 2003 by cheque No. 37029545. The supply deposit was paid for through another cheque on 4th April 2003. This new application was treated as "additional load" under works order No. A2111002120018.

Although the money was finally remitted, the costs of the installation were already incurred from the Company's repair and maintenance budget; there is therefore danger that this belated receipt may be used to construct yet another illegal line.

The Committee made the following further observations:-

- (a) It was established that though KPLC records indicate the plot in Quarry Lane as number LR 1160/124, the records at the Commissioner of Lands office specify LR 1160/194.
- (b) The records at the Commissioner of Lands office indicate that Mr S. K. Gichuru is the registered owner of this plot. However, Prof. Mwangi informed the Committee in writing that he is only *"leasing the plot with an option to buy"*. The Committee questioned this assertion since Prof. Mwangi's personal investment in a leased property amounting to KSh 300,000/- would be outrageous and not normal for a lessee. This incident supports an allegation brought to the attention of the Committee that Prof Mwangi was actually given this plot free of charge by the former KPLC Managing Director, Mr S K Gichuru.
- (c) The line to Prof. Mwangi's house was irregularly and fraudulently built as it did not follow proper procedures. There was an intention to defraud both KPLC and the Government of revenue to the tune of KSh 299,992.00, split as shown below. This excludes accounts deposit of KSh 15,000/- required before the supply contract is concluded.

Contribution to KPLC	KSh	254,231.00
VAT at 18%	KSh	45,761.00
Total	KSh	<u>299,992.00</u>

- (d) There was a conspiracy and a cover-up which manifests to intentional malpractice on the part of the former Managing Director and his selected team of managers who organised

the work and facilitated construction materials from as far as Thika Stores.

- (e) This work was not a voltage improvement exercise as later alleged by Prof. Mwangi because it only benefited his property and not the neighbourhood. Furthermore the new construction was for additional load and was built in *three phase* while the existing line was *single phase*. The installation matched the design that had been prepared after Prof. Mwangi's initial application in December 2002.
- (f) The following are blamed for the malpractice and should be severely disciplined:-
- Mr. Samuel Gichuru - former Managing Director
 - Mr. Benson Mureithi - Chief Manager, Distribution and Customer Service
 - Mr. Joseph Njoroge - Regional Manager, Nairobi
 - Mr. Job Githinji - Assistant Regional Manager, Nairobi West

 - Prof. Wilfred Mwangi who is a former Permanent Secretary in the Ministry of Energy is also blamed for receiving the services irregularly.

Recommendations

The Committee recommends that the responsible persons named above be severely disciplined or prosecuted for abuse of office.

The Committee also has information that there are many other illegal installations like this one, some of which have not been paid for even belatedly like this case. The Committee therefore recommends that further urgent investigations are carried out so that the perpetrators and beneficiaries are brought to book.

8.4 IRREGULAR PAYMENTS MADE TO MR. S. K. GICHURU, FORMER MANAGING DIRECTOR, KPLC

Mr. Samuel Kimuchu Gichuru joined KPLC, then The East African Power & Lighting Company Limited, on 2nd January 1974 as an Assistant Company Secretary. Prior to his engagement he had served in various capacities in the then Central Rift County Council in Nakuru between 1966 and 1969. He also served as an Area Officer and Town Superintendent prior to his appointment as a Clerk to Nyahururu Urban Council in April 1973. Mr. S. K. Gichuru studied Certified Public Secretaries course at the Kenya Institute of Administration and records availed to the Committee shows that he did his final Certified Public Secretaries Examination in April 1973.

After his appointment to the power company, he was rapidly promoted to various positions as follows: 1st February 1976, appointed Company Secretary with a basic salary of KSh 7,060 per month; 1st July 1979 appointed Secretary/Administration Manager with a basic salary of KSh 10,858 per month.

On 25th October 1984, he was finally appointed by the Government as the Chief Executive Officer/Managing Director of the then prestigious company, The Kenya Power & Lighting Company Limited at a salary of KSh 18,820 per month. He retired in the same position on 23rd February 2003 after occupying the position for seventeen years. His last salary was KSh 438,655/- per month in addition to numerous allowances among them a monthly "General Availability Allowance" of 5.25% of the basic salary (i.e. 21,932.75), even at a time when KPLC's financial and operational performance were dismal and appalling.

The Committee made the following observations:-

- (i) Mr. S. K. Gichuru was competitively recruited for his first position as Assistant Company Secretary in the then East African Power and Lighting Company Limited.
- (ii) He was thereafter rapidly promoted and appointed to higher positions *although his Appraisal Reports indicate*

that he was an average performer with regard to duties delegated to him by his seniors.

- (iii) All the other positions were actually *awarded as gifts* to Mr. Gichuru, since the Board did not carry out any interviews to fill the subsequent positions to which he was appointed after the first appointment which was competitive though junior.
- (iv) For the period preceding Mr. S. K. Gichuru's appointment as Managing Director of KPLC, the authority for his leave and payment of leave allowance were vested only in his superiors. After his appointment as the Managing Director, his leave allowance in particular was authorised by the Human Resources Manager, Mrs. Bilha W. Ndubai, who was his subordinate. This was against the service contract terms which were signed between Mr. S. K. Gichuru and the KPLC Board which stipulated that his leave days and/or leave benefits were *not* to be carried forward *without the written consent of the Chairman*.

The Company paid to Mr Gichuru KSh 445,761.70 as leave allowance and KSh 4,646,599.85 as commuted leave days for cash which was authorised by the Chief Human Resources Manager between 1999 and 2003.

The authorisation of the payment of the leave allowance and/or the commuting of the leave days which was authorised several times by his subordinate, the Chief Human Resources Manager, was against the laid down regulations and was therefore irregular; more so since no officer should be paid leave allowance when leave is not actually taken.

- (v) The terms of service for Mr. S. K. Gichuru as Managing Director, KPLC with regard to transport was *one official car similar to the one used by a Permanent Secretary in the Civil Service*. Information availed to the Committee reveals that Mr. S. K. Gichuru was permanently having twelve vehicles solely for his office. The Committee further observed that most of these vehicles were used to undertake Mr. Gichuru's personal errands and businesses. It is revealing to note that prior to the end of Mr. Gichuru's

tenure in KPLC seven of the vehicles were sold, some below market price.

Recommendations

The Committee observed the above as an example of gross abuse of office by Mr. S. K. Gichuru as Managing Director of KPLC, and recommends the following:-

- (i) The amounts paid out as leave allowance and/or commuted leave be recovered from the beneficiary since it was irregularly earned.*
- (ii) Mr. S. K. Gichuru be surcharged for using the Company's vehicles for his personal errands and businesses contrary to the existing regulations.*

8.5 QUESTIONABLE OFF-SHORE PAYMENTS

The Committee received information that the former Managing Director, Mr Samuel K. Gichuru formed a company in Malaysia under the name of *Lynmwood Development Limited* at the address Taman Johor Jaya, Johor Bahru. The Committee was further informed that at least US\$ 2 million was paid to the above offshore company by *Westmont Power (K) Limited* through a New York Bank, *Stanchart New York* at 7 World Trade Centre, New York, NY 10048. Westmont is one of the Independent Power Producers at the time (and still) supplying power to KPLC and whose sourcing and Power Purchase Agreement was irregular.

The Committee was also informed that tens of thousands of dollars possibly belonging to the Company had been deposited in another New York bank, namely, *Northern Trust International Banking Corporation* on the 10th Floor at 40 Broad Street, New York, NY 10000 42315. This was to the credit of *Merrill Lynch, Pierce, Fenner and Smith Inc.* who is a well known investment and share brokerage company.

Both matters above have already been forwarded by the Committee to the Kenya Anti-Corruption Commission for further investigations.

8.6 FAKED RECRUITMENT EXERCISE WITH ASSISTANCE FROM PRICEWATERHOUSECOOPERS (PWC)

From various accounts from past and serving employees, the Committee was informed that an otherwise noble exercise was started to reduce staff in KPLC to manageable costs through retrenchment and to select the best staff to be retained through open and objective interviews. PriceWaterhouseCoopers (PWC) was engaged as an independent overseer of this exercise.

Elaborate advertisements were put in the local daily newspapers at the Company's expense, spelling out qualifications and conditions required for the senior managers. Other staff were to apply and be interviewed by the managers so selected with participation of PWC.

The Committee observed the following irregularities:

- Conditions publicly advertised were not followed.
- Some candidates who did not meet the set conditions were selected while those qualified were left.
- The number of managers actually went up from 28 to 34, or thereabouts.
- A number of staff interviewed said they were told by the Management what posts to apply for and were taken after mock interviews.
- Secretaries of the managers and other senior staff who left were themselves retrenched without interviews and without regard to their individual capabilities.

The Committee further observed that the exercise was a hoax and PWC aided and abetted the scheming and machinations of the Managing Director, Mr S. K. Gichuru and his right-hand Chief Manager for Human Resources and Administration, Ms Bilha

Gachoki. The public was hoodwinked that there was an interviewing process going on at KPLC while in fact it was a hand-picking exercise *meant to remove* those that the Managing Director and managers close to him found difficult to misuse. As a result the Company became weakened rather than strengthened and the object of *retrenching* was lost.

Recommendations

The Committee recommends that KPLC seeks ways to speed up economic recovery through adoption of sound and prudent financial and business management so that the envisaged retrenchment exercise is stopped and more jobs created.

8.7 OFF-LINE RECEIPTING IN KPLC

The Committee reviewed receipting systems in KPLC for any weaknesses that may promote loss of cash, and observed that the Company uses two systems to receipt in their revenue at the various points throughout the country. One system is called ***on-line receipting***. Here the cashier's computer is connected to the Company's Central Servers, where the data base is resident and from where she can retrieve information about the bill being settled and effect recording of the payment made. The connection is live (real time enabled) and the transactions are supported by a system called ICS (Integrated Customer Service System). This mode of operation is beneficial in that it allows the cashier to verify on her screen the account she is working on. If she credits the wrong account, the receipt to the customer will also show the wrong account credited as the credit will go only to the account displayed. This is easy to trail and chances of cheating are limited as the customer can verify on the spot if the correct account has been credited.

The other system KPLC uses is called ***off-line receipting***. This uses desktop computer equipment which is not connected *live* to the Company's data base in the servers. The Computer may be "stand-alone" or physically connected but not enabled for electronic data transfer. When a customer pays through this system, the cashier records the transaction in her desktop

equipment supported by a system called LCA (Local Collection Applications). The cashier cannot see the details of the transaction until she prints it out. Later on, usually after the doors are closed to the public, the cashier together with the Chief Cashier prints out the day's transactions and the Chief Cashier manually downloads the information to the Central Servers.

Some cashiers' PCs in the main towns throughout the country are connected physically to the Central Servers through the wide area communications network (WAN) that KPLC has installed and operates. But such cashiers are at liberty to switch between on-line and off-line as they please. Other cashiers' PCs are connected through dial-up lines of Telkom Kenya and always operate off-line.

Cheques collected from corporate customers are receipted in the off-line system where the cashier takes her time to make entries according to the list accompanying the cheque.

Off-line receipting is faster than on-line especially when the system is busy or congested so that operations have to wait for machine time, often resulting in longer queues. Congestion results from inadequate computing capacity, that is, memory capacities of the servers and the PCs, operating speeds and data transfer capability of the interconnecting networks. Although off-line system is faster, it is also unsafe and dangerous as it is open to abuse.

The Committee observed the following examples, of which KPLC management is aware, which illustrate the weaknesses of off-line receipting system with regard to early detection of fraud:

- An accountant in Malindi working through an off-line stand-alone PC collected over KSh 10 million but did not remit to the Company either the accounts or the money.
- KPLC accountants have come across situations when some remote bank agencies failed to remit the money they collected altogether.



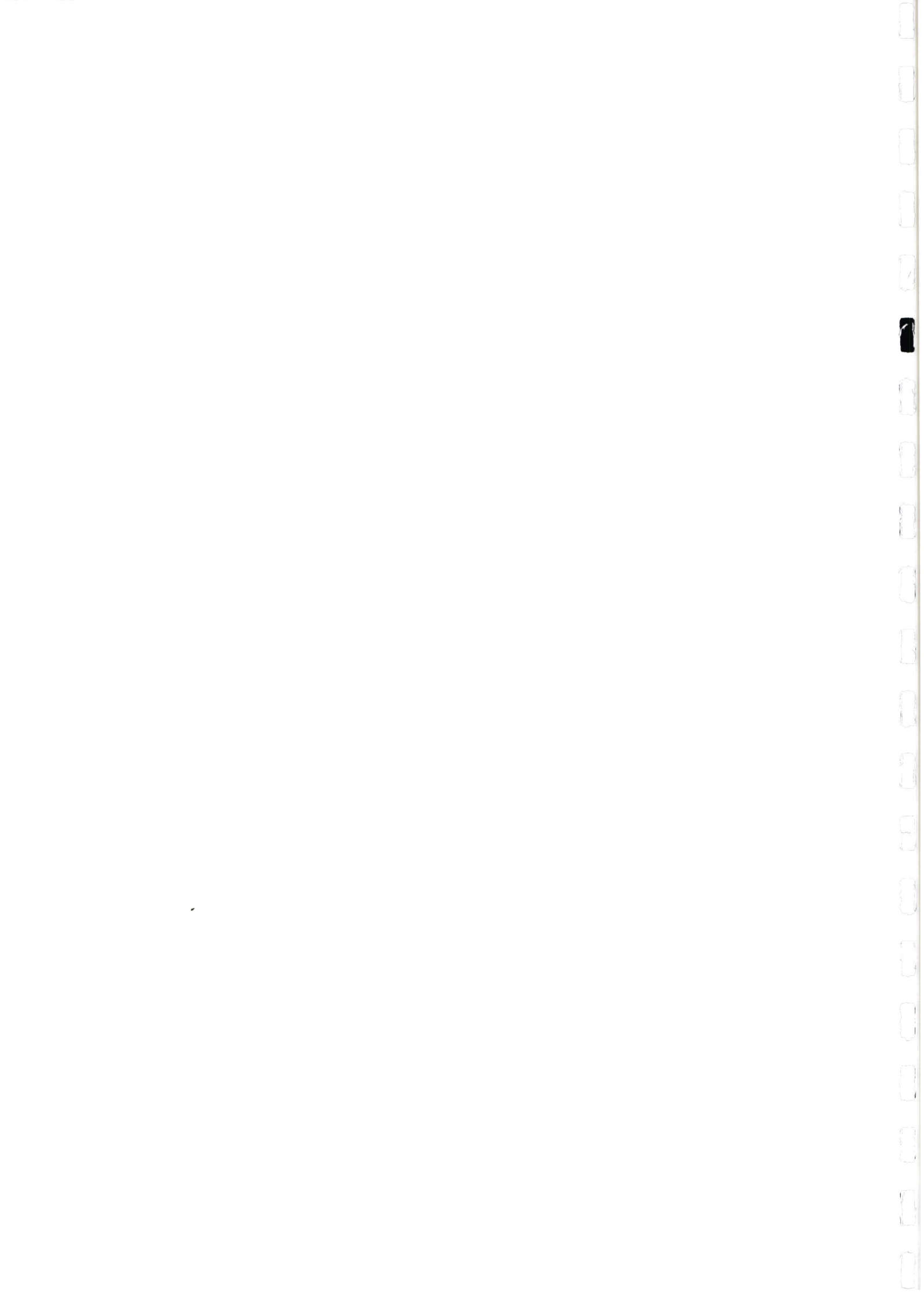
- An employee in Customer Service adjusted a customer's bill and took away KSh 30 million.

The Committee also observed the following examples which illustrate how records can be easily manipulated and money stolen with off-line receipting.

- A senior member of KPLC staff paid a bill for a friend who was on the verge of disconnection. A cashier receipted it off-line. To avoid disconnection, she insisted on on-line receipting. The cashier was able to *cancel* (not reverse) the payment and issue another receipt on-line.
- A payment of KSh 20,000/- which a senior staff had paid in August 2002 as deposit for a new electricity account came up on a browsed screen as only as KSh 5,000/-. After complaining, the cashier "corrected" it and the balance of KSh 15,000/- appeared!
- A witness informed the Committee of how once a customer's account vanished from a screen on which an external auditor was working. The account had been deleted.

The Committee further observed other serious system weaknesses as follows:

- Bills can be relocated in the computer section as a result of weaknesses with passwords which are at times too broad and at others permit higher authority to the holder.
- There are weaknesses in the *billing* and *financial reporting* operations due to a mismatch in the interface between ICS (Integrated Customer service System) which records the bills using a package called "power builder" and IFS (Integrated Financial System) which uses the renowned but multifaceted and tricky package called "SAP" for the financial operations. Reconciliation of the billing and the collections is therefore difficult because of this. Fraud detection is consequently slowed down. This problem needs urgent resolution as it provides a further loophole that can be exploited by fraudsters.



Recommendations

The Committee is of the opinion that the weaknesses have been exploited by both junior and senior staff alike to the detriment of the Company, and recommends as follows:

- *That KPLC makes all effort urgently to increase the computing and networking capacity so that all receipting is done on-line.*
- *There is also an urgent need to create a smooth interface between ICS and IFS which should be engineered to allow fast comparison between billings and collections as a control item.*
- *KPLC should re-examine the password and electronic signature systems in terms of competence and permit levels (limitation). A policy should then be instituted to ensure that users regularly change their passwords.*

8.8 FRAUDULENT RECEIPTING OF CORPORATE CHEQUES (CHEQUE KITING) IN KPLC

Cheque kiting is a fraudulent act where a cheque drawn by one individual in favour of another is used to credit a third party's bill, either in whole or in part. The genuine drawer is thus left with part or the whole of his bill unpaid. In this way, the third party benefits by way of theft and with the connivance of a cartel of operators in the receiving organization and sometimes even the drawer himself or his agent.

Cheque kiting was detected in KPLC in late 2001 and again early 2002 and was the subject of investigations by Internal Audit and Security Departments. On receiving a tip, the Committee followed this matter up and became concerned with the manner in which it was handled by the Management. This is the focus of this section.

The Audit Report of an investigation initiated on receipt of information from the Chief Manager Distribution and Customer Service, revealed that between 2000 and 2002, KSh

16,693,515.35 out of KSh 432,714,638.35 received from the Nairobi City Council (NCC) was diverted and paid in favour of 102 individual customer accounts not related to NCC.

A total of KSh 47,747,889.10 was diverted from corporate customers as shown below.

CORPORATION SWINDLED	AMOUNT DIVERTED (KSh)
Kenya Tea Development Authority	6,890,494.30
Kenya Broadcasting Corporation	375,250.60
Kenya Railways	11,524,029.45
Kenya Commercial Bank	1,504,058.81
Nairobi City Council	16,693,515.35
Agricultural Development Corp.	10,760,540.59
Total	47,747,889.10

The largest single beneficiaries were:

BENEFICIARY AND SOURCE	AMOUNT RECEIVED (KSh)
Jitan Steel Structures	15,242,212.65
From: Kenya Railways	9,293,532.45
Kenya Tea Dev. Authority	3,030,736.50
Nairobi City Council	2,917,943.70
Sera Coatings Limited	723,272.80
From: Various sources	

A Story of Complexity

The investigations were sparked off when a cheque for KSh 5 million paid in by NCC in credit of its electricity bills went missing. This cheque had been collected by Mr Harrison Mwaura King'ang'a. Mrs. Faith Waithera Lugonzo, the Senior Customer Service Officer in charge of the section told the Committee that the missing cheque was detected by Mrs. Anne

dismissed the talk as "politics" but said that after the investigations "someone else was assigned the work" she used to do. The Committee found her elusive.

From the above, the Committee observed that the first Internal Audit Report (under Mr Z. Ayieko) which exonerated Mrs Mungiiria on the basis of being the person who blew the whistle was mistaken since Mrs Lugonzo and Mrs Otieno confirmed that it was Mrs Otieno who had done it twice. Further, Mrs Otieno could not be incriminated for losing the registers first because the registers were often left in the open office and also because the keys were always kept in the open office. This area needs to be looked into.

Despite the above, the Audit Report which also named an accomplice in City Hall, came up with recommendations that were pertinent, among them *disciplinary action on the staff involved and reversal of "all fraudulently credited accounts"*. The response by the Management was however strange.

- The Chief Manager Distribution and Customer Service, tried to play down the matter of recoveries while listening to excuses from Jetan Steel. This was odd.
- The same Chief Manager informed the Auditors that the Managing Director was to be advised "before involving the City council during the investigations".
- When advised in a meeting, the Managing Director directed that "the issue should be cleared by the *Management Committee*" first. This was unusual for a Managing Director that is known to act even without Board Approval.
- The subsequent "Management Committee" was a hand-picked group of four Chief Managers loosely allied to the Managing Director, namely:
 - Mr Benson Mureithi, Chief Manager Distribution & C/Service
 - Mrs Bilha Gachoki, Chief Manager Human Resources & Admin.
 - Mrs Lawrencia Njagi, Company Secretary
 - Mr Jonathan Ciano, Chief Manager Finance & Procurement

- The group resolved to (a) discipline the staff implicated, (b) not to involve City Council and (c) *to stop reversal of fraudulent credits*. This was highly irregular as recovery of diverted cheques was paramount. Communicating these decisions, the Chief Manager Distribution and Customer Service also put an end to the investigations altogether. This was strange because he was the one who had informed the Internal Audit!

In all, four junior members of staff implicated were terminated but two of them successfully appealed and were reinstated. Another two including the departmental manager got warning letters. It is alleged that a Board Member is presently pushing for the retrenchment of the two junior staff who had been reinstated. The Committee observed that disciplining the junior staff members was a diversion intended to cover up the truth.

The Committee observed from this incident that the former Managing Director, Mr S. K. Gichuru, had an interest in the illegal diversion of cheques and was aware of at least some of them, especially the large ones of Jitan Steel Structures and perhaps Sera Coatings. He tried and succeeded in circumventing the course of justice as recommended by the Internal Audit Report. To do this he enlisted the services of some Chief Managers who were close to him, especially Mr Benson Mureithi.

A review of this Audit has now been undertaken by the new Internal Audit Manager (Report of 18th July 2003 by Mrs Owuor) and the Committee supports her chastisement of the managers who made these uncanny decisions and her call for "respect for ethical conduct" and reversal of the wrong entries so as to credit the rightful owners.

Recommendations

For the loss of KSh 47,747,889.10 as a result of cheque kiting and non-recovery thereof, and for the adverse image this has given to the Company, the Committee blames the following:

Mr S. K. Gichuru, former Managing Director, Ms Bilha Gachoki, former Chief Manager Human Resources & Administration, Mr Benson Mureithi, former Chief Manager Distribution & Customer Service, Mrs Lawrence Njagi, Company Secretary and Mr Jonathan Ciano, former Chief Manager Finance & Procurement. (Mr Gichuru and Ms Gachoki have since left the Company.)

The Committee recommends that the wrong cheque entries be reversed without delay, and the beneficiaries and accomplices brought to book.

The Committee further recommends that severe disciplinary action be taken against the KPLC employees named for blocking the recoveries and that the other persons named be prosecuted for misuse of office. Any deficits in the recovery of the irregular entries should be surcharged to all those named above.

8.9 EXAMPLES OF ABUSE OF RURAL ELECTRIFICATION PROGRAMME

Rural Electrification is a difficult programme to run because of the huge expectations of many prospective beneficiaries, the expense at the personal level of getting connected, and the gap between available national resources and the quantity of work needed to make an impact on the programme. Consequently there are many problems such as jostling for vantage positions in the queue for the service, on the one hand, and the temptations and pressures that befall all those who manage the programme in terms of appeasing, avoiding queue busting and effecting a fair and meaningful implementation plans.

The Committee did not have adequate time to carry out detailed audit on this subject and therefore chose the following examples just to illustrate the many ways in which *resources* or *objectives* of the Rural Electrification Programme have been misplaced.

8.9.1 Funds Diverted from Nyandarua District to Supply Cllr. Stephen Ndungu Njenga in Kiambu District

A Rural Electrification Scheme was approved for Mawingo Miharati in Nyandarua District in July 2000 with a supplement in March 2001. The scheme was divided financially in two independent parts. One part was to be funded by the Government of Spain at a cost of KSh 31.559 million. The other component was to be funded by the Government of Kenya at a cost of KSh 11.822 million and was to serve 44 beneficiaries.

The Committee established that a portion of the funds approved for the GOK component was used to construct a line for one individual (Cllr. Stephen Ndungu Njenga, Rare Farm) in Mai Mahiu in Kiambu District. The work involved construction of 4.6 km of high voltage overhead line, two transformers, a total of 1.050 km of low voltage lines and four service lines to supply a shop, a house, workers' quarters and a water pump. This expenditure was approved in two bits by the Managing Director, Mr. S. K. Gichuru; the first for KSh 2,581,464 on 27/9/2001 and the second for KSh 1,200,000 on 21/2/2002. *The work was to be undertaken under Mawingo Miharati Project.* When the Committee visited the site, the installation was idle; the water pump which was the largest load had not been installed and the pump house was incomplete.

The Committee observed that Cllr. Ndungu first applied for electricity in 1997 under a commercial scheme with seven others and was given a quotation of KSh 4,310,000/- on 7th November 1997. For some reason he decided to go it alone and paid a deposit of KSh 231,000 on 22nd December 1997. The scope of the work reduced to KSh 2,585,000/- and he paid a further KSh 27,500 on 29/6/98 to bring his payments up to 10% of this amount. Just by arranging with the KPLC Managing Director, the original commercial project now became a Rural Electrification Scheme to be funded by the public.

Noting that the budget for the Government portion of the Mawingo Miharati Project was KSh 11.822 million, the amount of KSh 3.781 million approved and diverted to benefit this one individual accounted for 32% of the total.

The managers concerned with Rural Electrification at KPLC confirmed, as was indeed verified by inspection of some of their records, that this is a common practice and that there are many similar cases countrywide. They said that "the funds are only diverted when the project has been finalised". But it is not difficult to overestimate jobs so as to create these *excess funds*.

The Committee views this as a highly irregular practice in that the request for allocations should be tailored to the work at hand, and that should any balance exist at the end of the project, the unexpended funds should be returned to the Rural Electrification kitty for further deployment based on priorities.

The Committee observed that the approvals by Mr S K Gichuru to divert funds for Cllr. Njenga's line were irregular and did not follow or respect the laid down procedures for expenditure of the public funds. They represented a gift by Mr. Gichuru to Mr. Njenga and constituted misappropriation of funds and misuse of office. Furthermore by moving funds from Mawingo Division in Nyandarua District to Mai Mahiu in Kiambu District, the Managing Director denied the people of Nyandarua their rightful allocation of development funds in a fit of oblivion to fair play.

Recommendations

The Committee recommends that Mr S. K. Gichuru, former Managing Director of KPLC be reprimanded for abuse of office, and that the administration of the Rural Electrification Programme be reviewed to eliminate such malpractices.

8.9.2 Illegal Construction of Lines to Supply 118 Points in Mathira Division Using Rural Electrification Funds

A scheme was approved in June 2000 to supply electricity under Rural Electrification Programme to consumers in Thegenge and Ndumano areas in Mathira Division. The work entailed 4.2 km of high voltage lines, four transformers, 6.5 km of low voltage lines and 112 service lines. KSh 8,668,436/- was approved for this work.

A contractor was appointed by KPLC in May 2001 on tender basis at a price of KSh 1,505,267/- for the labour and transport. He carried out the work, except that he supplied only 92 beneficiaries out of the 112. (His 10% retention money was not released.)

After this work, some unscrupulous members of staff of KPLC connived and obtained materials, and transport from the Company using the same works order (I/O 231342) and supplied *a further 118 beneficiaries* without authority. The workmanship was poor and the lines often too long since no additional transformers were used. Also record keeping for the entire project was deliberately poor so as to make it difficult to know who had and who had not paid the agreed capital contribution of KSh 7,400/- per connection. As a result only 61 of the fraudulent connections were metered though many more were on supply.

An Audit Report dated 9th May 2003 recommended severe disciplinary action on the staff involved in the fraud.

The Committee observed this as an example of how Rural Electrification Funds have been misused for personal gain, in the process depriving other legitimate beneficiaries all over the country. Further the un-metered points represented theft of electricity from the Company. These contribute to the high system losses experienced by KPLC.

8.9.3 Fraudulent Supply to Ms Eva Muthoni and Two Others in Huhoini Area Using Mathira Division R. E. Allocations

An Audit report dated 9th May 2003 revealed that Ms Muthoni was supplied with electricity in her rural home in Huhoini, Nyeri District in May, 2002. Two of her neighbours were also supplied from irregularly constructed lines totalling 370m in length.

The materials used to construct these illegal lines were all booked on Thegenge / Ndumano Rural Electrification Scheme in Mathira Division, whereas the three beneficiaries were not from that division.

The auditors established that Ms Muthoni paid Mr. Luke Kimani, a Senior Technician in Rural Electrification section in Mt. Kenya a sum of KSh 45,000/- as a bribe "to assist her to get the supply as she could not afford the amount quoted under commercial terms."

Ms Muthoni said she also paid extra money for casual workers, although the investigation revealed that there were no external casuals used on the job. The three families have been enjoying free electricity since May 2002 as difficulties seem to have arisen with respect to installing meters and bringing them on board the KPLC consumer records.

The Committee observed that this is another example of loss to the Rural Electrification Fund which needs to be sealed. The Committee came across many other cases where electricity was fraudulently supplied under the guise of Rural Electrification.

8.9.4 Irregular Construction of Power Lines in Tharuni and Ngecha Areas of Limuru

The Committee visited Tharuni and Ngecha areas of Limuru in Kiambu District where many residents complained that they had paid large sums of money to those they believed were employees of KPLC, and got speedy connections. Their supplies were however disconnected and some of the lines removed after enjoying the power for two or so years when KPLC discovered the illegal connections.

As with the case in Mathira Division, a number of the low voltage lines so constructed were typically too long. Some of the meters used were non-standard and had not come from KPLC while some meters were fraudulently obtained as their serial numbers were defaced to avoid identification.

In the Committee's view, all these cases demonstrate a need for comprehensive review of the Rural Electrification Programme to protect it against misuse so that more people can benefit from the limited funds at its disposal. This is dealt with in the next section.

8.10 PROPOSALS FOR ADMINISTRATION OF THE RURAL ELECTRIFICATION PROGRAMME

8.10.1 Introduction

Following the problems encountered in the administration of the Rural Electrification Fund as cited in the above sections, *the Committee now makes the following recommendations aimed at streamlining and strengthening this programme.*

It is recognised that in an effort to open up the country, economically, commercially and socially, the Government of Kenya runs a Rural Electrification Programme (REP).

In the past, the projects qualifying for REP funding were identified mainly by community leaders who then sought recognition and prioritisation by the respective District Development Committees (DDCs). The DDCs presented to the Ministry of Energy requests for funding and the Ministry engaged the services of KPLC to provide budgetary estimates. These were then presented to the *Rural Electrification Committee* for approval, further prioritisation and budget allocation.

The Rural Electrification Committee traditionally included in its membership two members from the Ministry of Energy (one as Chairman), two from KPLC (one as Secretary) and two from the Treasury. It has operated under various names in the course of time as follows:-

- Electricity Development Committee (EDC) (1973 - 1987)
- Rural Electricity Technical Committee (RETC) (1989 - 1990)
- Rural Electricity Schemes Committee (RESC) (1990 - 1995)
- Rural Electricity Programme Committee (REPCOM) (1995 - 1998)
- Rural Electricity Programme Fund Committee (REPFCOM) (1998 - Now)

After the enactment of the new Electric Power Act in 1997, it was decided through Legal Notice No. 96 of 1998 that a Work Plan be prepared and approved once a year by the Ministry of Energy. The first *Rural Electrification Programme Work Plan*

was prepared for the year 1998/1999 and approved by the Minister of Energy on 3rd December 1999. Thereafter it has been availed regularly and in time.

The Work Plan details sources of funds for Rural Electrification Programme and allocates expenditure for capital development work as well as operation and maintenance of the existing REP system. Capital expenditure allocation is shown by district on specific scheme basis. Sources of funds are primarily the 5% REP levy on all units of electrical energy sold by KPLC but include also funds from friendly donor countries availed for that purpose and special allocations by the Government. Presently the fund receives support from the European Union (Stabex), Spain and France. It has received money in the past from Sweden, Denmark, Norway and Finland, among others.

Thus once approved, the REP Work Plan becomes the blue book for implementation of the Rural Electrification Programme. The Work Plan lists the projects already identified, prioritised and approved by the Ministry of Energy and their budgetary allocations on quarterly basis. Any budget deficits are carried over to the following year.

8.10.2 Observations

The Committee noted several deviations in the administration of the Programme, with adverse effects as follows:

- The REP is sometimes used by individuals in authority by virtue of their position or work, to further their own ends. This may be to construct lines to themselves, their relatives or friends, or to offer such facilities as an inducement in exchange for material, political or administrative support.
- Often, the power is provided to people who may not be ready to use it and sometimes such facilities end up not being utilised for several months or longer. This poses an unnecessary drain on the programme funds with no returns on the investment and at the expense of other possible beneficiaries.

- Any materials such as poles and conductors left by the road side or in construction camps, as was often the case, can be used by unscrupulous people to construct lines illegally as observed in the preceding sections.
- As the funds are limited, selection and prioritisation of the projects often generates heated discussions and frustration in many a forum because of disparities in distribution of the projects at district or divisional levels.
- Presently the cost estimates used are based on KPLC commercial rates. These are high due to the Company's huge overheads and operating costs. This makes REP projects seem unnecessarily expensive and may tend to limit the authorised scope in an attempt to match available funding.

8.10.3 Recommendations

The Committee wishes to offer the following recommendations on Rural Electrification:

(i) Project Identification

This should continue to be done by community leaders of all categories (central and local government, political, general public, clergy, etc), and any specific users who are eligible. (The modalities have to be worked out diligently.)

(ii) Project Selection and Prioritisation

This area is where the main problem lies. Priorities should be determined as far as possible on the following criteria:-

- Defined need (economic, commercial or social)
- Sustainability (revenue to pay for operations and maintenance costs)
- Environmental protection and impact (e.g. wood fuel substitution)
- Regional balance (equitable spread all over the country)

(iii) *Project Funding*

The present sources (REP levy of 5%, Exchequer and Donors) should be retained as the main sources of REP funds. However, ways of encouraging communities for semi-commercial *group* projects should be worked out and strengthened. The above funds may then also be applied as subsidy.

Estimates for the projects should be based on average completion values of *contract tenders*, and not on KPLC rates. This will expand scope of work by at least 50% as contractors' rates average only about 60% those of KPLC.

(iv) *Implementation, Operation and Maintenance*

The Government should set up an independent authority to undertake these activities. This is discussed more fully in the next section. In that case, the Authority would engage contractors directly and KPLC could be one of them as far as construction of the lines is concerned. However, completed lines would still have to be handed over to KPLC for purposes of operations and maintenance until the law relating to power distribution licensing is amended to allow other players in the same *electrical district*, which the committee recommends. KPLC, in due consultation with Electricity Regulatory Board, will then charge the *Authority* to compensate it for the cost of running these lines.

The Committee observed that not all REP lines are loss-making. The cost of operating REP lines should be worked out on the basis of actual historical values. This should be compared with similar costs for KPLC lines in the same area (e.g. off the same primary substations) and a table compiled regularly giving percentage comparisons. This table should be used to determine future operation and maintenance (O&M) costs of the REP lines until an update is made. All effort should nevertheless be made to bring all the distribution systems in any given area under a single ownership for ease of administration.

(v) ***The Proposed Rural Electrification Authority***

The present method of Work Plan puts an unnecessary burden on the Ministry of Energy. Further, it restricts the matter to the Ministry while the funding is through public taxation, levies and donor funds.

The Committee recommends that a Rural Electrification Authority be established to oversee the entire Rural Electrification Programme.

The Committee further proposes that the membership of the Authority, to be appointed by the Minister of Energy, comprises the following stake holders and institutions:

Chairman	-	1 member
Office of President	-	1 member
Ministry of Energy	-	1 member
The Treasury	-	1 member
Kenya Power & Lighting Co Ltd	-	1 member
Association of Local Govt Authorities	-	1 member
Private Sector	-	3 members
Total	-	9 members

It is recommended that the Chairman be appointed from outside the public service.

It is also recommended that the three members from the private sector be drawn *from organisations of national spread* with at least one representing rural folk, one representing women (as mothers) and one representing the industry.

(vi) ***Main Tasks of the Rural Electrification Authority***

The main responsibilities of the Rural Electrification Authority are suggested to be as follows:

- *To source for funds for the project and maintain proper records*
- *To develop project identification systems and methods*

- To select and prioritise the projects
- To oversee *and verify* (audit) the construction
- To oversee operations and maintenance of REP power systems
- To ensure proper book keeping

The Ministry is expected to supervise the Authority.

9. PERFORMANCE OF THE BOARD AND THE FUTURE OF POWER TRANSMISSION & DISTRIBUTION IN KENYA

9.1 PERFORMANCE OF THE BOARD OF DIRECTORS IN KPLC

A number of decisions with disastrous consequences have been made in KPLC and KPLC/RBS as observed above. These have left the Committee to question the competence of the Board. In some cases it appears that the whole Board or strong voices in the Board were compromised. The Committee failed to understand how a competent member of the Board or the whole Board, for that matter, would be "misled" time and time again over issues on which he or she is deemed knowledgeable.

In spite of the interests that the various members of the Board represent, it is clear that their value as a Board is heavily hinged upon the success or otherwise of the Company. They are duty bound to run the Company to success. However, as observed several times above the Board failed the Company by not being alert to the goings-on in it, and by not instituting and maintaining adequate checks and balances for the Management.

The Annual Reports indicate that some members have served in the Board for a very long time. The Committee considers them to be the pivot of failure for the once prestigious organisation, first because of their long experience in that Board, and also because of their long association with the equally long serving former Managing Director.

Recommendations

Alongside the Management; the Committee blames all KPLC irregularities recorded above equally on the KPLC Board Members sitting at the time of each irregularity, and recommends that the respective appointing authorities consider their replacement if this has not already happened for other reasons. The Board Members should be surcharged for the losses incurred during their tenure. Further the Committee recommends that the tenure of a Managing Director in KPLC be limited to at most two terms of three years.

9.2 FUTURE OF POWER TRANSMISSION & DISTRIBUTION

The Committee observed that though by world standards, KPLC is not a large utility (with Kenya having only 1% of electricity in Africa, Egypt 5%, South Africa 54%, etc), part of its management problems nevertheless emanated from its geographical spread and monopoly as the only electrical transmission and distribution company in the Republic.

The Committee recommends therefore that the Government considers the following:

- (i) Creation of autonomous Regional Distribution Companies which will purchase bulk power from the national transmission grid - boundaries to recognise source of bulk power and business potential. This will ensure accountability and improve efficiency and profitability in this sub-sector, while enabling simpler and more manageable direct participation of private investors alongside the Government. Permitting more than one licensee per district will spur competition. In this scenario, there will also be a compelling need to address the destiny of uneconomical schemes constructed under Rural Electrification Programme.*
- (ii) Recombining KPLC and KenGen so that the new company is responsible for generation and the national transmission grid (and the transmission losses). Any private generating company would sell its power to the national grid. The Committee recognises that creating a single company for transmission alone might be unnecessarily expensive for the country.*

COMMITTEE FINDINGS ON THE KENYA ELECTRICITY GENERATING CO. LTD.

10. PROCUREMENT PROCEDURES IN KENGEN

10.1 REVIEW OF PROCUREMENT PROCEDURES IN KENGEN: WEAKNESSES AND EXCEPTIONS

The Tendering Guidelines and Procedures for KenGen dated January 2001 were reviewed. The Committee noted that in general, the regulations were comprehensive and precise.

It is evident that there is a clearly stated hierarchy of responsibilities in KenGen. However the following contracts reviewed by the Committee highlight some irregularities observed in the execution of the procurement process.

11. SAMPLES OF TENDER PURCHASES IN KENGEN

11.1 TENDER FOR PURCHASE OF 4,000 CUBIC METERS OF HEAVY FUEL OIL FOR KIPEVU POWER STATION (KSh 59,160,000 IN TOTAL)

The Committee reviewed the above tender and observed as follows:

That KenGen needed to purchase 4,000 m³ of HFO (Fuel Oil 280 cst) to be used for generation at Kipevu Power Station, and conducted the exercise as detailed below.

Invitation to Tender

Tenders were floated to nine potential firms out of which seven responded by the opening date of 30th August, 2002. These were as follows:-

FIRM	PRICE (KSh/m³)	DATE QUOTED
Metro Petroleum Ltd	14,790.00	30/8/2002
Total (K) Ltd	15,000.00	30/8/2002
Kobil Petroleum Ltd	15,275.00	30/8/2002
Adra (K) Ltd	15,350.00	30/8/2002
Kenol Oil Co. Ltd	16,275.00	30/8/2002
Triton Petroleum Co. Ltd	16,343.00	30/8/2002
Annel (K) Ltd.	16,500.00	30/8/2002

Tender Opening

Tender opening was conducted by three senior employees of KenGen in the presence of eight representatives of the above firms and one official of KPLC. All parties appended their names and signatures on the attendance list.

Tender Analysis and Award

M/s Metro Petroleum was found to be the lowest bidder for this tender at KSh 14,790/- per m³ inclusive of all taxes.

The Central Tender Committee authority was subsequently sought for approval to award the tender to Metro through a regular meeting held on 4th September, 2002. The award was communicated through Minute No. CTC/84/2002.

Observations

The Committee observed that the date of Tender Opening which was 30th August, 2002 (at 2:30 p.m.) coincided with the date the quotations were invited through KenGen letter referenced *GEN.38/SSSI/rao* of 30th August 2002. The speed at which the tender was processed is questionable bearing in mind that preparation of quotations and documents is a vigorous exercise that requires time.

However, save for the above irregularity other procurement procedures were undertaken satisfactorily.

11.2 TENDER FOR PROCUREMENT OF SPARES FOR NO. 1 COOLING TOWER AT OLKARIA (KSh 15,745,124)

The Committee reviewed the above tender and made the following observations.

That KenGen needed spare parts for the overhaul of a cooling tower (unit 1) at Olkaria Power Station and conducted its purchase as follows.

Invitation to Tender

An advisement was made in the *Daily Nation* and *Kenya Times* on 4th July 2002 and repeated in the *Daily Nation* and *The East African Standard* on 9th July 2002.

Four firms, indicated below, responded and the tenders were opened on 22nd August 2002 at 2.30 p.m. by two senior employees of KenGen in the presence of three representatives of the bidding firms.

FIRM	PRICE (US\$)	DATE QUOTED
Kenya Energy & Tel. Co. Ltd	185,373.60	21/8/2002
Unitech Industrial Agencies Ltd	140,744.70	22/8/2002
Marley Cooling Towers Co.	156,902.15	22/8/2002
Clearose Trading Co. Ltd	250,412.75	21/8/2002

Note figures above are C&F Mombasa and are in US Dollars

Tender Analysis

M/s Unitech had offered the most competitive price in total and was awarded the tender at KSh 15,745,124.00 which included KSh 4,626,293/- (41.6% of C&F Mombasa) being extra charges for taxes, clearing and forwarding of the items to Olkaria.

The Central Tender Committee approved the award in one of its regular meetings on 3rd October 2002 through Minute No. CTC/9/2002.

Observations

The Committee observed that normal procurement procedures were compiled with and documentation was properly done.

11.3 TENDER FOR SUPPLY OF 2000 CUBIC METERS OF KEROSENE (DPK) FOR KIPEVU POWER STATION (KSh 50,800,000)

The Committee examined the above tender and observed that KenGen needed to replenish the stocks of kerosene fuel (DPK) for the Gas Turbines at Kipevu Power Station since stocks were depleted to five days consumption. A tender was initiated as follows:

Invitation to Tender

Tenders were floated to six potential firms on different dates but opening was done on 23rd January 2002 at 12.15 p.m. The following is a summary of the submissions:-

FIRM	PRICE (KSh)/M³	DATE QUOTED
Mobil Oil (K) Ltd	25,400.00	21/1/2003
Triton Petroleum Co. Ltd	26,400.00	23/1/2003
Total Kenya Ltd	26,833.70	22/1/2003
Caltex (K) Ltd	26,630.80	23/1/2003
Kobil Petroleum	26,700.00	23/1/2003
Metro Petroleum	26,990.00	23/1/2003

Tender opening was conducted by four senior KenGen employees in the presence of one KPLC employee and six representatives, one each for the above firms. All parties present appended their names and signatures on the Attendance List.

Tender Analysis and Award

M/s Mobil Oil (K) Limited was the lowest evaluated bidder at KSh 25,400/m³ or KSh 25.40 per litre, inclusive of all taxes.

The Central Tender Committee's authority was sought to award the tender to Mobil at a Special Meeting held on 14th February, 2003. This was considered and the approval was communicated through their Minute No. CTC/9/2003.

Observations

The Committee observed that some firms were given the tender invitation letters the same day of opening. The speed at which these quotations were floated was therefore questionable since emergency situations were not cited in the documents.

However, except for the above anomaly, the procurement procedures were complied with as required.

11.4 TENDER FOR PROCUREMENT OF MEASURED UNIFORMS FOR VARIOUS EMPLOYEES (KSh 4,324,000)

The Committee observed that KenGen had a need to provide staff with fitted uniforms in its own colours and depicting the Company logo.

The specific cadres included drivers, receptionists, cooks, waiters, messengers, shift controllers, bus/guest-house caretakers, nurses, barmen, kitchen attendants, technical services teams (craftsmen, artisans and machine operators), nursery school attendants, swimming pool attendants, and switchboard attendants.

Invitation to Tender

Eleven firms were invited to tender and responded as below:-

FIRM	TENDER SUBMITTED
Deeson Hat Specialist	Yes
Crown Fashions Ltd	Yes
Manchester Outfitters	Yes

Tara Industries Ltd.	Yes
Bridge Quartermester Ltd.	Yes
King Wollen Mills	Yes
Savoy Suiting (int.) Ltd	Yes
Uniforms & Textiles	No
Evelyne College of Design	No
Trading options (UK) Ltd	No
School Outfitters	No

Tender Opening

The above tenders were opened on 24th August 1999 by four senior employees of KenGen. However, out of the above eleven firms invited, only seven responded and only three complied with the tender conditions by providing the 2% Bid Bond required. Details of the seven firms are given below.

FIRM	AMOUNT QUOTED (KSh)	TENDER BOND AVAILED
Deeson Hat Specialist	5,995,098.12	Yes
Crown Fashions Ltd	4,324,000.00	Yes
Manchester Outfitters Ltd	9,884,020.00	Yes
Savoy Suiting (inter) Ltd	11,382,525.00	None
Tara Industries Ltd	11,540,250.00	None
Bridge Quarter Masters Ltd	11,618,220.00	None
King Woolen Mills Ltd.	11,619,700.00	None

Tender Analysis & Award

M/s Crown Fashions Limited were the lowest at KSh 4,324,000/- inclusive of all taxes and were awarded the tender through a regular meeting of the Central Tender Committee held on 2nd November 1999 vide Minute No. CTC/107/99.

Security Services at various stations. The following eighteen firms were invited to submit their bids by 22nd October 1999 at 12.00 noon:

1. Aviation & General Security Consultants Ltd of Mombasa
2. Garey Vigillance Security Ltd of Eldoret, and Mombasa
3. Group 4 Factory Guards of Nairobi
4. Spur Security Services of Nakuru
5. Patriotic Guards Ltd of Nairobi
6. Lavington Security Services, Nairobi
7. Delta Crack Ltd, Nairobi
8. Metro Guardians Ltd, Nairobi
9. Kali Security Services, Nairobi
10. Red Eagle Security Services, Nairobi
11. Combined Ward Services, Nairobi
12. Secure Home, Nairobi
13. Allmarks Security Services, Ltd Nairobi
14. Bob-Morgan Security Services, Ltd Nairobi
15. Kenya Shield Security Services, Nairobi
16. Weskans Ltd, Mombasa
17. Nyati Security Services, Mombasa
18. Octagon Security Services, Nairobi

Tender Analysis & Award

A four member committee was formed to open the tenders. Other measures taken were as follows:-

A visit was made to the premises of these security firms for direct assessment, evaluation and physical inspection of their offices, guards, equipment and management standards with a view to verifying the information contained in their tender documents. Thus their ability, credibility and viability formed the basis for evaluation and subsequent awarding of tenders.

Tenders were then awarded as shown below:-

LOCATION OF SERVICE	SECURITY FIRM	ANNUAL CONTRACT PRICE IN (KSh)
Olkaria	Patriotic Guards Ltd	10,822,291.20
Kipevu	Aviation & general Security	6,072,000.00
Main Hydros	Lavington Security Guards Ltd.	9,128,700.00
Mini Hydros	Kenya Shield Ltd	5,092,200.00
Turkwel	Spur Security Services	2,914,200.00
Selby/Gogo	Garey Vigillance Security Ltd	960,480.00
Residential Houses	Various Security Firms	3,726,000.00
Stima	Bob Morgan Services	2,868,983.40

An approval was sought from the Central Tender Committee for a contingency of 10% of the contract price for each contract to cater for *ad hoc* and emergency costs. The above prices are inclusive of VAT.

The above contracts were approved by a regular meeting held by CTC on 5th April 2000 through its Minute No. CTC/30/2000 and were awarded accordingly.

Observations

The Committee observed that although bid documents were not availed to it for scrutiny, it was amply apparent that KenGen took great effort to ensure that this tender was done in an open and competitive manner.

11.6 TENDER FOR PURCHASE OF INSULATION MATERIALS (KSh 1,009,372)

The Committee also reviewed the above tender and observed that under this tender, KenGen needed to procure 130 pieces of large size organic fibre blankets as insulation material for their steam power plants.

These were required to minimise heat losses in the boiler and turbine steam lines and to ensure optimum efficiency in energy conversion. Modern ceramic fibre insulation materials, which

can withstand temperatures of up to 1200°C, are recommended and these are available in form of blankets, boards or pre-moulded pipe insulation.

Invitation to Tender

A letter Ref. KG/KPV/BLR/157/FWK/DK/GWL of 22nd June 2001 invited selected firms who dealt with insulation materials to quote for the goods.

Quotations were received from six firms and were opened on 8th August 2001 by two senior employees of KenGen who also endorsed on them. Tender details were as shown below:

FIRM	PRICE (KSh)	DATE QUOTED
Themes Industrial Services	1,009,372.00	18/7/2001
Draffy Services	1,242,092.70	6/7/2001
Sheergold procurement	1,344,630.00	26/7/2001
Indusial & Marine Ltd	1,719,576.00	26/7/2001
Unitech Industrial Ltd	1,772,000.00	26/7/2001
Longina Traders Co. Ltd	1,794,000.00	24/7/2001

Tender Analysis & Award

M/s Themis Industrial Services was the lowest competitive bidder at KSh 1,009,372.00 for the supply of insulation materials (*Kaowool Fibre Ceramic* blankets) inclusive of VAT and all charges and delivery to Kipevu warehouse.

Authority for the award of the tender to M/s Themis was sought and granted by Divisional Tender Committee through a meeting held on 5th October 2001, vide Minute No. DTC/GD/88/2001: Purchase of Insulation materials.

Observations

The Committee observed that normal procurement procedures were complied with in the above procurement conducted under the Divisional Tender Committee, Coast Region.

11.7 GENERAL OBSERVATIONS AND RECOMMENDATIONS ON KENGEN'S PROCUREMENT PROCEDURES

The Committee observed that in virtually all cases cited above, there appeared to be selective sourcing contrary to laid down regulations which require open tendering, thus denying the Company opportunity to receive best value for its money. It was also observed that the procurement process was hurried up so that in some cases, tender invitation and opening occurred on the same day.

Recommendations

The Management should improve on controls in the procurement process, especially with regard to stock monitoring, and timing and mode of tender invitation.

12. INFORMATION SYSTEMS PROJECTS IN KENGEN

The Institution Strengthening Project and the Microwave Radio Project were already under way within KPLC when Kenya Electricity Generating Company (KenGen) was separated from it. KenGen reconsidered their operational needs and decided that because Telkom Kenya network did not cover all the places they operated in, they required a more cost effective Wide Area Network of their own to interconnect their Local Area Networks.

After considering the options available, KenGen settled for a VSAT (Very Small Aperture Terminal) system which they bought from Hughes Network Systems of the USA through a tender on four local representatives. (Primary vendors of satellite systems are presently limited.) Documents examined showed that the tender covered equipment, installation and commissioning of complete earth stations with 99.9% availability. Board approval was given for KSh 45 million and initially only the head office and eight power stations were connected in 1999. The following year, Gogo Power Station was hooked up and in 2001 Wanjii and Tana power stations were added. Average cost per site was KSh 2.3 - 2.5 million. The system was networked through Telkom Kenya whose utility charges came to a total of

just over KSh 11 million per annum. The VSAT system therefore cost considerably less than the microwave system that KPLC had initiated; this would have cost more than ten times while covering only the Seven Forks Area. Further the annual running cost of VSAT was only about 30% of that required for the Microwave system.

The comparative costs of the two systems as obtained from KenGen are shown on the table below:

ITEM	SYSTEM COST IN KSh	
	VSAT	MICROWAVE
Annual Maintenance	3,750,000	45,000,000
Annual Utilization Charge	12,000,000	1,000,000
Total Running Cost	15,750,000	46,000,000
Initial Investment	25,000,000	300,000,000

Observations

The Committee observed the following:

- KenGen acted solved their immediate communications problems for *wide area network* in a rational manner considering the cost of the alternative microwave radio system and the reach of the same.
- The system was adequate for the time being except for voice, which would cost a little more in bandwidth installation and utility charges. At present data and e-mail access to their central servers at Stima Plaza is well covered by all connected stations countrywide.
- VSAT technology, however, cannot be used to operate the power stations *on line* as there is an unacceptable time delay in signal transmission of at least 1.2 - 2 seconds. Experiments had earlier shown that heavy transmissions from and to Kamburu Control Centre could take up to 10 seconds, necessitating continued use of power line carrier (PLC) for the control operations.

Recommendations

The Committee recommends that KenGen embraces the idea of alternative technology – perhaps a mix of microwave and fibre optics, the latter to be leased from a national operator, in order to control the power stations remotely and incorporate the voice requirements at the same time.

13. MYSTERIOUS WITHDRAWAL AND DIVERSION OF US\$ 2 MILLION FROM KENGEN'S ACCOUNT AT COOP BANK

The World Bank has over the years advanced KenGen, or its predecessors, substantial amounts of money for construction of power stations. The repayment agreement of the instalment on principal and interest on the loan in respect to Kiambere Power Station falls due in January and July of each year. In July 2001, the amount stood at US\$ 3,558,865.60 and was payable by 15th August.

Information availed to the Committee reveals that on 8th August 2001, KenGen gave instructions advising the Cooperative Bank of Kenya Limited to transfer US\$ 2 million to a World Bank Account in New York and an additional US\$ 1,558,865.60 the following day to the same account. The total amount to be transferred was therefore US\$ 3,558,865.60. However, events started unfolding on 21st August, 2001 when the World Bank confirmed receipt of only US\$ 1,558,843.60 but not the US\$ 2 million apparently sent earlier.

The then World Bank Country Director, Mr. Harold Walkman on 24th August 2001 informed the Permanent Secretary, Ministry of Finance and Planning that KenGen's repayment instalment of US\$ 2 million to World bank was diverted to a Bank Account not belonging to the World Bank. He advised the Ministry to re-examine its payment control systems for similar loans advanced to Government and also requested the action the Government was taking to apprehend the perpetrators of the fraud.

It is quite intriguing since KenGen management indicates that the Cooperative Bank of Kenya remitted another US\$ 2 million

to the World Bank on 22nd August 2001 to avoid suspension of credit to the Government of Kenya, as per World Bank's notice of 20th August 2001. KenGen management further indicates that the Coop Bank followed up the US\$ 2million saga and hinted that they were able to stop payments before encashment. The Banking Fraud Investigation Department of the Central Bank of Kenya also investigated the mysterious affair, but the Committee was not able to get their report.

On 10th September 2002, KenGen management suspended three officers: Mr. O. Nyachae – Chief Accountant, Mr. George W. Amara – Principal Accountant and Ms. Jesca Oiro for being implicated in the fraudulent transfer of the same US\$ 2 million that were earmarked for the World Bank loan repayment in August 2001. This was more than one year down the line. The Management lifted the suspension of the three officers with effect from 16th December 2002 through a letter of the same date "pending conclusion of the case"!

Observations

The Committee observed that as KenGen did not remit any further funds to cover the misdirected transfer, the loss, if any, was on Coop Bank. Since this is also a public institution, the following questions still need to be clarified for better public understanding:

- (i) Why the Management of KenGen took more than one year before initiating any action on the officers implicated.
- (ii) Why the Management of KenGen suspended and then reinstated the officers implicated prior to finalisation of the investigations.
- (iii) What actually happened to the US\$ 2 million the Coop Bank had sent to the incorrect account, and who were behind it.

Recommendations

The committee recommends that in view of the unresolved issues relating to the US\$ 2 million saga, the matter be fully investigated by the Kenya Anti-Corruption Commission to its logical conclusion and that those implicated be prosecuted and the funds which may have been lost through the fraudulent scheme recovered.

KEY AREAS RECOMMENDED FOR FURTHER INVESTIGATIONS

14. KEY AREAS RECOMMENDED FOR FURTHER INVESTIGATIONS

Due to time constraints, the Committee was not able to delve into all topics on which serious or plausible allegations had been lodged. *The Committee therefore recommends that the topics listed below be thoroughly investigated.*

(i) Umeme Plaza, Dagoretti Corner

The building complex consists of two sections: a large block of offices and stores and set of go-downs and offices. KPLC/RBS paid a total of nearly KSh 160 million. The appointed Project Managers, Armstrong & Duncan Associates handed over the buildings to the Trustees on 19th April 2001 after they declared the project completed except for some external works. The Committee visited Umeme Plaza and made the following observations:-

- The office Building complex was vacant and there were no immediate plans from the Trustees on its utilisation. It is still vacant as of October 2003.
- There were huge cracks on the floor. This puts a lot of doubt on the quality of the work done by the contractors and the Project Managers.
- The Committee estimated the cost of the work done to be about KSh 100 million. The contract value was thus exaggerated and over KSh 50 million was siphoned through this project.

The Committee was informed that the Consultants and the building team of this complex were same ones for Chaka Place, which was constructed at the same time. It was alleged that some of the building materials for the Umeme Complex were used to construct Chaka Place, which is

owned by Ms. Bilha Gachoki, former Human Resources and Administration Manager and Secretary of KPLC/RBS Trustees.

(ii) Chaka Place

The plot on which the building is located near Yaya Centre belonged to KPLC and was purchased by a Senior Manager in the Company. The subsequent development was carried out during the time of rampant misuse of the Retirement Benefits Scheme funds. The building team was associated with other contracts within the Company.

(iii) Link between Mr. S. K. Gichuru and Oriental Health and Beauty Clinic

Oriental Health and Beauty Clinic purchased a number of properties from KPLC in prime areas of Nairobi. Reports and statements by witnesses suggest that some of these properties belong to Mr. S. K. Gichuru and that his mother presently occupies one of them. The link between this company, and indeed the other companies that purchased KPLC properties, and Mr. Gichuru need to be established.

(iv) Expenditure on KPLC Properties Which Are Already Sold to Third Parties

Reports reached the committee of instances where repairs were carried out at KPLC cost on properties that previously belonged to the Company but which had been sold to third parties. Similar reports were received on repair of vehicles that had been sold off.

(v) Supply of Stores Materials Including Wood Poles, Transformers and Cables

The supply of materials frequently used in the power system, such as wood poles, transformers, cables, steelwork, as well as stationery and office equipment, need to be investigated. Prices of wood poles from the dominant local supplier, associated with Mr Hosea Kiplagat, have been higher than those of imported poles. Sometimes the pole deliveries were in excess of

requirements and often payments were made before deliveries, if at all.

KPLC was allocated a six acre plot in Londiani which at one time it wanted to use as a pole treatment facility but did not secure it, letting it slide away into the hands of the same individual who supplies the poles at exorbitant prices.

(vi) Hire of Security Services at KPLC

There were reports of procurement process for Security Services not being transparent with awards being made without any tendering to selected companies. This gave rise to suspicion of corrupt practices.

(vii) Hire of Media Services at KPLC

There were reports that some media companies were selected and retained for long periods of time without going through the tender process. Some were paid exorbitantly for unnecessary assignments or for work they had not actually done or for work done by the Kenya Broadcasting Corporation in their normal pursuits or for work done by the Company's Public Relations Department. Singled out several times was *Kenwide Media Limited* owned by former Presidential Press Unit Director, Mr Lee Njiru. They are reported to have been receiving camera-ready KPLC adverts "for vetting" before placement with the Newspapers and also to have been rewarded with unnecessary work and high payments for exposing the former Managing Director's image near the former President's from time to time.

(viii) Hire of Property Management and Property Valuation Services at KPLC

Allegations were made that some firms in Property Management and in Cleaning Services and in Land and Property Valuation were closely associated with some senior managers in the Company. These firms are said to have been given lucrative contracts; sometimes the same firm covered more than one assignment or type of service.

Frequently mentioned were GIMCO and a firm called "2M" owned by a brother of Ms Bilha Gachoki's.

(ix) *Inappropriate Transfer of KPLC/RBS Funds from Barclay Trust and Investment of the same*

The Committee received information that Investment Management of KPLC/RBS funds were abruptly transferred from Barclay Trust Investment Services Limited to Cooperative Trust Investment Services and others at a huge financial loss and against good advice. Similarly, part of the Custodianship was also moved from Barclays Bank to Cooperative Bank.

Further, senior managers have confirmed to the Committee that the KPLC/RBS Fund is in a shocking actuarial state. It is deeply in the red because of mismanagement and theft from it; and the parent Company, KPLC, has now been forced to make budgetary provisions to bail it out. This too needs further investigation. (KPLC is reported to be tackling the other big problem facing the Fund, namely, the lopsided benefits payable against inflows receivable by the Fund.)

(x) *Purchase of Block of Flats in Forest Road and 20 Acres of Land in Runda*

The Committee was informed that the above properties were purchased at exorbitant prices using Retirement Benefits Scheme funds, and that the payment for the land in Runda may have been for 24 acres.

(xi) *Consultancy and Construction Services for Stima Plaza Complex*

KPLC expended about KSh 600 million to construct phases I, II, and III of Stima Plaza. The works were exorbitantly priced by the consultants and contractors. However, the buildings are complete and in use. It is necessary nevertheless to find out how these services were procured and the rates determined.

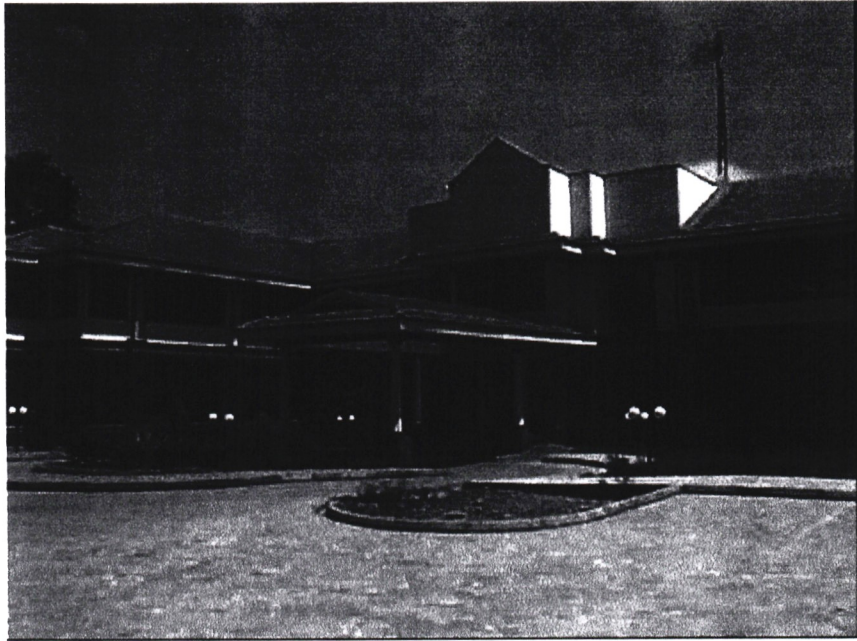
A further KSh 40 million or so was spent by KPLC in consultancy services for Stima Plaza Phase IV. Out of this, *Armstrong and Duncan* was paid KSh 11 million while *Karago and Associates* was paid KSh 14 million. The project did not take off after incurring such heavy expenditure.

(xii) *Huge Investments in Flats and Houses by Mr Joseph Njoroge and Mr Job Githinji*

The committee was informed of huge investments by the above two officers, separately, in blocks of flats at Riruta and houses at Tena Estate, Kahawa Estate and Nairobi West. Mr Njoroge who was Regional Manager Nairobi, and Mr Githinji, Assistant Regional Manager Nairobi West were also adversely mentioned in connection with irregularities in Debt Collection and Hiring of contractors.

(xiii) *Blocking of Investment Opportunities for KPLC in Optical Fibre Network by Mr S. K. Gichuru*

Signal communication through optical fibres is a tested technology that offers clean, high capacity connections for local and trunk networks at a tiny fraction of the cost of microwave radio links (which are presently used with huge operating costs and severe transmission limitations in comparison). KPLC is at a vantage point with its large network of transmission lines on which the optical fibre cables can be easily, suitably and safely installed to provide *bandwidths for rental* to all users including Telkom Kenya, TV stations, banks and other smaller users such as KenGen and KPLC itself. Mr S. K. Gichuru, with the help of Mr Johnson Ole Nchoe, the IT and Telecom Manager, and Mr M. A. Gupta, who has left the Company, blocked all attempts to let KPLC take advantage of this technology as has happened with other power companies around the world. This would have earned KPLC extra *massive income*, while improving communications problems nationwide. It is understood that Mr Gichuru was eyeing the business himself on a personal basis and had set up a parallel company called *Transmission Communication Company* with two associates for that purpose. **END.**



UMEME PLAZA AT DAGORETTI CORNER, NAIROBI
(Above and below): The massive building is still empty except for the adjoining go-downs used as Depot Offices and Stores.

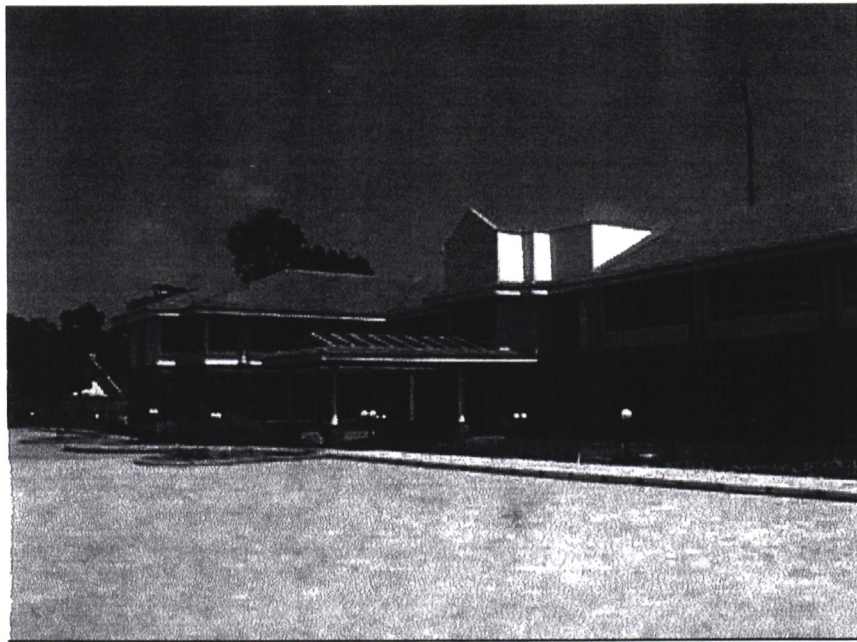


PLATE NO. VI



UMEME PLAZA, DAGORETTI CORNER
(See comments above.) Note poles stored *indoors*. (Bottom)

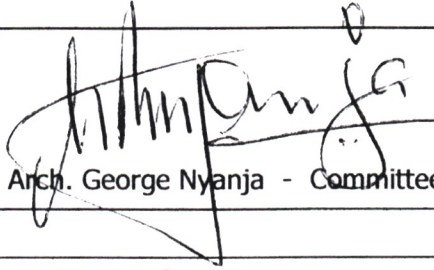


PLATE NO. VII

AUTHENTICATION OF THE REPORT

The following members of the Committee hereby authenticate this report.

1.



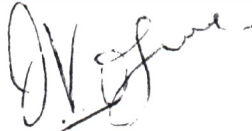
Hon. Arch. George Nyanja - Committee Chairman

2.



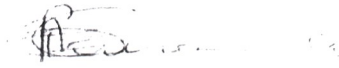
Eur. Ing. Joab L. Odeny - Committee Secretary

3.



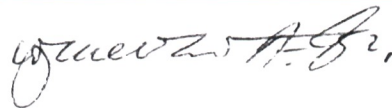
Eng. Victor J. Ongewe - Member

4.



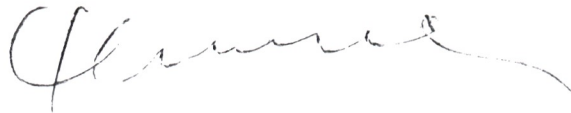
Mrs. Bernadette M. Nzioki - Member (MoE)

5.



Mr. Samuel M. Mwangi - Member (MoE)

6.



Mr. Titus Muriithi - Member (OP-ISC)