

REPUBLIC OF KENYA



OFFICE OF THE AUDITOR-GENERAL



THE NATIONAL ASSEMBLY	
REPORT Laid	
<b>REPORT</b>	
DATE: 27 MAR 2019	DAY: Wed
TABLED BY: OF	Majority Party Whip Hon. Benjamin Wadhvani
CLERK-AT THE TABLE:	Miriam Mochi

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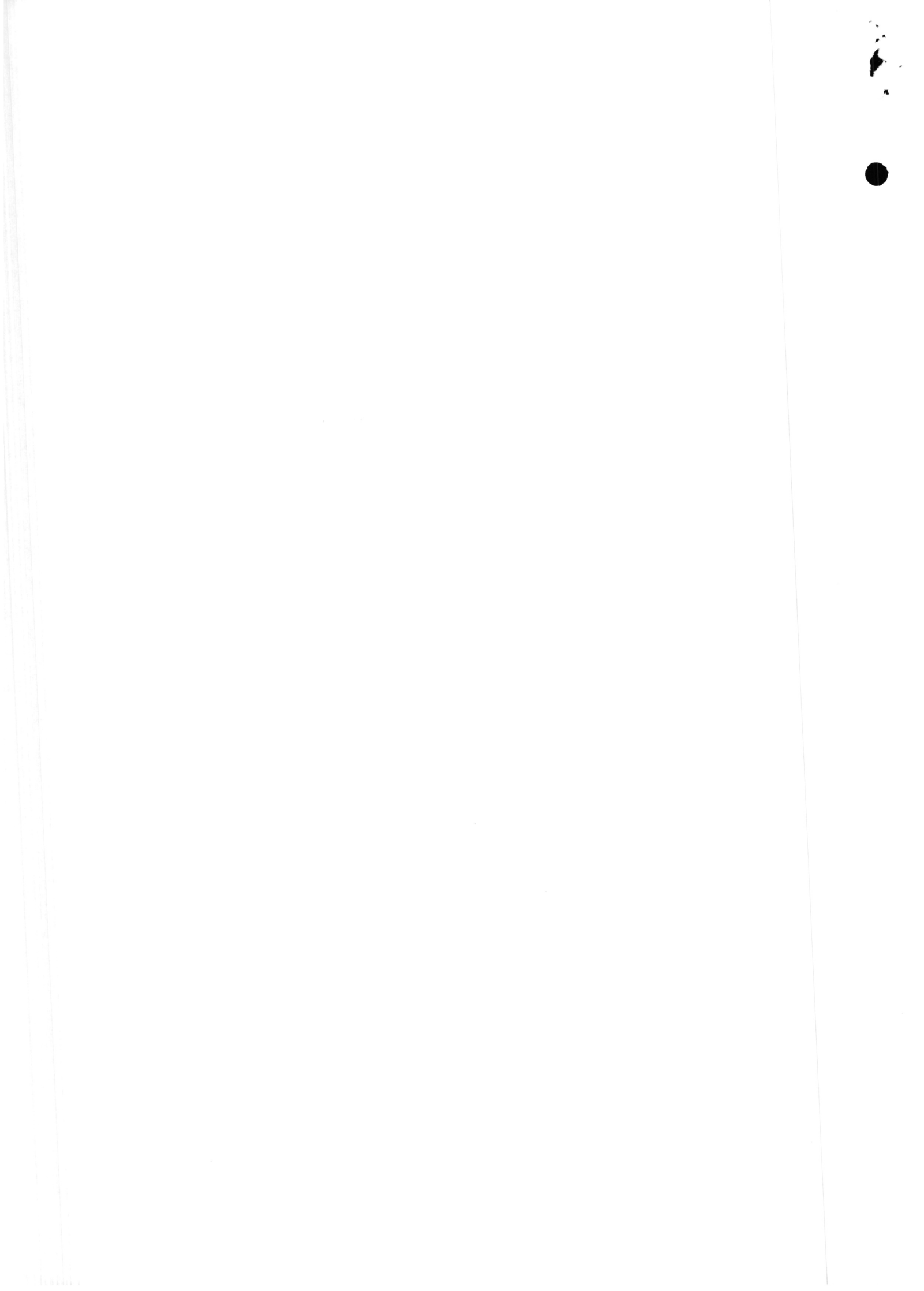
**THE AUDITOR-GENERAL**

**ON**

**THE FINANCIAL STATEMENTS OF  
ENERGY REGULATORY COMMISSION**

**FOR THE YEAR ENDED**

**30 JUNE 2018**





**ANNUAL REPORT AND FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 30 JUNE, 2018**

Prepared in accordance with the accrual basis of accounting method under the International Public Sector Accounting Standards (IPSAS)

# Energy Regulatory Commission

Annual Report And Financial Statements for the year ended 30 June, 2018

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# Energy Regulatory Commission

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## KEY ENTITY INFORMATION AND MANAGEMENT

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### 1. BACKGROUND INFORMATION

The Energy Regulatory Commission (ERC) was formed under the Energy Act, No. 12 of 2006.

#### 1.1 Principal activities

The principal activity/mission of the ERC is to regulate the Energy Sector with responsibility for economic and technical regulation of electric power, renewable energy, and downstream petroleum sub sectors. Its functions include tariff setting and review, licensing, enforcement, dispute settlement and approval of power purchase and network services contracts.

### 2. KEY MANAGEMENT

The ERC's day-to-day management is under the following key organs:

### 3. THE COMMISSIONERS

The Commissioners who served during the year and up to the date of this report are:

Name	Designation	Status
Mr. Joshua Oigara	Chairperson	
Mr. Pavel Robert Oimeke	Director General (DG)	Appointed on 01/08/17
Eng. Joseph Njoroge	PS, Ministry of Energy (MOE)	
Eng. Titus Gitahi	Alternate to the PS, MOE	Retired on 30/10/17
Mrs. Veronica Kamau	Alternate to the PS	Appointed on 30/10/17
Eng. Samuel Maugo	Commissioner	Re-Appointed 06/06/18
Eng. Eric Nyamuga	Commissioner	Retired on 14/4/18
Dr. Sellah Kebenei	Commissioner	
Mr. Njenga Mwangi	Commissioner	
Mr. Nixon Lenaiyara	Commissioner	
Ms. Lilian Mahiri Zaja	Commissioner	Appointed on 06/06/18

# Energy Regulatory Commission

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## KEY ENTITY INFORMATION AND MANAGEMENT

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### 3.1 Fiduciary management

The key management personnel who held office during the financial year ended 30th June 2018 and who had direct fiduciary responsibility were:

Designation	Name
Director General	Mr. Pavel R. Oimeke
Commission Secretary	Ms. Mueni Mutung'a
Ag. Director Petroleum	Mr. Edward Mwirigi
Director Electricity	Eng. Joseph Oketch
Ag. Director Renewable Energy	Ms. Caroline Kimathi
Director Economic Regulation	Dr. Frederick Nyang
Head, HR & Administration	Ms. Elizabeth Njau
Head, Finance and ICT	Mr. James Kilonzo
Head, Corporate Communications	Mrs. Antoinette Kamau
Head, Procurement	Ms. Loise Thuge
Principal Internal Auditor	Mr. Abdallah Mambo Dallu

## **Energy Regulatory Commission**

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### **KEY ENTITY INFORMATION AND MANAGEMENT**

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#### **3.2. Fiduciary Oversight Arrangements**

##### **The Commission**

The Commission is chaired by a non-Executive Chairperson (Mr. Joshua Oigara) appointed by the President. All Commissioners have extensive business and administrative experience in private and/or public sectors that is applied in the management of the ERC. Commission meetings are held regularly to review ERC's performance against set targets and business plans as well as to formulate and implement strategy. Various committees whose chairpersons report to the Commission supplement the functions of the Commission.

##### **Commission Finance and Administration Committee**

The Commission's Finance and Administration Committee is chaired by a non-Executive Commissioner and meets at least on quarterly basis. The members are Eng. Samuel Maugo (Chair), Mr. Njenga Mwangi, Dr. Sellah Kebenei and Mr. Pavel R. Oimeke. The Committee's responsibilities are ensuring sound financial reporting, internal system controls, business plans and budgets, procurement, ICT, Public Relations, administration and staff matters.

##### **Commission Audit & Risk Committee**

The Audit Committee is chaired by a non-executive Commissioner and the members are non-Executive Commissioners. The members are Eng. Nixon Lenaiyara (Chair), Ms. Lilian Zaja and Mrs. Veronica Kamau. The responsibilities of the committee are to review the financial information of the Commission, monitoring the effectiveness of management information and internal control systems, deliberate on significant findings arising from both internal and external audits, and review the overall risks facing the Commission.

##### **Commission Technical Committee**

The Technical Committee is chaired by a non-Executive Commissioner and meets at least on quarterly basis. The members are Dr. Sellah Kebenei (Chair), Eng. Samuel Maugo, Ms. Lilian Zaja, Mr. Nixon L. Lenaiyara and Mr. Pavel R. Oimeke. The Committee's responsibilities are to provide strategic technical direction of ERC and to approve technical plans, activities, reports and budgets.

## **Energy Regulatory Commission**

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### **KEY ENTITY INFORMATION AND MANAGEMENT**

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#### **4. COMMISSION HEADQUARTER**

Eagle Africa Centre  
Longonot Road, Upperhill  
P.O Box 42681  
00100  
Nairobi, Kenya

#### **5. COMMISSION CONTACTS**

Telephone (254) 20 2847200  
Email: [info@erc.go.ke](mailto:info@erc.go.ke)  
website: [www.erc.go.ke](http://www.erc.go.ke)

#### **6. COMMISSION BANKERS**

##### **6.1. Kenya Commercial Bank**

Moi Avenue Branch  
P.O Box 48400  
00100  
Nairobi, Kenya

##### **6.2. National Bank of Kenya**

Harambee Avenue Branch  
P.O Box 41862  
00100  
Nairobi, Kenya

##### **6.3. Commercial Bank of Africa**

Upperhill Branch  
P.O Box 30437  
00100  
Nairobi, Kenya

## **Energy Regulatory Commission**

Annual Report And Financial Statements for the year ended 30 June, 2018

### **KEY ENTITY INFORMATION AND MANAGEMENT**

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#### **7. AUDITORS**

Auditor General  
Annivesary Towers  
P.O Box 30084-00100  
Nairobi, Kenya




#### **8. PRINCIPAL LEGAL ADVISOR**

Mwaura Wachira Advocates  
Blue Violets Plaza  
P.O Box 51667  
00200  
Nairobi, Kenya

# Energy Regulatory Commission

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## The Commissioners

 <p>Mr. Joshua Oigara Chairperson</p>	<p>Joshua Oigara was appointed Chairman of the Energy Regulatory Commission on 18th March 2016, bringing to the Commission valuable experience in business and management, having held senior positions at various organizations across Africa.</p> <p>He is the Group Chief Executive Officer and Managing Director at KCB Group Plc and KCB Bank Kenya. He is the current Chairman of Kenya Bankers Association Governing Council; a position he has served for two terms.</p> <p>He is a Director of the Vision 2030 Delivery Board and was awarded the Order of the Burning Spear, CBS by H.E. President Uhuru Kenyatta for exemplary service to the people and Nation of Kenya.</p> <p>In September 2015, Mr. Oigara was named among the top 100 youngest and most Influential Economic Leaders in Africa by the Paris-based <i>Institut Choiseul</i>, an independent French research center.</p> <p>Mr. Oigara was appointed by the Minister of Sports to join the World Rally Championship Steering Committee in December 2017.</p> <p>Date of Birth: 9<sup>th</sup> November, 1975</p>
 <p>Mr. Pavel Robert Oimeke Director General</p>	<p>Mr. Pavel Robert Oimeke is a renewable energy and energy efficiency specialist with close to two decades of experience. Mr. Oimeke holds a Bachelor's degree in Chemical and Process Engineering from Moi University, a Diploma in Energy Planning and Use from Life Academy, Sweden; a Certificate in Corporate Governance and is currently in the final stages of completing a Master's degree in Sustainable Energy Engineering at Kenyatta University. He is registered with the Institute of Engineers of Kenya (IEK), the Association of Energy Professionals East Africa (AEPEA), and Engineers Board of Kenya (EBK). He is also a member of the Institute of Leadership and Management (ILM), UK.</p> <p>Date of Birth: 29<sup>th</sup> April 1976</p>
 <p>Eng. Joseph Njoroge Principal Secretary, Ministry of Energy</p>	<p>Eng. Dr. Joseph K Njoroge has wide experience in power engineering and management. He joined KPLC in 1980 and rose through the ranks to become Managing Director in June 2007. Eng. Njoroge holds a Bachelor of Science degree in electrical engineering and Master of Business Administration with a major in strategic Management and a PhD in Business Administration. He is a Chartered Electrical Engineer, a member of the Institution of Engineering and Technology, UK, a Registered Consulting Engineer, and is also a Fellow of the Institution of Engineers of Kenya. He is also Chairman of the MBA Chapter of University of Nairobi Alumni Association.</p> <p>Date of Birth: 16th June 1958</p>

# Energy Regulatory Commission

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## The Commissioners

 <p>Eng. Titus Ndonga Gitahi Alternate to the Principal Secretary</p>	<p>Eng. Ndonga Gitahi holds a Bachelor of Science in Mechanical Engineering from University of Nairobi, and a Master of Science in Environmental Engineering from University of South Bank, London</p> <p>Eng. Gitahi worked with the Ministry of Public Works from 1983 to 2010, rising through the ranks to a senior engineer position where he was in charge of Design and Supervision of Mechanical Engineering Works in Government Building and Institutions. In 2010, Eng. Gitahi joined the Ministry of Energy and Petroleum. He has attended several short courses both locally and abroad. Some of the courses attended include Electrical Power Systems Engineering (Tokyo, Japan), Energy Policy Development for Developing Countries (Beijing, China), Power Engineering &amp; Management, (Seoul, S. Korea), Environmental Impact Assessment of Projects. He is a Registered Engineer (R. Eng.) and is a Member of the Institution of Engineers of Kenya (MIEK)</p> <p>Date of Birth: 12<sup>th</sup> June, 1958</p>
 <p>Dr. Kebenei J. Sellah Commissioner</p>	<p>Dr. Kebenei, a senior lecturer (academician) at Kabarak University, has conducted extensive research in the field of Organic and Environmental Chemistry.</p> <p>She began her academic career at the University of Nairobi in 1981 where she graduated with a Bachelor of Science Degree (BSc), with a Major in Chemistry. She subsequently did Master of Philosophy (M.Phil.) Degree in Chemistry at the Moi University, Eldoret and graduated in 2003. She holds a Doctor of Philosophy Degree in Chemistry (PhD) from the same university (2009).</p> <p>From 2006 to 2015, she served as Head of Environmental and Life Science Department at the same university. Since 2016 to date, she has served as Head of Physical and Biological Sciences Department. She served as acting Dean for the School of Science, Engineering and Technology (2014) and as Director of the Institute of Post-Graduate Studies and Research (2016).</p> <p>She was coordinator for the development of the School of Medicine and Health Science from 2009 to 2014, which resulted in the launching of Nursing and Clinical Medicine Degree program.</p> <p>Date of Birth: 28<sup>th</sup> February, 1961</p>
 <p>Eng. Eric Nyamunga Commissioner</p>	<p>Eng. Nyamunga has 25 years' experience in Engineering. He holds a Bachelor of Science degree in Electrical Engineering. He has previously served as the Managing Director and Chief Executive of Kenya Railways. Eng. Nyamunga is currently the Director of Sylton and Partners Consulting Engineers.</p> <p>Date of Birth: 23<sup>rd</sup> September, 1946</p>

# Energy Regulatory Commission

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## The Commissioners

 <p><b>Mr. Peter Njenga Mwangi</b> Commissioner</p>	<p>Mr. Mwangi is an advocate of the High Court of Kenya with over 30 years in legal practice. He holds a Bachelor of Law (LLB Hons) from the University of Nairobi and a Diploma in Legal Studies from the Kenya School of Law. He is currently undertaking Master's Degree in International Studies at the Institute of Diplomacy and International Studies (IDIS) at the University of Nairobi.</p> <p>Mr. Mwangi specializes in Corporate and Commercial Law and has a keen interest in Public Interest Litigation and Human Rights defense and promotion of the youth agenda. Mr. Mwangi has undertaken training in Corporate Governance, Public Private Partnerships (PPAs), drafting of Power Purchase Agreements (PPAs) and Public Utilities Regulation.</p> <p>Date of Birth: 20<sup>th</sup> September, 1960</p>
 <p><b>Mrs. Veronica Kamau</b> Commissioner (Alternate to the Principal Secretary for Ministry of Energy)</p>	<p>Mrs. Veronica Kamau holds a Master of Business Administration in Strategic Management and a Bachelor of Commerce (Accounting Option) Degree. Mrs. Kamau is a member of ICPAK and is a Certified Public Accountant of Kenya (CPA-K). She previously worked with the Ministry of Lands, Housing &amp; Urban Development (2014-2016), before joining the Ministry of Energy and Petroleum.</p> <p>Mrs. Kamau is a trained ISO Auditor and has 25 years' work experience having worked with the Government of Kenya as an accountant at various levels including; District Accountant, Nyandarua District Treasury; Head of Accounting unit at the Ministry of Nairobi Metropolitan, Ministry of Lands and Housing and Urban Development as well as the Ministry of Energy. Veronica is a member of Sukari Housing Cooperative Sacco Management Board.</p> <p>Date of birth: 20<sup>th</sup> March 1968</p>
 <p><b>Eng. Samuel N. Maugo</b> Commissioner</p>	<p>Eng. Maugo holds a Masters degree in Structural Engineering from Concordia University, Montreal Canada as well as a Bachelor of Science degree in civil engineering from the University of Nairobi. He is a registered consulting engineer with Engineers Board of Kenya (EBK) and a member of the Institution of Engineers of Kenya (MIEK). He was a lecturer at the Civil Engineering Department of the University of Nairobi for 18 years, a principal partner at Samez Consultants, a firm of consulting engineers and a commissioner at Electoral Commission of Kenya (2007-2008). Eng. Maugo has been the Managing Director of Multiscope Consulting Engineers Ltd from 2007 to date and has served as a commissioner at ERC since April 2015.</p> <p>Date of Birth: 1<sup>st</sup> January 1955</p>
 <p><b>Ms. Lilian Zaja</b> Commissioner</p>	<p>Ms. Lilian B. Mahiri-Zaja holds a Master of Laws Degree from the University of Reading, United Kingdom (2002); a post- graduate Diploma in Legal Education from the Kenya School of Law (1989); and an LL.B. (Hons.) Degree from the University of Nairobi, Kenya (1988).</p> <p>She was the Vice Chairperson of the Independent Electoral and Boundaries Commission (IEBC) of Kenya. She was a member of the Technical Working Group that developed a mechanism for women representation to ensure implementation of the two-third gender principle.</p> <p>Ms. Mahiri-Zaja is an Advocate of the High Court of Kenya and has served in various national and international institutions; including the Committee of</p>

# Energy Regulatory Commission

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## The Commissioners





	<p>Experts on Constitutional Review in 2009-2010, Presidential National Committees, Task Forces, various Commissions and the African Union Commission on International Law (AUCIL).</p> <p>Date of Birth: 8<sup>th</sup> December 1964</p>
 <p>Mr. Nixon L. Lenaiyara Commissioner</p>	<p>Eng. Lenaiyara is a Technology Consulting Expert with over ten years' experience in ICT Systems' Implementation in Banking and Insurance sectors. He has a Master of Science Degree in Telecommunications Engineering, Czech Technical University (Prague) from where he graduated in 2010. Prior to that, Eng. Lenaiyara was awarded a Bachelor of Science Degree in Electrical Engineering and Informatics at the same university.</p> <p>Date of Birth: 10<sup>th</sup> September, 1984</p>
 <p>Ms. Mueni Mutung'a - Commission Secretary</p>	<p>Mueni holds a Master's in Business Administration and a Bachelor of Laws degree both from the university of Nairobi, and a diploma in legal practice from the Kenya School of Law. She is an advocate of the High Court of Kenya, a member of the Institute of Directors, the Chartered Institute of Arbitrators and a fellow of the Institute of Certified Secretaries of Kenya. She has also trained extensively in Good Corporate Governance and is a Public Private Partnerships specialist.</p> <p>Mueni started her career as an advocate and worked as an associate with the law firm of Robson Harris &amp; Co advocates. She later moved to Total Kenya Ltd where she worked as a legal officer. Thereafter she worked as the Corporation Secretary and Head of Legal services at Kenya Wildlife Service prior to taking up her current appointment as the Commission Secretary and Director Legal Services.</p> <p>Date of Birth: 28<sup>th</sup> February, 1964</p>

# Energy Regulatory Commission

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## Management Team

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 <p>Pavel Oimeke B.Tech (Chem. Eng)</p>	<p>Director General: Commissioner and Chief Executive Officer of the Commission.</p>
 <p>Dr. Frederick Nyang PhD (Economics)</p>	<p>Director Economic Regulation: Heading the Economic Regulation function of the Commission</p>
 <p>Ms. Mueni Mutung'a MBA, LL. B (Hons), CPS (K), Dip. Law (KSL)</p>	<p>Commission Secretary: Secretary to the Commission and Head of the Legal function of the Commission</p>
 <p>Eng. Joseph Oketch MBA, BSc (Elec. Eng.), R. Eng., MIEK</p>	<p>Director Electricity: Heading the electricity subsector regulation function of the Commission</p>

# Energy Regulatory Commission

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## Management Team

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 <p>Edward Kinyua B.Tech (Mech. &amp; Prod. Eng)</p>	<p>Ag. Director Petroleum: Heading the downstream petroleum regulation function of the Commission.</p>
 <p>Caroline Kimathi MBA, Bsc. (Electrical and Electronic Engineering), CEM</p>	<p>Ag. Director Renewable Energy: Heading the renewable energy regulation function of the Commission.</p>
 <p>Mrs. Antoinette Kamau, MA (Communication), BED (Hons)</p>	<p>Head of Corporate Communications: Heading communication, public affairs and corporate social responsibility functions of the Commission</p>
 <p>Ms. Elizabeth Njau MBA (HR), BA (Hons), Dip.(Business Mgt)</p>	<p>Head, Human Resources &amp; Administration: Heading the Human Resources and Administrative functions of the Commission.</p>

# Energy Regulatory Commission

Annual Report And Financial Statements for the year ended 30 June, 2018

## Management Team

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 <p>CPA James Kilonzo MBA, Bcom (UoN), CPA(K), CISA</p>	<p>Head of Finance and ICT: Heading the finance and ICT functions of the Commission.</p>
 <p>CPA. Abdallah Mambo Dallu.MBA BBM, CPA(K)</p>	<p>Principal Internal Auditor : Providing value added services in controlling risks, compliance monitoring and continuously improving internal control systems</p>
 <p>Ms. Loise Thuge (Msc JKUAT), BA MCIPS(UK), MKISM</p>	<p>Head of Procurement: Heading the supplies and procurement functions of the Commission.</p>

# Energy Regulatory Commission

Annual Report And Financial Statements for the year ended 30 June, 2018

## Chairperson's Statement

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It is once again my honour to present to you the Commission's annual report and financial statements for the year ended 30<sup>th</sup> June 2018. The report is a reflection of the effort the commission has been making in steering the sector towards sustainable, affordable and adequate energy services that is critical in achieving the Government's Big 4 agenda. The sector is just emerging from a difficult electioneering period and was affected by the prolonged drought experienced in the 1st and 2nd quarters of the financial year. However, there is course for optimism as a result of the heavy rainfall experienced in the country during the 3rd and 4th quarters of the financial year. Arising from these happenings among others, economic growth was recorded at about 5% in the financial year and is expected to rebound to 5.6% in the next financial year. Of importance is the expected growth in the energy sector projected at 5.9% due to favourable rain conditions.

The enactment of the Energy Act 2006 resulted in the establishment of the Energy Regulatory Commission in 2007 to regulate Kenya's energy sector consisting of electricity, downstream petroleum and renewable energy subsectors. The Energy Act 2006 mandates the commission to oversee the smooth functioning of the sector. This is achieved through various regulatory instruments including licensing, Power Purchase Agreement approvals, Regulation development and enforcement, monitoring performance of sector utilities, Energy sector pricing as well as complaints resolutions.

Even with the challenging political environment, , the Commission was able to steer the sector to satisfactory growth, registering good performance in power generation, network expansion and reliability, stable petroleum market environment, and investment in cleaner, reliable and renewable energy technologies in the country.

In transmission expansion, the commission saw the grid network expand from a total of 34,536 km of HV and MV lines and 74 new substations in 2013, to a total number of 81,571km of HV and MV lines and 338 substations as at June 2018. The Commission on its part has ensured that resources are made available for maintenance of the existing lines while working towards introducing a sustainable wheeling charge that would allow for even faster network expansion. At retail and distribution level, the Commission ensured that all prudently incurred costs along the power supply chain were met through a largely cost reflective tariff. During the year, the commission undertook a review of tariffs and determination of customer classes, pricing periods and tariff structure. This was informed by a comprehensive study referred to as the 6th Cost of Service study. The study while emphasizing on cost reflective tariffs that ensure industry financial viability also focused on protecting consumers and other stakeholders from extreme pricing and other distortions.

The total installed electricity generation capacity was 2,351 MW as at June 2018. Total electrical energy purchased in the financial year was 10,680 GWh compared 10,205 GWh purchased in 2016/17 financial year. On the other hand, demand for electricity increased by 2.4% from 8,272 GWh in 2016/17 to 8,473 GWh by the end of the financial year. Total number of customers connected through the government's universal access projects rose to 6,755,343 as at June 2018 from 2,264,508 number of customers in 2013 while electricity access was recorded at 73.97% as at June 2018.

# Energy Regulatory Commission

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## REPORT OF THE DIRECTOR GENERAL

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In the petroleum subsector, the Commission continues to set maximum retail prices for three critical products namely Diesel, Premium Motor Spirit and Illuminating Kerosene. Global geopolitical tension led to rise in Murban crude prices during the financial year from \$47.30 per barrel in June 2017 to \$71.90 per barrel as at May 2018, a 52.2% increase within the year. Consequently, this saw the rise of landed costs of petroleum products with PMS rising from KES 44.32 per litre to KES 52.23 per litre, AGO rising from KES 42.27 per litre to KES 53.59 per litre and DPK rising from KES 42.24 per litre to KES 55.21 per litre over the same period. The volume of petroleum products imports was 3,780,799.47 metric tonnes for the period ending June 2018, with the total import bill recorded at KES 221.8 billion over the period. The Commission will continue to monitor the macroeconomic situation globally and in the country and pass any accruing benefits to energy consumers and investors.

During the year, the commission also saw the introduction of a Time of Use (TOU) tariff for large commercial and industrial consumers. The intention was to fully utilize cheap base load capacity that is otherwise lost during off-peak periods. It is observed that the country's peak load is high but is only experienced for a very short period, largely in the evenings. The commission wishes to shift part of this consumption to off-peak periods preferably at night when geothermal capacity is available leading to system optimization and hence lowering end user tariffs.

The country has in the recent past experienced increased interest by developers in the development of Liquefied Petroleum Gas (LPG) infrastructure. This has been buoyed by a growth in LPG consumption as more Kenyans enter the middle class and abandon traditional biomass cooking fuels. On this account, the Commission is encouraging the shift to LPG through fiscal and regulatory incentives. That aside, the Commission continues to intensify the quality of petroleum fuels used in the country through a national marking and monitoring program. The program ensures that consumers are protected from adulterated fuels and hence safeguards their vehicles from damage. The program also protects the country's tax revenue by preventing dumping of tax exempt export bound petroleum products into the local market.

At a policy level, the Commission has been in the forefront in developing a policy and legislative framework that is in line with the revised constitution. The National Energy Bill, National Petroleum bill and Draft National Energy Policy that currently are before Parliament will align the energy sector with the Constitution of Kenya 2010 and the country's Vision 2030. Some of the salient features in the Bills that touch on the Commission's mandate include opening the electricity retail market for competition, compensation to consumers for losses incurred during outages, open access in power distribution infrastructure as well as designating an appropriate system operator to facilitate competition.

In collaborating with sector stakeholders, the commission continues to influence policy through studies that look at the operations of the energy sector and institute measures to implement recommendations. During the financial year, notable studies undertaken that will shape sector policy in the short-term and long term include; 6th Cost of Service Study for the Electricity Sub Sector, 1st Cost of Service study in the Petroleum Products Supply Chain, Option for a Local Currency Power Purchase Agreement in Kenya, Strategies and Implementation Matrix to Improve Access of LPG in Kenya and The impact of Oil Price Volatility on the Kenyan Economy.

## Energy Regulatory Commission

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### REPORT OF THE DIRECTOR GENERAL

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The Commission remains focused on its mandate, in particular on the role it plays in protecting consumers of energy products and services, and in maintaining a competitive business environment. In this regard, in May 2018, The Commission passed a resolution to restructure the operations of the regulator, that led to among other changes, establishment of a Directorate of Enforcement, Compliance and Consumer Protection whose overall mandate is to protect all the stakeholders from dumping, fuel adulteration and price manipulation by petroleum dealers. This will ensure that a thriving energy sector is maintained.

Finally, The Commission appreciates the support it has received from both the national and county governments, the energy sector players and from all Kenyans in general. I also take this opportunity to laud the Commission's staff, Management and my fellow Commissioners for the conclusion of yet another successful year and for executing our mandate with vigour and distinction.



Chairperson  
Mr. Joshua Oigara

Date: 15/01/2019

# Energy Regulatory Commission

Annual Report And Financial Statements for the year ended 30 June, 2018

## REPORT OF THE DIRECTOR GENERAL

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As we conclude the 2017/18 financial year, I wish to appreciate the concerted efforts made in improving delivery of services to the public from all relevant stakeholders in the sector. The Multi Agency Approach to planning and enforcement of regulations and guidelines within the sector has seen the Commission achieve unprecedented levels of compliance to statutory requirements among regulated entities.

The Commission oversees the development of plans that guide investors on opportunities for partnering with Government agencies on energy infrastructure development. During the financial year, the 2017-2037 Least Cost Power Development Plan (LCPDP) was finalized in addition to a Petroleum Infrastructure Development Plan covering the same period. The two reports will guide the electricity and the petroleum subsectors respectively.

In the power subsector, an additional 300MW from LTWP is anticipated later in the calendar year. In addition, 400MW from Ethiopia and 158MW from Olkaria V among other committed projects will be coming onstream by the end of the current Tariff Control Period in 2020. Should demand grow in accordance with vision 2030 projections, the country has a potential of raising the existing capacity to over 5000MW in the medium term.

The Commission is committed to reviewing Power Purchase Agreements (PPA's) within 30 days of receipt of materially complete applications, a significant reduction from the statutory 90 days stipulated in the Energy Act 2006. During the financial year, a total of 8 such applications were received, reviewed and determined.

In line with Section 6(i) of the Energy Act 2006, the Commission is responsible for setting, reviewing and adjusting electricity tariffs. During the financial year, the Commission reviewed retail electricity tariffs which saw scrapping of the fixed cost component of the old tariff regime. The new tariff structure also resulted to over 30% decline in electricity costs to life-line consumers below 10 units/month and who constitute over 50% of all electricity consumers in the country.

The Commission has continued to diligently involve all stakeholders in the development of regulations, which has seen the sector regulated in a fair, transparent and predictable manner. On this account, the Commission launched its 2017/18-2021/22 strategic plan. The plan among others provides for delivery of services closer to the people through devolution of some its functions. Accordingly, plans are at an advanced stage to establish 7 regional offices to focus largely on enforcement and compliance but also to educate and inform the public on its functions and its role in delivery of sustainable energy services.

In the year under review, the Commission collected KES. 508 million from the Petroleum Levy compared to KES. 484 million the previous year, an increase of 4.95%. On the other hand, the Electricity Levy increased by 68% from KES. 240 million in 2016/17 to KES. 406 million in 2017/18. Government transfers reduced to KES. 12.6 million in 2017/18 as compared to KES. 52M in 2016/17. In total, non exchange revenue went up by 19% from KES.777 Million in 2016/17 to KES. 926 Million in 2017/18. The total recurrent expenditure reduced by 13% from KES. 830 million in 2016/17 to KES. 726 million in 2017/18.

The Commission's total asset base increased by 50% from KES. 394 million in the previous period to KES. 589.9 million in 2017/18. Non-current assets decreased by 15% to KES. 90 million from KES. 106 million. Current assets went up by 74% to KES. 500 million from KES.287 million.

## **Energy Regulatory Commission**

Annual Report And Financial Statements for the year ended 30 June, 2018

### **REPORT OF THE DIRECTOR GENERAL**

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Current liabilities increased by 82% to KES 264 million up from KES.145 million in the 2017/18 financial year. Further, total equity increased by 35% from KES.249 million to KES.335 million in 2017/18.



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**Director General**  
**Mr. Pavel Robert Oimeke**

**Date:**

# Energy Regulatory Commission

Annual Report And Financial Statements for the year ended 30 June, 2018

## Corporate Governance Statement

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### 1. INTRODUCTION

The Commissioners acknowledge the need to conduct the business and operations of ERC with integrity and in accordance with generally accepted corporate practice and internationally developed principles of corporate governance. The Commissioners recognize corporate governance as an essential element towards achieving ERC's regulatory mandate provided in the Energy Act 2006. The Commissioners adhere to good corporate governance by embracing the following principles:

- Observation of high standards of ethical and moral behaviour;
- Act in the best interests of the ERC;
- Ensure fair staff remuneration and promotion;
- Promotion of legitimate interests of all stakeholders;
- Ensure that the organization acts as a good corporate citizen.

The Commissioners will continue to focus their attention on maintaining the highest standards of corporate governance and business ethics in ERC operations.

### 2. COMMISSIONERS

#### 2.1 Commission Composition, Appointment and Size

The Commission as provided under section 10 of the Energy Act, 2006 consist of the Chairperson, the Principal Secretary in the Ministry of Energy and Petroleum or his representative, the Director General and five other commissioners who represent the private sector. The Chairperson and the other Commissioners are appointed by the President and the Cabinet Secretary respectively. The Chairperson (Mr. Joshua Oigara) is Non-Executive. The Chairpersons term is four years and that of the other Commissioners is three years and the respective terms are renewable once for the same duration. The Director General is the chief executive of the Commission appointed by the Cabinet Secretary through competitive selection for a term of three year renewable once. The Director General is an ex officio member of the Commission with no voting rights at the Commission meetings.

The Commission Secretary is appointed by the Commission to handle the Commission's secretarial duties.

The Commission is well composed in terms of diversity in skills, knowledge of business and administrative experience acquired from both private and public sectors that is essential in the effective management of ERC.

The appointment of the Commission members can be terminated in accordance with the provisions of section 11 of the Energy Act, 2006 or through voluntary resignation.

# Energy Regulatory Commission

Annual Report And Financial Statements for the year ended 30 June, 2018

## Corporate Governance Statement

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### 2.2. Independence and Separation of Roles and Responsibilities

The Commission members exercise independent judgment in discharging their duties. The Commission sets the strategic plan of the organization, oversees implementation of policies, evaluates the performance and reports to the stakeholders.

The Chairperson of the Commission is primarily responsible for the activities of the Commission and its committees. The Chairperson in consultation with the Director General sets the agenda for Commission meetings, chairs the meetings and ensure effective communication to stakeholders. The Chairperson acts as the spokesperson for the Commission and is the principal contact for the Director General.

The Director-General who is the Chief Executive of the Commission, is responsible for the day-to-day management of the Commission subject to Commission's direction.

### 2.3. Board Responsibilities

The Commission's responsibility is to promote the long-term success of the organization. The Commission provides leadership, strategic direction and exercises effective control of ERC. The Commission assumes collective responsibilities though their duties are discharged through the Commission or its committees.

The Commission is charged with the following responsibilities among others:

- Determination of ERC's mission, vision, purpose and core values;
- Review and approval of the organization's long-term plans;
- Review and approval of the annual budget and financial forecasts;
- Ensuring that the procurement process is cost-effective and delivers value for money;
- Ensuring effective and accurate information flow to stakeholders;
- Ensuring that effective processes and systems of risk management and internal controls are in place;
- Review and approval of the overall organizational structure and succession plans;
- Review, evaluate and approve the remuneration structure of the organization;
- Protection of the rights of shareholders and optimization of shareholders' value;
- Monitoring compliance with the Constitution and all applicable laws, regulations and standards.

# Energy Regulatory Commission

Annual Report And Financial Statements for the year ended 30 June, 2018

## Corporate Governance Statement

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### 2.4. Commission and Committee Meetings

The Energy Act 2006 provides that Commission meetings will be held at least four times a year, and not more than four months shall lapse between the date of one meeting and the next meeting. A schedule of dates of the meetings is agreed upon by Commissioners and set out in the Commission Work Plan. Notices of the location and the timing of meetings are issued seven days prior to the meetings. The Commission Work Plan is adjusted when deemed necessary by the Commission.

The Committees conduct their business within the rules and procedures set by the Commission. The matters deliberated by the Committees are consequently presented to the Commission by the respective chairman during the next Commission meeting for adoption.

The committees are designed to ensure the Commission runs efficiently and effectively and in a manner that embraces corporate governance. The Committees enable the Commission to effectively discharge its responsibility by delving into issues that require greater attention than would be possible during regular Commission meetings. The Commission has three Committees; Technical, Finance and Administration and Audit.

### 2.5. Finance and Administration Committee

The Finance and Administration Committee is responsible for ensuring overall sound financial reporting, establishing internal system of controls, business plans and budgets, procurement, ICT, public relations, administration and staff affairs. During the year, the Committee members were; Eng. Samuel Mugo (Chair), Dr. Sellah Kebenei, Mr. Njenga Mwangi and Mr. Robert Pavel Oimeke.

### 2.6. Technical Committee

The Technical Committee's responsibilities are to provide technical and strategic direction to ERC and approve technical plans, activities, reports and budgets. During the year the Committee members were Dr. Sellah Kebenei (Chair), Eng. Samuel Mugo, Mr. Nixon Lenaiyara , Ms. Lilian Mahiri Zaja and Mr. Robert Pavel Oimeke.

### 2.7. Audit and Risk Committee

The responsibilities of the Audit and Risk Committee are to; review the financial information of the Commission, monitor the effectiveness of management information and internal control systems, deliberate on significant findings arising from both internal and external audits, and reviewing the overall risks facing the Commission. During the year the Committee members were; Eng. Samuel Mugo, Mr. Njenga Mwangi and Mr. Nixon Lenaiyara .

### 2.8. Commission Charter and Work Plan

The Commission has formulated a Commission Charter, which defines the role, and responsibilities of the Commission in executing their strategic oversight function of the organization. The Commissioners prepare an annual Work Plan. The Plan sets out the specific activities to be undertaken by the Commissioners towards fulfilling their mandate.

# Energy Regulatory Commission

Annual Report And Financial Statements for the year ended 30 June, 2018

## Corporate Governance Statement

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### 2.9. Directors Induction and Skills Development

The Commission provides new Commissioners with an effective induction programme in order to familiarize them with their responsibilities as Commissioners and with general principles of corporate governance. The programme also provides the Commissioners with an orientation of the organization, strategic plan, financial status and policies, risk management, compliance programmes and the Code of Conduct and Ethics. The Commission ensure that a competence needs assessment is carried out periodically and an annual development plan prepared to address identified gaps. The Commission ensures that its members are up-to-date with continuous professional development in their respective professional bodies.

### 2.10. Board Effectiveness and Evaluation

The Commission conducts an annual evaluation to appraise its performance. This evaluation is carried out in accordance with the Evaluation Tool. The Commission evaluation provides an opportunity for Commissioners to identify strengths, collective skill gaps and individual areas of improvement. The Commission also reviews the performance of each committee against the set Terms of Reference.

The Board, its composition and performance evaluation is central to corporate governance. Further, Article 1.12 of Mwongozo requires Boards to undertake performance evaluation. It is in this regard that the Commission under the guidance of a representative of the State Corporation Advisory Committee (SCAC) conducts Commission performance evaluation.

The Evaluation is undertaken at three levels:

- Peer Review
- Self-evaluation
- Board evaluation

The results are analysed and a mean score rate for each of the levels determined. Through this exercise, the Commission identifies areas of strength and weaknesses and the Commission is committed to addressing areas of challenges that are identified.

### 2.11. Remuneration of the Commission

The remuneration of the Chairperson and the other commissioners is determined by the State Corporation Advisory Committee (SCAC) as provided in the State Corporations Act. The commissioners are paid taxable sitting allowance. The Chairperson is paid a monthly fee and honoraria and the Commissioners are paid monthly fee. The Commissioners are entitled to daily subsistence allowances while attending official duties. The Commissioners are reimbursed their transport expenses at the prevailing AA rates. The Commissioners are also provided with outpatient and inpatient medical and personal accident covers.

# Energy Regulatory Commission

Annual Report And Financial Statements for the year ended 30 June, 2018

## Corporate Governance Statement

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### 2.12. Ethical Leadership and Corporate Citizenship

The Commissioners are required to act in the best interest of ERC and uphold their fiduciary responsibilities and duty of care. This involves not disclosing confidential information, avoiding real and perceived conflicts of interest, and favouring the interests of ERC over other interests. The Commissioners on appointment are sensitized on the requirements of the Mwongozo Code of Governance and have expressly committed to adhere to it.

Both the Commissioners and employees of the Commission are expected to act honestly and in good faith so as to create a culture built on principles of integrity, accountability and transparency. ERC has developed a Code of Conduct and Ethics to guide the Commissioners and the employees when undertaking their duties. All the Commissioners and employees sign a declaration of interest form indicating they will disclose any interest that may conflict with the interest of the organization. The Commissioners declare their interest at every Commission or Committee meeting. The commissioners and employees declare their wealth status as per the Public Service Commission requirements. The organization maintains a Register of Gifts as per the requirements of the Public Officer Ethics Act, 2003 and this register is continuously updated.

### 2.13. Succession Plan

Succession planning is an ongoing process of systematically identifying, assessing and developing talent and capacity to ensure continuity in specific positions within the organization. The plan is designed to identify and prepare candidates for positions that become vacant due to retirement, resignation or death. The Energy Act requires that the Commissioners are appointed at different times so that the respective expiry dates of their terms of office falls at different times.

# Energy Regulatory Commission

Annual Report And Financial Statements for the year ended 30 June, 2018

## Corporate Governance Statement

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### 2.14. Compliance with the Law

The Commission conducts its business affairs in compliance with all applicable laws, regulations, policies and accepted national and international standards. The Commission is in compliance with the Constitution, the Energy Act 2006, Leadership and integrity Act, 2012; Public Officers Ethics Act, 2003, Public Procurement and Assets Disposals Act, 2015, Public Finance Management Act, 2012, Employment Act among other legislation. The Commission complies with the requirements of Mwongozo Code of Governance and has developed a Commission Charter that is based on the Mwongozo principles of good governance.

The Commission is party to the following court cases with high contingency:

i) The Civil Appeal No. 341 of 2017, Energy Regulatory Commission -vs- SGS Kenya Limited and 2 Others. The Commission had advertised a tender for provision of marking and monitoring of petroleum products under Tender Number ERC/PROC/4/3/16-17/119. SGS was one of the bidders and being dissatisfied with the evaluation process of the tender, it instituted the Public Procurement Administrative Review Board (PPOA) Application No. 64 of 2017, SGS Kenya Limited -vs- ERC. The PPOA ruled in favour of the Commission and SGS appealed the Board's decision at the High Court, Judicial Review Miscellaneous Application No. 496 of 2017. The appeal at the High Court was determined in favour of SGS and the Commission being dissatisfied with the decision of the High Court lodged the subject appeal case. The matter is pending determination in the Court of Appeal.

ii) The High Court of Kenya Petition No. 279 of 2017: Council of County Governors -vs- ERC and 7 Others. This matter was instituted by the Council of County Governors (CCG) challenging the constitutionality of the functions and powers of the Energy Regulatory Commission as provided for by the Energy Act 2006. The CCG seeks to have some of the mandate vested on the Commission under the Energy Act 2006 transferred to Counties. The other parties enjoined in the matter include; Rural Electrification Authority, National Transport and Safety Authority, Kenya Urban Roads Authority, Kenya Rural Roads Authority, Kenya Ferry Services and Kenya Roads Board. The CCG alleges that the statutory laws establishing these government entities are unconstitutional. The Commission has filed its response and the matter is pending hearing.

iii) William Abok vs Energy Regulatory Commission, Nairobi High Court Petition No. 549 of 2014. The matter was instituted by the Petitioner, William Abok and seeks to nullify the existence of Energy Liquefied Petroleum Gas (LPG) Regulations 2009. These regulations establish the LPG Exchange Pool which the Petitioner wants disbanded as he alleges that the same is unconstitutional. The LPG Pool provides a platform to enable exchangeability of LPG cylinders among the dealers. The Commission has since filed its response and though the matter was filed in the year 2014, it is still awaiting determination in court.

# Energy Regulatory Commission

Annual Report And Financial Statements for the year ended 30 June, 2018

## Corporate Governance Statement

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### 2.15. Delegation of Responsibilities

The preparation of ERC's financial statements is a role that has been delegated to management. These financial statements have been prepared in accordance with internationally accepted accounting principles based on appropriate accounting policies consistently applied and supported by reasonable judgment and estimates. Management ensures that adequate internal financial control systems are developed to provide reasonable certainty in respect of:

- The Completeness and Accuracy of Accounting Records
- The integrity and reliability of ERC's annual financial statements and
- The safeguarding of ERC assets

Responsibility for the integrity, reliability and objectivity of the ERC's financial statements lies with the Commissioners. External auditors are responsible for independently examining and expressing an opinion on the reasonableness of the financial statements based on their audit.

### 2.16. Statement of Risk Management and Internal Control

The Commission has recognised its responsibility to manage both internal and external risks as a key component of good corporate governance and is committed to embedding risk management into the daily operations of the Commission; from the setting of objectives, to financial planning towards achieving the set objectives, through to departmental processes established to aid provision of service by the Commission. It is believed that effective risk management will help the Commission to achieve its corporate objectives and provide better services. The Commission has developed and is implementing an Institutional Risk Management Policy Framework (IRMPF).

### 2.17. Responsibility

Risk management is one of the most important activities of the Commission. The Commission through the Audit and Risk Committee has a responsibility for overseeing risk management within ERC by ensuring that appropriate risk management strategies and policies are in place, and that processes established are adequate and effective. The Commission defines ERC's overall level of risk tolerance and ensures that there are adequate tools and resources for managing risks. The Commission has assigned responsibility for risk management to the Director General; hence management ensures that sound risk management processes are implemented and functioning effectively. The costs and resources employed in risk management are proportional to obtainable benefits.

### 2.18. Internal Controls

Internal controls are designed to support the Commission in achieving its objectives. The risks related to the achievement of objectives need to be identified and evaluated in order to manage them. Thus, identification and assessment of risks is a prerequisite for internal control in ERC. The continuity of operations is ensured by safeguarding critical functions and essential resources.

# Energy Regulatory Commission

Annual Report And Financial Statements for the year ended 30 June, 2018

## Corporate Governance Statement

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### 2.19. Environmental and Social Sustainability Statement

The Commission has an environmental policy which is reviewed annually to meet the needs of customers and consumers in an environmentally sound and sustainable manner through compliance with applicable environmental legislation and solid measures to ensure optimal energy utilization.

The Commission appreciates the significance of creating a conducive and safe working environment. In its Safety Policy, the Commission commits to taking all reasonable steps to eliminate and control hazards, preserve health and prevent injury of its employees and stakeholders. Further, the Commission pledges to comply with the Occupational Safety and Health laws and regulations, sensitize employees in Health and Safety Standards, and provide adequate resources for the implementation of the policy. During the year, the Commission conducted trainings for the Health and Safety Committee, Fire and First Aid Trainings respectively. The Commission complied with the Environmental Management and Coordination Act (EMCA) and submitted 2016/17 Environmental Sustainability Audit Report in compliance with EMCA-1999. The Commission also submitted its quarterly reports to NEMA on implementation of recommendations. In addition, the Commission engaged with the NEMA in reviews of Environmental Assessment Reports in the Energy Sector and recommendations forwarded with a view of enhancing ease of doing business in energy projects. As part of Environmental Monitoring Programmes, the following activities were undertaken:

- Safety and Health committee members were appointed and trained
- The Commission implemented the 3R principal for waste management in its business processes
- Resource use is minimized through consumption management programs.

The Commission has a Human Resource Policies and Procedure Manual that outlines how employee wellness is handled. The manual outlines a recruitment and promotions procedure, including the principles of affirmative action, gender and persons living with disability.

## Energy Regulatory Commission

Annual Report And Financial Statements for the year ended 30 June, 2018

### Corporate Governance Statement

#### 3. NUMBER OF SCHEDULED MEETINGS AND ATTENDANCE

The attendance of meetings during the year is as summarized below:

##### 3.1 Number of scheduled meetings and attendance

Commissioners	Designation	Commission meeting total number of meeting	Finance and administration committee Total No. Meetings	Technical committee Total No. Meetings	Audit and risk committee Total No. Meetings	Pension board meetings
Mr Joshua Oigara	Commission Chairman	9/10				
Mr. Njenga Mwangi	Committee Chairman	9/10	8/8			4/4
Eng. Samuel Maugo	Member	8/10	4/8	7/9		
Eng. Titus Gitahi	Member	3/10	2/8			
Eng. Eric Nyamunga	Committee Chairman	6/10		6/9	4/5	
Eng. Nixon Lenaiyara	Committee Chairman	9/10		9/9	5/5	
Dr. Sellah Kebenei	Member	10/10	4/8	3/9	2/5	4/4
Mrs. Veronica Kamau	Member	5/10	1/8	1/9	2/5	
Ms. Lilian Mahiri	Member	1/10		1/9	1/5	
Mr. Robert Pavel Oimeke	Member	10/10	7/8	8/9		3/4

# Energy Regulatory Commission

Annual Report And Financial Statements for the year ended 30 June, 2018

## REPORT OF THE COMMISSIONERS

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The Commissioners submit their report together with the audited financial statements for the year ended June 30, 2018, which show the state of the Commission's affairs.

### 1. PRINCIPAL ACTIVITIES

The principal activities of the Commission are: -

#### a) To regulate: -

- Importation, exportation, generation, transmission, distribution, supply and use of electrical energy;
- Importation, exportation, transportation, refining, storage and sale of petroleum and petroleum products;
- Production, distribution, supply and use of renewable and other forms of energy;

#### b) Protect the interests of consumer, investor and other stakeholder.

### 2. RESULTS

The results of the Commission for the year ended June 30, 2018 are set out from page 31 .

### 3. COMMISSIONERS

The members of the Board of Commissioners who served during the year are shown on page iv. The Commissioners are appointed in line with Section 10 of the Energy Act 2006.

### 4. DIVIDENDS/SURPLUS REMISSION

In accordance with section 219(2) of the Public Financial Management Act regulations, regulatory entities shall remit into the consolidated fund, ninety per centum of its surplus funds reported in the audited financial statement after the end of each financial year. Energy Regulatory Commission did not make any surplus during the year (FY 2016/2017) and hence no remittance to the consolidated fund.

### 5. AUDITORS

The Auditor General is responsible for the statutory audit of the Commission in accordance with the Article 229 of the Constitution of Kenya and the Public Audit Act 2015.

The annual report and financial statements set out on page 31-61, which have been prepared on the going concern basis, were approved by the directors on 26/09/2018 and were signed on its behalf by:

By Order of the Commission

  
\_\_\_\_\_  
Commission Secretary  
Ms. Mueni Mutung'a

# Energy Regulatory Commission

Annual Report And Financial Statements for the year ended 30 June, 2018

## STATEMENT OF COMMISSIONERS RESPONSIBILITIES

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Section 81 of the Public Finance Management (PFM) Act, 2012, section 21 of the Energy Act 2006 and section 14 of the State Corporations Act, require the Commissioners to prepare financial statements in respect of that Commission, which give a true and fair view of the state of affairs of the Commission at the end of the financial year/period and the operating results of the Commission for that year/period. The Commissioners are also required to ensure that the Commission keeps proper accounting records which disclose with reasonable accuracy the financial position of the Commission. The Commissioners are also responsible for safeguarding the assets of the Commission.

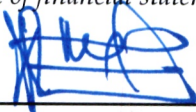
The Commissioners are responsible for the preparation and presentation of the Commission's financial statements, which give a true and fair view of the state of affairs of the Commission for and as at the end of the financial year (period) ended on June 30, 2018. This responsibility includes: (i) maintaining adequate financial management arrangements and ensuring that these continue to be effective throughout the reporting period; (ii) maintaining proper accounting records, which disclose with reasonable accuracy at any time the financial position of the Commission; (iii) designing, implementing and maintaining internal controls relevant to the preparation and fair presentation of the financial statements, and ensuring that they are free from material misstatements, whether due to error or fraud; (iv) safeguarding the assets of the Commission; (v) selecting and applying appropriate accounting policies; and (vi) making accounting estimates that are reasonable in the circumstances.

The Commissioners accept responsibility for the Commission's financial statements, which have been prepared using appropriate accounting policies supported by reasonable and prudent judgements and estimates, in conformity with International Public Sector Accounting Standards (IPSAS), and in the manner required by the PFM Act and the State Corporations Act. The Commissioners are of the opinion that the Commission's financial statements give a true and fair view of the state of Commission's transactions during the financial year ended June 30, 2018, and of the Commission's financial position as at that date. The Commissioners further confirm the completeness of the accounting records maintained for the Commission, which have been relied upon in the preparation of the Commission's financial statements as well as the adequacy of the systems of internal financial control.

Nothing has come to the attention of the Commissioners to indicate that the Commission will not remain a going concern for at least the next twelve months from the date of this statement.

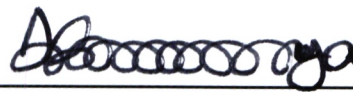
The annual report and financial statements set out on page 31-61, which have been prepared on the going concern basis, were approved by the directors on 26/09/2018 and were signed on its behalf by:

*Approval of financial statements*



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Mr. Pavel R. Oimeke  
Director General



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Mr. Joshua Oigara  
Chairperson

# REPUBLIC OF KENYA

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P.O. Box 30084-00100  
NAIROBI



## OFFICE OF THE AUDITOR-GENERAL

### REPORT OF THE AUDITOR-GENERAL ON ENERGY REGULATORY COMMISSION FOR THE YEAR ENDED 30 JUNE 2018

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#### REPORT ON THE FINANCIAL STATEMENTS

##### Opinion

I have audited the accompanying financial statements of Energy Regulatory Commission set out on pages 31 to 62, which comprise the statement of financial position as at 30 June 2018, and the statement of financial performance, statement of changes in net assets, statement of cash flows, statement of comparison of budget and actual amounts for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, the financial statements present fairly, in all material respects, the financial position of Energy Regulatory Commission as at 30 June 2018, and of its financial performance and cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Accrual Basis) and comply with the Energy Act, 2006.

##### Basis for Opinion

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of Energy Regulatory Commission in accordance with ISSAI 30 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of financial statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

##### Key Audit Matters

Key audit matters are those matters which, in my professional judgment, were of most significance in the audit of the financial statements. There were no Key Audit Matters to report in the period under review.

#### REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

##### Conclusion

As required by Article 229(6) of the Constitution, based on the audit procedures performed, I confirm that, nothing has come to my attention to cause me to believe that public resources have not been applied lawfully and in an effective way.

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*Report of the Auditor-General on the Financial Statements of Energy Regulatory Commission for the year ended 30 June 2018*

## **Basis for Conclusion**

The audit was conducted in accordance with ISSAI 4000. The standard requires that I comply with ethical requirements and plan and perform the audit to obtain assurance on whether the activities, financial transactions and information reflected in the financial statements are in compliance, in all material respects, with the authorities which govern them. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

## **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

### **Conclusion**

As required by Section 7(1)(a) of the Public Audit Act, 2015, based on the audit procedures performed, I confirm that, nothing has come to my attention to cause me to believe that internal controls, risk management and governance, were not effective.

### **Basis for Conclusion**

The audit was conducted in accordance to ISSAI 1315 and 1330. The standards require that I plan and perform the audit to obtain assurance on whether effective processes and systems of internal control, risk management and governance, were operating effectively, in all material respects. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

### **Responsibilities of Management and those Charged with Governance**

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (Accrual Basis), and for maintaining effective internal control as management determines is necessary to enable the preparation of financial statements which are free from material misstatement, whether due to fraud or error and for assessment of the effectiveness of the internal control, risk management and governance.

In preparing the financial statements, management is responsible for assessing the Commission's ability to continue as a going concern, disclosing as applicable, matters related to going concern and using the going concern basis of accounting unless the management is either aware of any intention to cease operations of the Commission, or have no realistic alternative but to do so.

Management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

In addition to the responsibility for the preparation and presentation of the financial statements described above, management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are

in compliance with the authorities which govern them, and that public resources are applied in an effective way.

Those charged with governance are responsible for overseeing the Commission's financial reporting process, reviewing the effectiveness of management's systems for monitoring compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to governance and risk management, and ensuring the adequacy and effectiveness of the control environment.

### **Auditor-General's Responsibilities for the Audit**

The audit objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report which includes my opinion in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement and weakness when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

In addition to the audit of the financial statements, a compliance review is planned and performed to express a conclusion on whether, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them and that public resources are applied in an effective way, in accordance with the provisions of Article 229(6) of the Constitution, and submit the audit report in compliance with Article 229(7) of the Constitution.

Further, in planning and performing the audit of the financial statements and audit of compliance, I consider internal control in order to give an assurance on the effectiveness of internal controls, risk management and governance processes and systems in accordance with the provisions of Section 7(1)(a) of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. My consideration of the internal control would not necessarily disclose all matters in the internal control which might be material weaknesses under the ISSAIs. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level, the risk that misstatements caused by error or fraud in amounts which would be material in relation to the financial statements being audited, may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

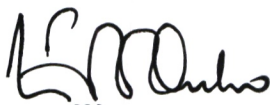
Because of its inherent limitations, internal control may not prevent or detect misstatements and instances of non-compliance. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the Commission's policies and procedures may deteriorate.

As part of an audit conducted in accordance with ISSAIs, I exercise professional judgement and maintain professional skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence which is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the management.
- Conclude on the appropriateness of the management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions which may cast significant doubt on the Commission's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my audit report. However, future events or conditions may cause the Commission to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner which achieves fair presentation.
- Obtain sufficient appropriate audit evidence regarding the financial information and business activities of the Commission to express an opinion on the financial statements.
- Perform such other procedures as I consider necessary in the circumstances.

I communicate with the management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control which are identified during the audit.

I also provide management with a statement that I have complied with relevant ethical requirements regarding independence, and communicate with them all relationships and other matters which may reasonably be thought to bear on my independence, and where applicable, related safeguards.



**Edward R. O. Ouko, CBS**  
**AUDITOR-GENERAL**

**Nairobi**

**4 March 2019**

# Energy Regulatory Commission

Annual Report And Financial Statements for the year ended 30 June, 2018

## STATEMENT OF FINANCIAL PERFORMANCE

	Note(s)	2018 K Sh	2017 K Sh
<b>Revenue</b>			
<b>Revenue from non-exchange transactions</b>			
Electricity levy	6	406,186,541	240,485,828
Petroleum levy	7	508,029,918	484,246,340
Transfers from Government	8	12,602,427	52,270,371
<b>Total revenue from non-exchange transactions</b>		<u>926,818,886</u>	<u>777,002,539</u>
<b>Revenue from exchange transactions</b>			
Finance income - external investment	9	4,546,582	7,338,231
Other income	10	8,731,256	12,593,374
<b>Total revenue from exchange transactions</b>		<u>13,277,838</u>	<u>19,931,605</u>
<b>Total revenue</b>		<u>940,096,724</u>	<u>796,934,144</u>
<b>Expenses</b>			
Commissioners costs	11	(24,037,454)	(28,235,518)
Employee costs	12	(376,516,092)	(427,111,680)
Office supplies	13	(15,437,808)	(14,023,929)
Transport and travel	14	(48,915,844)	(53,167,112)
Public relation and consumer services	15	(57,826,408)	(82,692,916)
Utilities	16	(6,265,822)	(3,989,775)
Information and communication technology	17	(13,970,053)	(11,988,524)
Office rent and services	18	(54,048,232)	(49,663,657)
Consultancy and other professional services	19	(89,456,656)	(123,540,872)
HIV/AIDS Prevention	20	(2,961,811)	(2,304,654)
Depreciation	21	(29,268,261)	(26,819,512)
Amortisation	21	(5,949,107)	(4,644,167)
Contingency and other costs	22	(2,000,000)	(2,000,000)
<b>Total expenditure</b>		<u>(726,653,548)</u>	<u>(830,182,316)</u>
<b>Surplus (deficit) from operating activities</b>		<u>213,443,176</u>	<u>(33,248,172)</u>
Gain on disposal	23	-	43,610
<b>Surplus before provision</b>		<u>213,443,176</u>	<u>(33,204,562)</u>
Provision of 90% surplus funds to National Treasury	24	(125,914,100)	-
<b>Surplus (deficit) for the year</b>		<u>87,529,076</u>	<u>(33,204,562)</u>

The notes set out on pages 39 to 61 form an integral part of these annual report and financial

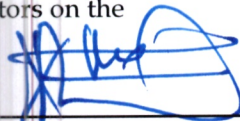
# Energy Regulatory Commission

Annual Report And Financial Statements for the year ended 30 June, 2018

## Statement of Financial Position as at 30 June, 2018

		2018 K Sh	2017 K Sh
<b>ASSETS</b>			
<b>Current Assets</b>			
Cash and cash equivalents	25	437,716,921	185,153,871
Receivables from exchange transactions	26	13,275,698	15,459,125
Recoverables from non-exchange transaction (taxes and transfers)	27	46,030,431	84,774,468
Inventories	28	<u>2,614,156</u>	<u>2,355,634</u>
		<b><u>499,637,206</u></b>	<b><u>287,743,098</u></b>
<b>Non-Current Assets</b>			
Property, plant and equipment	29	74,071,724	89,919,687
Intangible assets	30	<u>16,276,212</u>	<u>16,829,733</u>
		<b><u>90,347,936</u></b>	<b><u>106,749,420</u></b>
<b>Total Assets</b>		<b><u>589,985,142</u></b>	<b><u>394,492,518</u></b>
<b>LIABILITIES</b>			
<b>Current Liabilities</b>			
Payables under exchange transactions	31	109,281,430	122,245,205
Provisions	32	133,985,115	8,305,289
Employee benefit	33	<u>10,087,078</u>	<u>14,839,581</u>
		<b><u>253,353,623</u></b>	<b><u>145,390,075</u></b>
<b>Total Liabilities</b>		<b><u>253,353,623</u></b>	<b><u>145,390,075</u></b>
<b>Net Assets</b>		<b><u>336,631,519</u></b>	<b><u>249,102,443</u></b>
Reserves			
Reserves (Sinking fund)		55,000,000	55,000,000
Accumulated surplus		<u>281,631,519</u>	<u>194,102,443</u>
<b>Total Net Assets</b>		<b><u>336,631,519</u></b>	<b><u>249,102,443</u></b>
<b>Total Net Assets and Liabilities</b>		<b><u>589,985,142</u></b>	<b><u>394,492,518</u></b>

The annual report and financial statements and the notes on page 31-61 were approved by the directors on the \_\_\_\_\_ and were signed on its behalf by:



Director General  
Mr. Pavel Robert Oimeke



Ag. Head of Finance & Accounts  
Ms. Muznah Sisiwa  
ICPAK No.: 1234/886



Chairperson  
Mr. Joshua Oigara

## Energy Regulatory Commission

Annual Report And Financial Statements for the year ended 30 June, 2018

### Statement of Changes in Net Assets/Equity

	Reserves (Sinking Fund) K Sh	Accumulated surplus K Sh	Total net assets K Sh
<b>Balance at 01 July, 2016</b>	<b>55,000,000</b>	<b>227,307,005</b>	<b>282,307,005</b>
Changes in net assets			
Surplus for the year	-	(33,204,562)	(33,204,562)
Total changes	-	(33,204,562)	(33,204,562)
<b>Balance at 01 July, 2017</b>	<b>55,000,000</b>	<b>194,102,443</b>	<b>249,102,443</b>
Changes in net assets			
Surplus for the year	-	213,443,176	213,443,176
Transfer of surplus to Exchequer	-	(125,914,100)	(125,914,100)
Total changes	-	87,529,076	87,529,076
<b>Balance at 30 June, 2018</b>	<b>55,000,000</b>	<b>281,631,519</b>	<b>336,631,519</b>

# Energy Regulatory Commission

Annual Report And Financial Statements for the year ended 30 June, 2018

## Cash Flow Statement

	Note(s)	2018 K Sh	2017 K Sh
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
<b>Receipts</b>			
Levy		872,894,336	657,849,483
Transfer from government entities		12,602,427	20,250,000
Other miscellaneous receipts		537,956	376,146
Interest Income		2,347,323	-
		<u>888,382,042</u>	<u>678,475,629</u>
<b>Payments</b>			
Commissioners expenses		22,363,130	28,180,111
Employee costs		310,327,034	276,550,572
Training and other personnel costs		45,172,971	87,127,040
Office supplies and expenses		13,448,323	13,549,348
Transport and travel		51,456,051	48,777,772
Public relations and consumers services		57,283,252	75,446,512
Utilities		6,265,822	3,989,775
Information and communication technology expenses		11,069,020	11,766,854
Office rent and office services		45,400,918	39,789,737
Consultancy and other professional services		71,766,941	68,078,648
HIV/AIDS prevention related expenses		2,641,411	2,304,654
Provisions		(22,455,434)	4,996,173
		<u>614,739,439</u>	<u>660,557,196</u>
<b>Net cash flows from operating activities</b>	34	<u><b>273,642,603</b></u>	<u><b>17,918,436</b></u>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>			
Purchase of fixed assets		(21,079,553)	(22,136,821)
Proceeds of sale of Fixed assets		-	103,833
Interest received		-	6,943,480
<b>Net cash flows from investing activities</b>		<u><b>(21,079,553)</b></u>	<u><b>(15,089,508)</b></u>

## Energy Regulatory Commission

Annual Report And Financial Statements for the year ended 30 June, 2018

### Cash Flow Statement

	Note(s)	2018 K Sh	2017 K Sh
<b>Net increase/(decrease) in cash and cash equivalents</b>		<b>252,563,050</b>	<b>2,828,928</b>
Cash and cash equivalents at the beginning of the year		185,153,871	182,324,947
<b>Cash and cash equivalents at the end of the year</b>	25	<b>437,716,921</b>	<b>185,153,875</b>
<b>Represented by:</b>			
Cash on hand		100,000	16,885
Bank balances		191,794,324	61,773,457
Short-term deposits		70,000,000	-
Mortgage and car loan		175,822,597	123,363,529
<b>Total</b>		<b>437,716,921</b>	<b>185,153,871</b>

## Energy Regulatory Commission

Annual Report And Financial Statements for the year ended 30 June, 2018

### Statement of Comparison of Budget and Actual Amounts

Budget on Cash Basis

	Approved budget	Adjustments	Final Budget	Actual amounts on comparable basis	Difference between final budget and actual	Reference
	K Sh	K Sh	K Sh	K Sh	K Sh	
<b>REVENUE</b>						
<b>REVENUE FROM NON-EXCHANGE TRANSACTIONS</b>						
Electricity Levy	276,553,434	103,615,651	380,169,085	406,186,541	26,017,456	a)
Petroleum Levy	509,820,346	(6,409,846)	503,410,500	508,029,918	4,619,418	b)
Transfer from government	76,000,000	(60,750,000)	15,250,000	12,602,427	(2,647,573)	c)
<b>Total revenue from non-exchange transactions</b>	<b>862,373,780</b>	<b>36,455,805</b>	<b>898,829,585</b>	<b>926,818,886</b>	<b>27,989,301</b>	
<b>REVENUE FROM EXCHANGE TRANSACTIONS</b>						
Finance income-external investment	5,850,000	(2,000,000)	3,850,000	4,546,582	696,582	d)
Other income	700,000	(350,000)	350,000	8,731,256	8,381,256	e)
<b>Total revenue from exchange transactions</b>	<b>6,550,000</b>	<b>(2,350,000)</b>	<b>4,200,000</b>	<b>13,277,838</b>	<b>9,077,838</b>	
<b>Total revenue</b>	<b>868,923,780</b>	<b>34,105,805</b>	<b>903,029,585</b>	<b>940,096,724</b>	<b>37,067,139</b>	
<b>EXPENDITURE</b>						
Commissioners costs	(26,224,000)	-	(26,224,000)	(24,037,454)	2,186,546	f)
Employee costs	(472,067,120)	43,000,000	(429,067,120)	(376,516,092)	52,551,028	g)
Office supplies	(19,240,589)	3,440,000	(15,800,589)	(15,437,808)	362,781	h)
Transport and travel	(56,328,000)	9,374,500	(46,953,500)	(48,915,844)	(1,962,344)	i)
Public relation and consumer services	(63,550,000)	5,844,000	(57,706,000)	(57,826,408)	(120,408)	j)
Utilities	(4,176,000)	(417,600)	(4,593,600)	(6,265,822)	(1,672,222)	k)
Information and communication technology	(16,338,755)	-	(16,338,755)	(13,970,053)	2,368,702	l)
Office rent and services	(54,178,184)	-	(54,178,184)	(54,048,232)	129,952	m)
Consultancy and other professional services	(122,559,700)	25,622,530	(96,937,170)	(89,456,656)	7,480,514	n)
HIV/AIDS Prevention	(4,000,000)	-	(4,000,000)	(2,961,811)	1,038,189	o)
Depreciation	(32,444,932)	(1,000,000)	(33,444,932)	(29,268,261)	4,176,671	p)
Amortisation	(6,894,149)	-	(6,894,149)	(5,949,107)	945,042	q)
Contingency and other costs	(2,000,000)	-	(2,000,000)	(2,000,000)	-	r)

## Energy Regulatory Commission

Annual Report And Financial Statements for the year ended 30 June, 2018

### Statement of Comparison of Budget and Actual Amounts

Budget on Cash Basis

	Approved budget	Adjustments	Final Budget	Actual amounts on comparable basis	Difference between final budget and actual	Reference
	K Sh	K Sh	K Sh	K Sh	K Sh	
<b>Total expenditure</b>	<b>(880,001,429)</b>	<b>85,863,430</b>	<b>(794,137,999)</b>	<b>(726,653,548)</b>	<b>67,484,451</b>	
<b>Surplus (deficit) from operating activities</b>	<b>(11,077,649)</b>	<b>119,969,235</b>	<b>108,891,586</b>	<b>213,443,176</b>	<b>104,551,590</b>	

#### Notes on significant variances

- a) The Electricity levy realised is above the budget by KES 26M, translating to 6.8% above target.
- b) The Petroleum levy realised is above the budget by KES 4.6M.
- c) Transfers from Government are below budget by KES 2.6M. This is as a result of government not remitting funds fully budgeted for.
- d) Finance Income-External investment is above budget by KES 0.7M.
- e) Other income is above the budget by KES 8.3M. This is as a result of writing off liabilities in accordance with IPSAS 19.
- f) Expenditure on Commission Expenses is below the budget by KES 2.1M. This is due to slight delay on re-appointment of commissioners.
- g) Expenditure on Personnel Emoluments is below the budget by KES 52M due to delays in approval required before recruitment and implementation of austerity measures.
- h) Expenditure on office supplies and expenses is below the budget by KES 0.36M. This is due to internal controls instituted by management.
- i) Expenditure on transport and travel is above the budget by KES 1.9M. This is within 10% permissible range.
- j) Expenditure on public relations and consumer services is above the budget by KES 0.1M. This is within the 10% permissible range.
- k) Expenditure on utilities is above the budget by KES 1.67M translating to 36% over expenditure due to revision of telephone allowance being implemented across the commission.
- l) Expenditure on information and communication technology is below the budget by KES 2M. This is due to internal controls instituted by management.
- m) Expenditure on office rent and office services is below the budget by KES 0.13M. This is due to internal controls instituted by management.
- n) Expenditure on consultancy and other professional services is below the budget by KES 7.4M. This is due to internal controls instituted by management.

## Energy Regulatory Commission

Annual Report And Financial Statements for the year ended 30 June, 2018

### Statement of Comparison of Budget and Actual Amounts

Budget on Cash Basis

	Approved budget	Adjustments	Final Budget	Actual amounts on comparable basis	Difference between final budget and actual	Reference
	K Sh	K Sh	K Sh	K Sh	K Sh	

o) Expenditure on HIV/AIDS prevention related expenses is below the budget by KES 1.0M. This is due to internal controls instituted by management.

p) Depreciation is below the budget by KES 4.2M. Some assets were delivered late in the 4th Quarter thus not attracting full depreciation.

q) Amortization is below the budget by KES 0.9M This is due to late procurement of the asset.

r) No variances.

# Energy Regulatory Commission

Annual Report And Financial Statements for the year ended 30 June, 2018

## Notes to the Annual Report And Financial Statements

2018	2017
K Sh	K Sh

### 1. GENERAL INFORMATION

Energy Regulatory Commission (ERC) is established under the Energy Act 2006, following the operationalization of the Act with effect from July 7, 2007. The Electricity Regulatory Board became ERC, a single sector regulatory agency, with responsibility for economic and technical regulation of electric power, renewable energy, and downstream petroleum sub sectors. ERC is an independent entity fully owned by the Government of Kenya and is domiciled in Kenya. Its functions include tariff setting and review, licensing, enforcement, dispute settlement and approval of power purchase and network services contracts.

### 2. STATEMENT OF COMPLIANCE AND BASIS OF PREPARATION

The Commission's financial statements have been prepared in accordance with and comply with International Public Sector Accounting Standards (IPSAS). The financial statements are presented in Kenya shillings, which is the functional and reporting currency of the Commission. The accounting policies have been consistently applied to all the years presented.

The Commission adopted IPSAS in the year 2014 following the gazette of the Public Sector Accounting Standards Board (PSASB), which was established by the Public Financial Management Act (PFM) No. 18 in 24th July 2012. PSASB issued financial reporting standards and guidelines to be adopted by all state organs and public sector entities, which the Commission complies with.

The financial statements have been prepared on the basis of historical cost, unless stated otherwise. The cash flow statement is prepared using the direct method. The financial statements are prepared on accrual basis.

The accounts are presented in Kenya Shillings (KES) which is the functional and reporting currency of the Commission and all values are rounded to the nearest shilling.

### 3. ADOPTION OF NEW AND REVISED STANDARDS

#### 3.1 Relevant new standards and amendments to published standards effective for the year ended 30 June 2018

##### IPSAS 39 - Employee Benefits

ERC has always provided retirement benefits to its employees under a defined contribution plan, and reported appropriately.

#### 3.2 New and amended standards and interpretations in issue but not yet effective in the year ended 30 June 2017

##### IPSAS 40 - Public Sector Combinations

ERC does not anticipate any combinations; through exchange or non-exchange transactions and therefore the standard does not apply

# Energy Regulatory Commission

Annual Report And Financial Statements for the year ended 30 June, 2018

## Notes to the Annual Report And Financial Statements

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2018	2017
K Sh	K Sh

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### 4. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

#### a) Revenue recognition

##### i) Revenue from non-exchange transactions

###### Electricity and Petroleum Levies

The Commission recognizes revenues from Electricity and Petroleum levies when the event occurs and the asset recognition criteria are met. Other non-exchange revenues are recognized when it is probable that the future economic benefits or service potential associated with the asset will flow to the Commission and the fair value of the asset can be measured reliably.

###### Transfers from other government entities

Revenues from non-exchange transactions with other government entities are measured at fair value and recognized on obtaining control of the asset (cash, goods, services and property) if the transfer is free from conditions and it is probable that the economic benefits or service potential related to the asset will flow to the Commission and can be measured reliably.

##### ii) Revenue from exchange transactions

###### Miscellaneous Revenue

Miscellaneous revenue from exchange transactions comprise of sale of stores, tenders and surplus goods.

###### Interest income

Interest income is accrued using the effective yield method. The effective yield discounts estimated future cash receipts through the expected life of the financial asset to that asset's net carrying amount. The method applies this yield to the principal outstanding to determine interest income each period.

#### b) Budget information

The original budget for FY 2017/2018 was approved by the National Treasury through Ministry of Energy on 29th May 2017. Subsequent revision or additional appropriations were made to the approved budget in accordance with approvals from the National Treasury. Accordingly, ERC recorded reduced appropriations of KES 12M on the 2017/2018 budget following the approval.

The annual budget is prepared on the accrual basis, that is, all planned costs and income are presented in a single statement to determine the needs of the Commission. As a result of the adoption of the accrual basis for budgeting purposes, there are no basis, timing or Commission differences that would require reconciliation between the actual comparable amounts and the amounts presented as a separate additional financial statement in the statement of comparison of budget and actual amounts

# Energy Regulatory Commission

Annual Report And Financial Statements for the year ended 30 June, 2018

## Notes to the Annual Report And Financial Statements

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2018	2017
K Sh	K Sh

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### 4. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

#### c) Taxation/Transfer to treasury

No provision has been made for Income Tax. The Commission does not operate for gain. Its income is therefore not subject to tax. However, a provision is made for transfer of surplus funds to Treasury in line with Public Financial Management Act No. 18 of 2012 Regulation 219 (2) that states that a regulatory authority established by an Act of Parliament and referred to under regulation 211 (4) shall remit into Consolidated Fund, ninety percent of its surplus funds reported in the audited financial statements after the end of each financial year. Regulation 219 (3) further states that "a regulatory authority to which this section applies shall be exempt from the income tax".

The surplus funds are net of capital investments acquired in the year and sinking fund established within the year.

#### d) Investment property

Investment properties are measured initially at cost, including transaction costs. The carrying amount includes the replacement cost of components of an existing investment property at the time that cost is incurred if the recognition criteria are met and excludes the costs of day-to-day maintenance of an investment property. Investment property acquired through a non-exchange transaction is measured at its fair value at the date of acquisition. Subsequent to initial recognition, investment properties are measured using the cost model and are depreciated over a 30-year period.

Investment properties are derecognized either when they have been disposed of or when the investment property is permanently withdrawn from use and no future economic benefit or service potential is expected from its disposal. The difference between the net disposal proceeds and the carrying amount of the asset is recognized in the surplus or deficit in the period of de-recognition. Transfers are made to or from investment property only when there is a change in use.

#### e) Property, plant and equipment

All property, plant and equipment are stated at cost less accumulated depreciation and impairment losses. Cost includes expenditure that is directly attributable to the acquisition of the items. When significant parts of property, plant and equipment are required to be replaced at intervals, the Commission recognizes such parts as individual assets with specific useful lives and depreciates them accordingly. Likewise, when a major inspection is performed, its cost is recognized in the carrying amount of the plant and equipment as a replacement if the recognition criteria are satisfied. All other repair and maintenance costs are recognized in surplus or deficit as incurred. Where an asset is acquired in a non-exchange transaction for nil or nominal consideration the asset is initially measured at its fair value. Fixed assets are stated at cost less accumulated depreciation. Depreciation is calculated on the cost of the fixed asset assets on straight line basis, at annual rate estimated to write off the cost of these assets over the expected useful life. The depreciation rates used are as follows:

- |                          |       |
|--------------------------|-------|
| • Motor Vehicles         | 25%   |
| • Furniture and Fittings | 12.5% |
| • Computer Equipment     | 30%   |

# Energy Regulatory Commission

Annual Report And Financial Statements for the year ended 30 June, 2018

## Notes to the Annual Report And Financial Statements

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	2018	2017
	K Sh	K Sh

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### 4. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

- Other Equipment 12.5%

#### f) Leases

Operating leases are leases that do not transfer substantially all the risks and benefits incidental to ownership of the leased item to the Commission. Operating lease payments are recognized as an operating expense in surplus or deficit on a straight-line basis over the lease term.

# Energy Regulatory Commission

Annual Report And Financial Statements for the year ended 30 June, 2018

## Notes to the Annual Report And Financial Statements

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2018	2017
K Sh	K Sh

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### 4. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

#### g) Intangible assets

Intangible assets acquired separately are initially recognized at cost. The cost of intangible assets acquired in a non-exchange transaction is their fair value at the date of the exchange. Following initial recognition, intangible assets are carried at cost less any accumulated amortization and accumulated impairment losses. Internally generated intangible assets, excluding capitalized development costs, are not capitalized and expenditure is reflected in surplus or deficit in the period in which the expenditure is incurred.

The amortization rates used are as follows;

- Intangible Assets 30%

The useful life of the intangible assets is assessed as either finite or indefinite.

#### h) Research and development costs

The Commission expenses research costs as incurred. Development costs on an individual project are recognized as intangible assets when the Commission can demonstrate:

- The technical feasibility of completing the asset so that the asset will be available for use or sale
- Its intention to complete and its ability to use or sell the asset
- How the asset will generate future economic benefits or service potential
- The availability of resources to complete the asset
- The ability to measure reliably the expenditure during development

Following initial recognition of an asset, the asset is carried at cost less any accumulated amortization and accumulated impairment losses. Amortization of the asset begins when development is complete and the asset is available for use. It is amortized over the period of expected future benefit. During the period of development, the asset is tested for impairment annually with any impairment losses recognized immediately in surplus or deficit.

#### i) Financial instruments

Financial assets and financial liabilities are recognised on the Commission's statement of financial position when the Commission has become party to the contractual provisions of the instrument. Specific accounting policies adopted by the Commission for its financial instruments outstanding at year end are set out as follows:

##### Government securities

Government securities comprise treasury bonds which debt securities are issued by the Government of Kenya. Government securities are classified as held to maturity and are stated at amortised cost.

##### Short term deposits

Short term deposits are classified as held to maturity and are stated at amortised cost.

# Energy Regulatory Commission

Annual Report And Financial Statements for the year ended 30 June, 2018

## Notes to the Annual Report And Financial Statements

2018	2017
K Sh	K Sh

### 4. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

#### Trade receivables

Trade receivables are carried at anticipated realised value. An estimate is made for bad and doubtful receivables based on a review of all outstanding amounts at the year end. Bad debts are written off when all reasonable steps taken to recover them have failed.

#### Trade payables

Trade payables are not interest bearing and are stated at their fair value

#### j) Provisions

Provisions are recognized when the Commission has a present obligation (legal or constructive) as a result of a past event, it is probable that an outflow of resources embodying economic benefits or service potential will be required to settle the obligation and a reliable estimate can be made of the amount of the obligation. Where the Commission expects some or all of a provision to be reimbursed, for example, under an insurance contract, the reimbursement is recognized as a separate asset only when the reimbursement is virtually certain.

The expense relating to any provision is presented in the statement of financial performance net of any reimbursement.

#### k)Contingent liabilities

The Commission does not recognize a contingent liability, but discloses details of any contingencies in the notes to the financial statements, unless the possibility of an outflow of resources embodying economic benefits or service potential is remote.

ERC is a party to a number of court cases whose determination is yet to be made. In view that damages or court awards are known upon conclusion of a matter, ERC has made provision for contingency liabilities towards the same amounting to 30M. The following is summary of key matters whose contingent liability is high:

- a) Energy Regulatory Commission -vs- SGS Kenya Limited and 2 others- Civil Appeal No. 341 of 2017
- b) Council of County Governors -vs- Energy Regulatory Commission and 7 Others- Petition No. 279 of 2017
- c) William Abok -vs- Energy Regulatory Commission- High Court Petition No. 549 of 2014
- d) ERC vs. Orthodox Archbishop of Kenya and Irinoupolis & Another- Nairobi CMCC No. 4768 OF 2017

# Energy Regulatory Commission

Annual Report And Financial Statements for the year ended 30 June, 2018

## Notes to the Annual Report And Financial Statements

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2018	2017
K Sh	K Sh

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### 4. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

e) Okiya Omtatah Okoiti & Anor vs the Cabinet Secretary- National Treasury, KRA, AG & ERC- Nairobi High Court Const. Petition No. 303 of 2018.

#### l) Contingent assets

The Commission does not recognize a contingent asset, but discloses details of a possible asset whose existence is contingent on the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the Commission in the notes to the financial statements. Contingent assets are assessed continually to ensure that developments are appropriately reflected in the financial statements. If it has become virtually certain that an inflow of economic benefits or service potential will arise and the asset's value can be measured reliably, the asset and the related revenue are recognized in the financial statements of the period in which the change occurs.

#### m) Nature and purpose of reserves

The Commission creates and maintains reserves in terms of specific requirements.

##### Accumulated Surplus

The Commission's capitals consist of the Accumulated reserves. The objectives when managing capital include: -

- To safeguard the Commission's ability to continue as a going concern so that it can continue to provide energy regulatory services to the nation.
- To match the profile of its assets and liability, taking account of the risks inherent in the business operation.
- To comply with the statutory requirements on provision for the renewal of depreciating assets.

##### Sinking Fund Reserves

The sinking Fund reserve is money, which the Commission set aside over time in order to renew depreciating assets.

#### n) Changes in accounting policies and estimates

The Commission recognizes the effects of changes in accounting policy retrospectively. The effects of changes in accounting policy are applied prospectively if retrospective application is impractical.

#### o) Employee benefits

Retirement benefit plans

# Energy Regulatory Commission

Annual Report And Financial Statements for the year ended 30 June, 2018

## Notes to the Annual Report And Financial Statements

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2018	2017
K Sh	K Sh

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### 4. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

The Commission provides retirement benefits for its employees. Defined contribution plans are post-employment benefit plans under which the Commission pays fixed contributions into a separate Commission (a fund), and will have no legal or constructive obligation to pay further contributions if the fund does not hold sufficient assets to pay all employee benefits relating to employee service in the current and prior periods. The contributions to fund obligations for the payment of retirement benefits are charged against income in the year in which they become payable.

#### p) Foreign currency transactions

Transactions in foreign currencies are initially accounted for at the ruling rate of exchange on the date of the transaction. Trade creditors or debtors denominated in foreign currency are reported at the statement of financial position reporting date by applying the exchange rate on that date. Exchange differences arising from the settlement of creditors, or from the reporting of creditors at rates different from those at which they were initially recorded during the period, are recognized as income or expenses in the period in which they arise.

#### q) Related parties

The Commission regards a related party as a person or an entity with the ability to exert control individually or jointly, or to exercise significant influence over the Commission. Members of key management are regarded as related parties and comprise Commission Members and senior managers (see further disclosures of related parties in note 41).

The Government (represented by Ministry of Energy and Ministry of Petroleum & Mining) is also regarded as a related party. The Permanent Secretary in the Ministry of Energy or his representative is a member of the commission. The commission also receives some funding from the Government.

#### r) Cash and cash equivalents

Cash and cash equivalents comprise cash on hand and cash at bank, short-term deposits on call and highly liquid investments with an original maturity of three months or less, which are readily convertible to known amounts of cash and are subject to insignificant risk of changes in value. Bank account balances include amounts held at various commercial banks at the end of the financial year. For the purposes of these financial statements, cash and cash equivalents also include short term cash imprests and advances to authorised public officers and/or institutions which were not surrendered or accounted for at the end of the financial year.

#### s) Comparative figures

Where necessary comparative figures for the previous financial year have been amended or reconfigured to conform to the required changes in presentation.

# Energy Regulatory Commission

Annual Report And Financial Statements for the year ended 30 June, 2018

## Notes to the Annual Report And Financial Statements

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2018	2017
K Sh	K Sh

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### 4. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

#### t) Inventories

Inventory is measured at cost upon initial recognition. To the extent that inventory was received through non-exchange transactions (for no cost or for a nominal cost), the cost of the inventory is its fair value at the date of acquisition.

Inventories are recognized as an expense when deployed for utilization or consumption in the ordinary course of operations of the entity.

# Energy Regulatory Commission

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## Notes to the Annual Report And Financial Statements

2018	2017
K Sh	K Sh

### 5. SIGNIFICANT JUDGMENTS AND SOURCES OF ESTIMATION UNCERTAINTY

The preparation of the Commission's financial statements in conformity with IPSAS requires management to make judgments, estimates and assumptions that affect the reported amounts of revenues, expenses, assets and liabilities, and the disclosure of contingent liabilities, at the end of the reporting period. However, uncertainty about these assumptions and estimates could result in outcomes that require a material adjustment to the carrying amount of the asset or liability affected in future periods.

#### Estimates and assumptions

The key assumptions concerning the future and other key sources of estimation uncertainty at the reporting date, that have a significant risk of causing a material adjustment to the carrying amounts of assets and liabilities within the next financial year, are described below. The Commission based its assumptions and estimates on parameters available when the financial statements were prepared. However, existing circumstances and assumptions about future developments may change due to market changes or circumstances arising beyond the control of the Commission. Such changes are reflected in the assumptions when they occur.

#### Useful lives and residual values

The useful lives and residual values of assets are assessed using the following indicators to inform potential future use and value from disposal:

- The condition of the asset based on the assessment of experts employed by the Commission
- The nature of the asset, its susceptibility and adaptability to changes in technology and processes
- The nature of the processes in which the asset is deployed
- Availability of funding to replace the asset
- Changes in the market in relation to the asset

#### Provisions

Provisions were raised and management determined an estimate based on the information available. Additional disclosure of these estimates of provisions is included in Note 32. Provisions are measured at the management's best estimate of the expenditure required to settle the obligation at the reporting date, and are discounted to present value where the effect is material.

#### Subsequent events

There have been no events subsequent to the financial year-end with a significant impact on the financial statements for the year ended June 30, 2018.

# Energy Regulatory Commission

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## Notes to the Annual Report And Financial Statements

	2018 K Sh	2017 K Sh
<b>6. ELECTRICITY LEVY</b>		
Electricity Levy	<u>406,186,541</u>	<u>240,485,828</u>
Legal Notice No. 148 of 1999.		
<b>7. PETROLEUM LEVY</b>		
Petroleum Levy	<u>508,029,918</u>	<u>484,246,340</u>
Legal Notice No. 162 of 2018		
<b>8. TRANSFERS FROM GOVERNMENT</b>		
<b>Recurrent Grants</b>		
Grants	12,602,427	20,250,000
Capacity Building-World Bank	-	32,020,371
	<u>12,602,427</u>	<u>52,270,371</u>
<b>9. FINANCE INCOME-EXTERNAL INVESTMENTS</b>		
Interest on investment	4,546,582	6,962,085
Miscellaneous revenue	-	376,146
	<u>4,546,582</u>	<u>7,338,231</u>
<b>10. OTHER INCOME</b>		
Other income	<u>8,731,256</u>	<u>12,593,374</u>
<b>11. COMMISSIONERS COSTS</b>		
Monthly fees and Honorarium	4,990,000	5,160,000
Sitting allowance	5,060,000	7,620,000
Meeting,Entertainment and Others	565,382	528,361
Seminars,Travel and accommodation	12,963,051	14,501,054
Medical and GPA	459,021	426,103
	<u>24,037,454</u>	<u>28,235,518</u>

# Energy Regulatory Commission

Annual Report And Financial Statements for the year ended 30 June, 2018

## Notes to the Annual Report And Financial Statements

	2018 K Sh	2017 K Sh
<b>12. EMPLOYEE COSTS</b>		
Salaries	208,601,784	193,177,536
Pension and Gratuity	40,544,843	52,646,341
Special duty and Acting allowances	1,773,647	1,708,700
Car and commuting allowance	17,401,889	15,011,108
House allowance	47,553,314	42,823,097
Fringe benefits	1,060,889	881,125
Leave and Other allowances	5,087,617	5,364,772
Medical	22,227,500	17,505,438
Subscriptions - clubs and professional associations	2,373,522	3,382,050
Life and Accident Insurance	4,211,166	6,711,338
Staff Uniforms	465,501	922,957
Training and Capacity Building - World Bank Funded	6,944,114	26,909,472
Training and Capacity Building - ERC Funded	16,854,686	58,753,086
Staff Welfare and Laundry	1,415,620	1,314,660
	<u>376,516,092</u>	<u>427,111,680</u>
Number of employees	<u>94</u>	<u>76</u>
<b>13. OFFICE SUPPLIES</b>		
Meetings, office tea and miscellaneous	7,185,803	8,122,133
Newspapers, books and periodicals	2,138,616	830,097
Stationary, postage and supplies	6,113,389	5,071,699
	<u>15,437,808</u>	<u>14,023,929</u>
<b>14. TRANSPORT AND TRAVEL</b>		
Travel -Local and Surveillance Audits	30,561,277	23,541,159
Travel-International	11,307,474	23,052,512
Fuel	2,570,907	2,170,827
Vehicle repair and service	3,016,631	2,165,842
Vehicle insurance and licences	1,459,555	2,236,772
	<u>48,915,844</u>	<u>53,167,112</u>

## Energy Regulatory Commission

Annual Report And Financial Statements for the year ended 30 June, 2018

### Notes to the Annual Report And Financial Statements

	2018 K Sh	2017 K Sh
<b>15. PUBLIC RELATIONS AND CONSUMER SERVICES</b>		
Corporate subscriptions	4,974,850	3,387,236
Corporate Social Responsibility	3,077,435	3,203,988
Advertisement and Public Relations	25,413,766	41,219,701
Branding	2,499,370	4,306,635
Public seminars and workshops	16,640,987	24,343,460
PR Agency	5,220,000	6,231,896
	<u>57,826,408</u>	<u>82,692,916</u>
<b>16. UTILITIES</b>		
Telephone and Fax	4,776,428	2,988,162
ISDN Line and Disaster Recovery	1,489,394	1,001,613
	<u>6,265,822</u>	<u>3,989,775</u>
<b>17. INFORMATION AND COMMUNICATION TECHNOLOGY</b>		
Bandwidth	2,792,741	2,868,716
Software licenses	11,177,312	9,119,808
	<u>13,970,053</u>	<u>11,988,524</u>
<b>18. OFFICE RENT AND SERVICES</b>		
Rent and parking	47,846,302	40,930,792
Security	1,529,550	1,939,772
Office cleaning	2,967,900	2,892,003
Repair and service -Office equipment	960,538	2,170,393
Insurance and Other costs	743,942	1,730,697
	<u>54,048,232</u>	<u>49,663,657</u>
<b>19. CONSULTANCY AND OTHER PROFESSIONAL SERVICES</b>		
Consultancy-World Bank-GoK funded	2,356,888	4,661,204
Bank charges	803,265	501,722
Audit fees and expenses	348,000	348,000
Consultancy-ERC funded	85,948,503	118,029,946
	<u>89,456,656</u>	<u>123,540,872</u>

# Energy Regulatory Commission

Annual Report And Financial Statements for the year ended 30 June, 2018

## Notes to the Annual Report And Financial Statements

	2018 K Sh	2017 K Sh
<b>20. HIV/AIDS AND OTHERS</b>		
Gender	155,275	-
Drugs and substance abuse	366,395	513,290
Safety, disability, HIV/ AIDS and others	2,440,141	1,791,364
	<u>2,961,811</u>	<u>2,304,654</u>
<b>21. DEPRECIATION AND AMORTISATION</b>		
Property, plant and equipment	29,268,261	26,819,512
Intangible assets	5,949,107	4,644,167
	<u>35,217,368</u>	<u>31,463,679</u>
<b>22. CONTINGENCY AND OTHER EXPENSES</b>		
Kenya Energy and Environmental Programme	<u>2,000,000</u>	<u>2,000,000</u>
<b>23. GAIN (LOSS) ON DISPOSAL</b>		
Property, Plant and Equipment	<u>-</u>	<u>43,610</u>
<b>24. PROVISION OF SURPLUS FUNDS TO NATIONAL TREASURY</b>		
Surplus for the year	213,443,176	(33,248,172)
Less Purchase of assets	(21,079,553)	-
Transfer to staff mortgage account	(47,918,470)	-
Transfer to staff car loan account	(4,540,598)	-
Realised surplus	<u>139,904,555</u>	<u>(33,248,172)</u>
<b>90% of realised profit</b>	<u>125,914,100</u>	<u>(33,248,172)</u>
<b>25. CASH AND CASH EQUIVALENTS</b>		
Cash and cash equivalents consist of:		
Cash on hand	100,000	16,885
Bank Balances	191,794,324	61,773,457
Short-term deposits	70,000,000	-
Other cash and cash equivalent	175,822,597	123,363,529
	<u>437,716,921</u>	<u>185,153,871</u>

## Energy Regulatory Commission

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### Notes to the Annual Report And Financial Statements

	2018 K Sh	2017 K Sh		
<b>25. CASH AND CASH EQUIVALENTS (continued)</b>				
<b>Bank balances</b>				
CBA Bank- A/C No. 6959370012	57,050,767	55,229,054		
KCB Bank- A/C No. 1107180198	133,910,581	6,228,658		
NBK Bank- A/C No. 01003003110800	832,976	315,745		
	<u>191,794,324</u>	<u>61,773,457</u>		
<b>Cash in hand and in transit</b>				
Petty cash	100,000	16,885		
<b>Short term deposits</b>				
CBA-Fixed deposit 3 months	70,000,000	-		
<b>Other Cash and Cash equivalents</b>				
KCB staff car loan-A/C No.1120521726	9,551,141	5,010,543		
KCB staff Mortgage A/C No.1159138850	166,271,456	118,352,986		
	<u>175,822,597</u>	<u>123,363,529</u>		
<b>26. RECEIVABLES FROM EXCHANGE TRANSACTIONS</b>				
Deposits	13,275,698	15,093,770		
Prepayments	-	365,355		
	<u>13,275,698</u>	<u>15,459,125</u>		
<b>Trade and other receivables past due but not impaired</b>				
Trade and other receivables which are less than 3 months past due are not considered to be impaired. At 30 June, 2018, K Sh - (2017: K Sh -) were past due but not impaired.				
<b>Description</b>	<b>1 - 6 Months</b>	<b>6 - 12 Months</b>	<b>Over 1 year</b>	<b>Total</b>
	<b>Ksh</b>	<b>Ksh</b>	<b>Ksh</b>	
Hospital, fuels and rent deposit***	-	-	13,181,698	13,181,698
Telephone-deposits	-	-	94,000	94,000
	<u>-</u>	<u>-</u>	<u>13,275,698</u>	<u>13,275,698</u>

# Energy Regulatory Commission

Annual Report And Financial Statements for the year ended 30 June, 2018

## Notes to the Annual Report And Financial Statements

	2018 K Sh	2017 K Sh			
<b>26. RECEIVABLES FROM EXCHANGE TRANSACTIONS (continued)</b>					
***Rent deposit of KES 9,954,297.79 relates to deposit for 3 months for the 4 floors that ERC occupies at Eagle Africa Building. Hospital deposits of KES 650,000.00 are held with Gertrude's, Aga Khan and Nairobi Hospitals to facilitate staff who seek outpatient treatment as per the ERC medical policy. KES 2,000,000 is KQ deposits, KES 192,399.94 Aquamist dispenser deposit, KES 94,000 is telephone deposits..					
<b>27. RECEIVABLES FROM NON-EXCHANGE TRANSACTIONS</b>					
Levies	42,800,042	48,409,913			
Staff imprests	2,154,245	3,148,921			
Staff advances	821,986	1,192,663			
Commissioners imprests	254,158	2,600			
Provision for WB Capacity Building & Consultancy	-	32,020,371			
	<b>46,030,431</b>	<b>84,774,468</b>			
<b>28. INVENTORIES</b>					
Stores	2,614,156	2,355,634			
<b>29. PROPERTY, PLANT AND EQUIPMENT</b>					
	<b>Furniture and fixtures</b>	<b>Motor vehicles</b>	<b>Office equipment</b>	<b>Computers</b>	<b>Total</b>
<b>Cost</b>					
At 01 July, 2016	129,294,813	65,780,325	17,368,200	31,754,721	244,198,059
Additions	2,969,521	-	1,563,266	5,155,913	9,688,700
Disposals and scrappings	(72,406)	-	(73,924)	(592,523)	(738,853)
<b>At 30 June, 2017</b>	<b>132,191,928</b>	<b>65,780,325</b>	<b>18,857,542</b>	<b>36,318,111</b>	<b>253,147,906</b>
Additions	2,938,075	-	3,246,946	9,498,945	15,683,966
<b>At 30 June, 2018</b>	<b>135,130,003</b>	<b>65,780,326</b>	<b>22,104,488</b>	<b>45,817,056</b>	<b>268,831,873</b>
At 01 July, 2016	(61,810,944)	(38,479,358)	(8,385,589)	(26,448,411)	(135,124,302)
Disposals and scrappings - accumulated depreciation and impairment	26,886	-	59,222	592,523	678,631
Depreciation	(14,865,887)	(9,024,967)	(1,652,796)	(3,238,899)	(28,782,549)
<b>At 30 June, 2017</b>	<b>(76,649,945)</b>	<b>(47,504,325)</b>	<b>(9,979,163)</b>	<b>(29,094,787)</b>	<b>(163,228,220)</b>
Depreciation	(16,411,039)	(9,310,243)	(2,226,339)	(3,584,307)	(31,531,928)
<b>At 30 June, 2018</b>	<b>(93,060,984)</b>	<b>(56,814,568)</b>	<b>(12,205,502)</b>	<b>(32,679,094)</b>	<b>(194,760,148)</b>
<b>Net book values</b>					
At 30 June, 2018	42,069,019	8,965,757	9,898,986	13,137,962	74,071,724
At 30 June, 2017	55,541,983	18,276,000	8,878,379	7,223,324	89,919,686

## Energy Regulatory Commission

Annual Report And Financial Statements for the year ended 30 June, 2018

### Notes to the Annual Report And Financial Statements

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2018	2017
K Sh	K Sh

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#### 29. PROPERTY, PLANT AND EQUIPMENT (continued)

At 30 June 2018, property and equipment with cost amounting to KES 62,007,756 were fully depreciated and Intangible Assets with cost amounting to 22,065,825.11 were fully Amortized. Depreciation of KES 2,263,669.11 relates to a donated MV which has been offset against Deferred Income and not on the statement of financial performance.

## Energy Regulatory Commission

Annual Report And Financial Statements for the year ended 30 June, 2018

### Notes to the Annual Report And Financial Statements

	2018 K Sh	2017 K Sh
<b>30. INTANGIBLE ASSETS</b>		
<b>Reconciliation of intangible assets</b>		
<b>Cost</b>		
Opening balance	88,305,939	75,857,819
Additions	5,395,587	12,448,121
<b>Closing balance</b>	<b>93,701,526</b>	<b>88,305,940</b>
<b>Amortisation and impairment</b>		
Opening balance	(71,476,207)	(66,832,040)
Amortisation	(5,949,107)	(4,644,167)
<b>Closing balance</b>	<b>(77,425,314)</b>	<b>(71,476,207)</b>
<b>Net book value</b>	<b>16,276,212</b>	<b>16,829,733</b>

### 31. PAYABLES UNDER EXCHANGE TRANSACTIONS

Suppliers	86,499,653	106,702,190
Energy Act advances and others	8,349,492	2,702,805
Accruals	-	8,193,300
Rural Electrification Authority (REA)	12,201,039	151,995
Deferred income	2,231,246	4,494,915
	<b>109,281,430</b>	<b>122,245,205</b>

Deferred income relates to a donation of a Motor Vehicle from the United Nations, which was valued at KES 7,159,961 and was depreciated by KES 4,928,715 as at year-end( KES 2,263,669 FY 2017/2018, KES 1,963,038 FY 2016/17 and KES 702,008 FY 2015/16)

Description	1 - 6 Months	6 - 12 Months	Over 1 Year	Total
	Ksh	Ksh	Ksh	
Suppliers	86,499,654	-	-	86,499,654
REA	-	12,201,039	-	12,201,039
Energy Act advances & Others	-	8,349,491	-	8,349,491
Deferred Income	-	2,231,246	-	2,231,246
	<b>86,499,654</b>	<b>22,781,776</b>	<b>-</b>	<b>109,281,430</b>

## Energy Regulatory Commission

Annual Report And Financial Statements for the year ended 30 June, 2018

### Notes to the Annual Report And Financial Statements

			2018 K Sh	2017 K Sh
<b>32. PROVISIONS</b>				
	<b>Audit Fees</b>	<b>With held taxes and other statutory deductions</b>	<b>Amounts due to consolidated funds</b>	<b>Total</b>
Balance at the beginning of the year	348,000	7,957,289	-	8,305,289
Provision of 90% surplus funds to National Treasury	-	-	125,914,100	125,914,100
Provision Utilised provision for the year	(348,000) 348,000	(234,274) -	- -	(582,274) 348,000
<b>Balance at year end</b>	<b>348,000</b>	<b>7,723,015</b>	<b>125,914,100</b>	<b>133,985,115</b>
<b>33. EMPLOYEE BENEFIT OBLIGATIONS</b>				
Other payroll benefits			9,584,653	8,224,181
Gratuity			502,425	6,615,400
			<b>10,087,078</b>	<b>14,839,581</b>
<b>34. CASH GENERATED FROM OPERATIONS</b>				
Surplus (deficit)			213,443,176	(33,248,172)
<b>Adjustments for:</b>				
Depreciation			29,268,261	26,819,512
Depreciation for donated motor vehicle			2,263,669	-
Amortisation from intangible assets			5,949,107	4,644,167
Loss on sale on revaluation			-	(43,610)
Adjustments			-	90,561
<b>Changes in working capital:</b>				
Inventories			(258,522)	(2,355,634)
Receivables from exchange transactions			2,183,427	(15,459,125)
Other receivables from non-exchange transactions			38,744,037	(84,774,468)
Payables under exchange transactions			(12,963,775)	122,245,205
Provisions			(234,274)	-
Employee benefits			(4,752,503)	-
<b>Cash generated from operations</b>			<b>273,642,603</b>	<b>17,918,436</b>
<b>35. FINANCIAL RISK MANAGEMENT OBJECTIVES AND POLICIES</b>				

Risk management is carried out by the management under the supervision of the Commissioners. The Commissioners provides policies for overall risk management, as well as policies covering specific areas such as, interest rate risk, credit risk, use of non-derivative financial instruments and investing excess liquidity.

## Energy Regulatory Commission

Annual Report And Financial Statements for the year ended 30 June, 2018

### Notes to the Annual Report And Financial Statements

2018	2017
K Sh	K Sh

#### 35. FINANCIAL RISK MANAGEMENT OBJECTIVES AND POLICIES (continued)

The Commission activities expose it to a variety of financial risk: credit risk, liquidity risk and market risk. The commission's overall risk management programme focuses on the unpredictability of financial markets and seeks to minimise potential adverse effects on its financial performance. The commission regularly reviews its risk management policies and systems to reflect changes in markets and emerging best practices.

##### Credit risk management

Credit risk refers to the risk that counterparty will default on its contractual obligations resulting in financial loss to the company. Credit risk arises from bank balances, trade receivables and amounts due from related parties. The Commission's management assesses the credit quality of each customer, taking into account its financial position, past experience and other factors.

##### *Classification of credit risk bearing assets.*

The table below represents the commission's maximum exposure to credit risk at the balance sheet date is as follows:

As at June 2018	Fully performing Ksh	Past due Ksh	Impairment Ksh	Total
Revenue from non exchange transactions	46,030,431	-	-	46,030,431
Bank balances	437,716,921	-	-	437,716,921
	<u>483,747,352</u>	<u>-</u>	<u>-</u>	<u>483,747,352</u>
As at June 2017	Fully performing Ksh	Past due Ksh	Impairment Ksh	Total
Revenue from non- exchange transactions	84,774,468	-	-	84,774,468
Bank balances	185,153,872	-	-	185,153,872
	<u>269,928,340</u>	<u>-</u>	<u>-</u>	<u>269,928,340</u>

All the Commission's receivables are fully performing and are expected to be repaid

The Government securities are from the Government of Kenya that has no history of default.

Bank balance includes cash in hand and deposits held with banks. Bank balances are not restricted to any use by the client.

## Energy Regulatory Commission

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### Notes to the Annual Report And Financial Statements

2018	2017
K Sh	K Sh

#### 35. FINANCIAL RISK MANAGEMENT OBJECTIVES AND POLICIES (continued)

##### Credit risk

##### Interest rate risk

The Commission's interest rate risk arises from investments in short term deposits and Government securities. These are fixed income instruments and would not be significantly affected by fluctuations in interest rates.

##### Foreign currency risk

Foreign exchange risk would arise where transactions or bank balances are denominated in foreign currency. The Commission does not hold any foreign currency denominated assets or liabilities and hence there is no exposure to foreign currency risk

##### Price risk

The Commission does not hold investments that would be subject to price risk; hence this risk is not relevant.

##### Liquidity risk management

Liquidity risk is the risk that the commission will not be able to meet its financial obligations when they fall due. The Commission's approach to managing liquidity is to ensure, as far as possible, that it will always have sufficient liquidity to meet its liabilities when due, under both normal and stressed conditions, without incurring unacceptable losses or at the risk of damaging reputation.

The Commission ensures that it has sufficient cash on demand to meet expected operational expenses, including the servicing of financial obligations; this excludes the potential impact of extreme circumstances that cannot reasonably be predicted. All liquidity policies and procedures are subject to review and approval by the Commissioners.

The table below provides a contractual maturity analysis of the Commission's financial liabilities:

	1- 6 Months	6 - 12 Months	Over 1 Year	Total
Trade & other payables from exchange transactions	97,080,391	12,201,039	-	109,281,430
Employee benefits Obligation	9,584,653	502,425	-	10,087,078
Audit fees payable	348,000	-	-	348,000
Withheld tax and other statutory deductions	7,723,014	-	-	7,723,014
	<b>114,736,058</b>	<b>12,703,464</b>	<b>-</b>	<b>127,439,522</b>

## Energy Regulatory Commission

Annual Report And Financial Statements for the year ended 30 June, 2018

### Notes to the Annual Report And Financial Statements

	2018	2017
	K Sh	K Sh

#### 36. OPERATING LEASE COMMITMENTS

Operating lease commitments represent rentals payable by the Commission for rented office space.

Not later than 1 year	47,247,902	39,817,191
Later than 1 year and not later than 5 years	188,991,608	159,268,764
	<u>236,239,510</u>	<u>199,085,955</u>

The Commission is of the view that future net revenues and funding will be sufficient to cover these commitments. The Commission has leased office premises under an operating lease. The lease typically runs for 5 years with an option for renewal. Lease payments are increased accordingly to reflect market rentals. The Commission does not have an option to purchase the leased asset at the expiry of the lease period. There are no contingent rents recognized in the Statement of Financial Performance.

#### 37. DIVIDENDS/SURPLUS REMISSION

In accordance with Section 219 (2) of the Public Management Act regulation, regulatory entities shall remit into Consolidated Fund, ninety per centum of its surplus funds reported in the audited financial statements after the end of each financial year. ERC did not make any surplus during the year (FY 2016/2017) and hence no remittance to the Consolidated Fund.

#### 38. EVENTS AFTER THE REPORTING PERIOD

There were no material adjusting and non-adjusting events after the reporting period.

#### 39. ULTIMATE AND HOLDING ENTITY

ERC is a state corporation under the Ministry of Energy. Its ultimate parent is the Government of Kenya.

#### 40. CURRENCY

The financial statements are presented in Kenya Shillings (Kshs).

## Energy Regulatory Commission

Annual Report And Financial Statements for the year ended 30 June, 2018

### Notes to the Annual Report And Financial Statements

	2018 K Sh	2017 K Sh
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#### 41. RELATED PARTY TRANSACTIONS

##### Key management compensation

Salaries to senior Management	63,182,720	70,940,736
Other Allowances	21,396,220	22,148,469
	<u>84,578,940</u>	<u>93,089,205</u>

##### Commission remuneration

	Monthly Fee & Honoraria	Sitting Allowance	Lunch	Total
Mr. Joshua Oigara	1,560,000	320,000	14,000	1,894,000
Eng. Titus Gitahi	-	160,000	-	160,000
Mrs. Veronica Kamau	-	320,000	16,000	336,000
Eng. Samuel Maugo	515,000	640,000	30,000	1,185,000
Eng. Eric Nyamuga	473,333	640,000	26,000	1,139,333
Dr. Sellah Kebenei	600,000	960,000	40,000	1,600,000
Mr. Njenga Mwangi	600,000	840,000	36,000	1,476,000
Mr. Nixon Lenaiyara	600,000	1,100,000	42,000	1,742,000
Ms. Lilian Mahiri Zaja	41,667	80,000	4,000	125,667
National Treasury	600,000	-	-	600,000
	<u>4,990,000</u>	<u>5,060,000</u>	<u>208,000</u>	<u>10,258,000</u>

# Energy Regulatory Commission

Annual Report And Financial Statements for the year ended 30 June, 2018

## Transfers from other government entities

### 1. RECURRENT GRANTS

Bank statements	Amount	FY
16/04/2018	1,520,538	2017/2018
23/02/2018	2,933,280	2017/2018
09/02/2018	3,961,109	2017/2018
22/01/2018	4,187,500	2017/2018
	<u>12,602,427</u>	

i) The above amounts have been communicated to and reconciled with the Ministry of Energy.

ii) There were no development grants, direct payments and donor receipts.

### 2. RECORDING OF TRANSFERS FROM OTHER GOVERNMENT ENTITIES.

Name of the MDA/Donor Transferring the funds	Amount received as per bank statement	Nature: Recurrent/Development/Others	Total Amount - KES	Where recorded: Statement of Financial Performance	Column heading
MOE	1,520,538	Recurrent	1,520,538	Financial Statement	-
MOE	2,933,280	Recurrent	2,933,280	Financial Statement	-
MOE	3,961,109	Recurrent	3,961,109	Financial Statement	-
MOE	4,187,500	Recurrent	4,187,500	Financial Statement	-
	<u>12,602,427</u>	<u>-</u>	<u>12,602,427</u>	<u>-</u>	<u>-</u>

Approval of financial statements

  
Head of Finance  
Energy Regulatory Commission

Date: 15/01/2019.

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Head of Accounting Unit  
Ministry of Energy

Date:



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