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REPORT

OF

THE AUDITOR-GENERAL

ON

**ENERGY AND PETROLEUM
REGULATORY AUTHORITY**

**FOR THE YEAR ENDED
30 JUNE, 2021**

RECEIVED
29 JUL 2022



ANNUAL REPORT AND FINANCIAL STATEMENTS

**FOR THE FINANCIAL YEAR ENDING
JUNE 30TH 2021**

Prepared in accordance with the Accrual Basis of Accounting Method under the International Public Sector Accounting Standards (IPSAS)

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Energy & Petroleum Regulatory Authority

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1. Background information

1.1. Legal framework

The Energy Regulatory Commission was established under the Energy Act, 2006. In March 2019, the Energy Act 2019 and the Petroleum Act 2019 were enacted. The Energy Act 2019 provides for the establishment of the Energy and Petroleum Regulatory Authority as the successor to the Energy Regulatory Commission.

1.2 Principal activities

The principal activity/mission of the EPRA is to regulate the energy sector with responsibility for economic and technical regulation of electric power, renewable energy, and mid & downstream petroleum sub sectors. It's functions include tariff review and setting,licencing, enforcement,dispute settlement and approval of power purchase and network services contracts.

2. Key management

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

2.1. Board members

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

Name	Designation	Changes
Hon. Justice (Prof) Jackton B. Ojwang	Chairman	Appointed on 12/05/2020
Mr. Daniel Kiptoo	Representative of PS MoPM	Appointed Ag. DG effective 14/12/2020
Mr. Pavel Robert Oimeke	Director General (DG)	Resigned on 14/12/2020
Eng. Joseph Njoroge	PS, Ministry of Energy (MOE)	
Mr. Moses Gitari	Alternate to the PS Energy	
Mr. Andrew Kamau	PS, State Department For Petroleum	
Eng. Samuel N. Maugo	Board Member	Retired on 6th June 2021
Ms. Lillian Mahiri Zaja	Board Member	Retired on 6th June 2021
Prof. George Achoki	Board Member	
Ms. Jacqueline Mogeni	Representative of Council of Governors	Retired on 14th June 2021
Mr. Albert Mwenda	Representative National Treasury	
Mr. James Mbugua	Alternate to the PS Ministry of Energy and Petroleum	Appointed on 06/06/2021
Dr. Sellah J. Kebenei	Board Member	
Mr. Wanjuki Muchemi	Board Member	

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1.Key Entity Information and Management

2.2 Management

The key management personnel who held office during the financial year ended 30th June 2021 and who had direct fiduciary responsibilities were:

Name	Designation	Changes
Ag. Director General	Mr. Daniel Kiptoo Bargoria	
Board Secretary & Director Legal Services	Ms. Mueni Mutung'a	
Director, Petroleum & Gas	Eng. Edward Kinyua	
Director, Electricity & Renewable Energy	Eng. Joseph Oketch	
Director, Economic Regulation	Dr. Frederick Nyang	Retired March 2021
Ag. Director, Corporate Services	CPA. James Kilonzo	
Director, Enforcement & Consumer Protection	Mr. Cyprian Nyakundi	
Manager, Supply Chain Management	Ms. Loise Thuge	
Ag. Manager,, Corporate Strategy &Perfomance	Ms. Esther Njengah	
Manager, Internal Audit &Risk Assurance	CPA. Everlyne Oreng	
Ag.Director, Economic Regulation	Dr. John Mutwii Mutua	Appointed Ag. Director on March 2021

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1.Key Entity Information and Management

2.3. Fiduciary Oversight Arrangements

The Authority

The Authority is chaired by a non-Executive Chairman Hon. Justice(Prof) Jackton B. Ojwang (Chairman) appointed by the President. All Board members have extensive business and administrative experience in private and/or public sectors that is applied in the management of the EPRA. Authority meetings are held regularly to review EPRA's performance against set targets and business plans as well as to formulate and implement strategy. Various committees whose chairpersons report to the Board supplement the functions of the Authority.

Board Finance and Administration Committee

The Authority's Finance and Administration Committee is chaired by a non-Executive Board members and meets at least once on quarterly basis. The members are Prof. George Achoki (Chair), Mr. Wanjuki Muchemi, Ms. Jacqueline Mogeni, and Director General. The Committee's responsibilities are to ensure sound financial reporting, internal system controls, business plans and budgets, procurement, ICT, Public Relations, administration and staff matters.

Board Audit & Risk Committee

EPRA has established an Audit & Risk Committee of the Board which has an approved Audit & Risk Committee Charter that provides the terms of reference for its operations. The Audit Committee is chaired by a non-executive Director and the members are non-Executive Directors. The members are Dr. Sellah Kebenei (Chair), Eng. Samuel Mugo, Mrs. Lilian Mahiri-Zaja, Mr Moses Gitari, and Mr. Albert Mwenda. The purpose of the Committee is to assist the board in their oversight responsibilities regarding:

- (a) The effectiveness of the process of corporate governance.
- (b) The integrity of the financial statements and financial reporting.
- (c) The adequacy of the internal control system and risk management system.
- (d) The performance of the internal audit function.
- (e) The adequacy of management response to issues identified by external audit.
- (f) Compliance with legislation, regulatory requirements and internal policies, procedures and code of conduct.
- (g) The effectiveness of the performance management framework and performance reporting.

The Directorate of Internal Audit & Risk Assurance provides secretarial services to the Committee in line with the Internal Audit Charter and public financial management laws and regulations.

Board Technical Committee

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1.Key Entity Information and Management

The Technical Committee is chaired by a non-Executive director and meets at least on quarterly basis. The members are Mrs. Lilian Mahiri-Zaja (Chair), Mr. Wanjuki Muchemi, Ms. Jacqueline Mogeni, Mr. Albert Mwendu and Director General. The Committee's responsibilities are to provide strategic technical direction of EPRA and to approve technical plans, activities, reports and budgets.

3. Authority headquarters

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

4. Authority contacts

Telephone (254) 20 2847200
Email: info@epra.go.ke
website: www.epra.go.ke

5. Authority bankers

5.1 KCB Bank

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

5.2 National Bank of Kenya

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

NCBA Bank

Upperhill Branch
P.O Box 30437
00100
Nairobi, Kenya

6. Auditors

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

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1.Key Entity Information and Management



7. Principal legal advisor

The Attorney General
State Law Office-Harambee Avenue
P.O Box 40112-00200
Nairobi, Kenya

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2. Board members

 <p>Hon. (Prof) Jackton Boma Ojwang Chairman</p>	<p>Hon. Justice (Prof) Jackton B. Ojwang, was appointed Chairman of EPRA's Board of Directors for a four-year term with effect from 12th May 2020. Prof. Ojwang is a retired judge of the Supreme Court of Kenya with a span of 45 years' experience in the legal profession.</p> <p>Prof. Ojwang has had an illustrious 17-year career in the Judiciary after having been first appointed a high court Judge in 2003 and then elevated to the Supreme Court in 2011 as one of the key seven Judges of the newly created apex court.</p> <p>He holds Bachelor's and Master's degrees in Law from the University of Nairobi and a PhD in Comparative Constitutional Law from Downing College, Cambridge. In 2015, he earned a Doctor of Laws degree (LLD) from the University of Nairobi making him the first sitting judge to receive the Degree. He is an accomplished scholar and who has authored numerous academic papers and other scholarly works. He has also taught at reputable universities around the world including the University of Nairobi where he served for 27 years. He has also been a visiting Associate Professor of Law at the J. Reuben Clark Brigham Young University Law School in the United States.</p> <p>Prof. Ojwang was awarded the University of Nairobi's Staff Merit Award in recognition of his outstanding contribution towards the University's mission. He was also bestowed the coveted East African Law Society Senior Lawyer of Year Award in 2013 for his remarkable legal and judicial career. Up to February 2020, he sat on the Council of Legal Education Board where he chairs the Quality Assurance & Compliance Committee.</p> <p>Date of Birth: 10th February, 1950</p>
 <p>Mr. Daniel Kiptoo Director General</p>	<p>Mr. Daniel Kiptoo was appointed as the EPRA Acting Director General on 14th December 2020 and subsequently confirmed as Director General of the Authority on 1st July 2021. Prior to his appointment, he was the Legal Advisor in the State Department of Petroleum and the Chairman of the Government's First Oil Committee charged with delivery of First Oil for Kenya. The committee brought together technical officers from different Government Ministries and agencies. Mr. Kiptoo is a qualified lawyer with experience in the Energy and Petroleum sectors with a specific focus in policy formulation, regulation and project & structured financing. He is one of the drafters of the Energy Act (2019) and Petroleum Act (2019).</p> <p>He is a Certified Public Secretary in Kenya (CPS), Chartered Secretary of the Institute of Chartered Secretaries and Administrators UK (ICSA) and is a member of the Association of International Petroleum Negotiators (AIPN). He holds a master's degree in Petroleum Law and Policy from University of Dundee. Prior to his role as Legal Advisor in the State Department of Petroleum, he worked with the Energy and Petroleum Regulatory Authority (EPRA) as a Technical Officer and in the private sector with an Africa centric Oil & Gas risk consultancy as the Oil & Gas and Legal Affairs Director.</p> <p>Date of Birth: 17th February, 1984</p>

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2. Board members

 <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.</p> <p>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>
 <p>Mr. Andrew Kamau, CBS Principal Secretary, State Department for Petroleum</p>	<p>Mr Kamau has vast experience in the oil and gas sector spanning more than twenty-five (25) years.</p> <p>Prior to his appointment he worked for multinationals in East Africa and major trading organisations in Europe and South Africa in the energy and mining sector. He was awarded the deal maker of the year 2005 by Global Pacific partners.</p> <p>Mr. Kamau has advised on various petroleum upstream, mid/downstream ventures in countries in the region. He has extensive experience in the mining and Oil & Gas exploration sectors, having been a director of the oldest Johannesburg Stock Exchange listed mining company, Sallies Ltd, Drillex Ltd, a mineral exploration drilling company with drilling rigs in South Africa, Mozambique and Zambia. In addition, he has been a director of Gulf of Guinea Petroleum Company, a junior oil exploration company with acreage in Republic of Congo and Gabon.</p> <p>Date of Birth: 18th November, 1966</p>
 <p>Mr. James Mbugua Alternate to the PS Ministry of Energy and Petroleum</p>	<p>Mr James Mbugua is currently the Principal Superintending Geologist and Acting Secretary in the Directorate of Petroleum at the State Department of Petroleum and Mining. His directorate is responsible for overseeing the exploration of Oil and Gas fields, determination of their commerciality, licensing and ensuring compliance with environmental protection policies.</p> <p>He has extensive experience, spanning over 25 years, and has been involved in the exploration of geothermal, coal, oil and gas in Kenya.</p> <p>Mr. Mbugua holds a Bachelor of Science Degree in Geology from the University of Nairobi and a Master of Science Degree in Structural Geology from the University of Leeds, UK. He also holds a Post Graduate Diploma in Geothermal Technology from Auckland University, New Zealand and a Certificate in Geothermal Energy and Environmental Sciences from Kyushu University, Japan.</p> <p>He is a member of the Geological Society of Kenya (GSK) and the Geologist Registration Board (GRB)</p> <p>He was appointed Board member of the Authority on 6th June 2021</p> <p>Date of Birth: 30th June 1962</p>

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2. Board members

 <p>Mr. Albert Mwenda Representative National Treasury</p>	<p>Mr. Albert Mwenda was appointed to the position of Director General, Budget, Fiscal and Economic Affairs on an acting capacity in November 2018. He holds a Masters degree in Public and Economic Policy from the London School of Economics and Political Science (LSE), UK as well as a Masters of Business Administration (Finance) from the University of Nairobi (UON). He also holds a Bachelor of Arts degree in Economics from the University of Nairobi (UON). He has over 20 years of experience in central government and private sector organisations. Albert was appointed as an Advisor to the National Treasury of the Government of Kenya in 2011. In this capacity, he advised the National Treasury on public finance management reforms as well as fiscal decentralisation. Prior to his current appointment he served as the Director of the Intergovernmental Fiscal Relations Department of the National Treasury which he helped to establish. He has made significant contributions in the recent development of Kenya's policy and legislative framework for public finance management, including the management of fiscal relations between the two levels of government. He was appointed Board member of the Authority on 10th August 2020</p> <p>Date of Birth: 10th May 1971</p>
 <p>Eng. Samuel N. Maugo Board Member</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.</p> <p>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).</p> <p>Eng. Maugo has been the managing director of Multiscope Consulting Engineers Ltd from 2007 to date and has served as a Board Member at EPRA since April 2015.</p> <p>Retired on 6th June 2021</p> <p>Date of Birth: 1st January, 1955</p>
 <p>Dr. Sellah J. Kebenei Board Member</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 Kabarak University. Since 2016 to date, she has served as Head of Physical and Biological Sciences Department at the same University. 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>

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2. Board members

	<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: 28th February, 1961</p>
 <p>Ms. Lilian Mahiri Zaja Board Member</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 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>Retired on 6th June 2021</p> <p>Date of Birth: 8th December, 1964</p>
 <p>Prof. George Achoki Board Member</p>	<p>Professor George O. Achoki has experience in Management, academia and board directorship spanning over twenty years. Professor Achoki's career life started in 1997 at Manpower Services (K) Limited where he worked as a Management Consultant. He had a one-year stint as a senior lecturer at Kenyatta University where he taught finance and accounting. He is currently an associate Professor of Accounting and Finance at United States International University (USIU) where he has taught for over 20 years.</p> <p>Professor Achoki holds a Bachelor's degree in Commerce, a Master's degree, Commerce in Accounting and Statistics and a Doctor of Philosophy in Human Resource Accounting, all from Sukhadia University, India.</p> <p>He has published in the International Journal of Economics and Finance, the American Journal of Finance, and the Journal of Business and Management among others. Between 2016-2018, he served as a Council Member at the Export Promotion Council where he Chaired the Strategy, Product Development and Promotion and the Finance and Resource Mobilization Committees.</p> <p>Date of Birth: 24th April, 1966</p>

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2. Board members

 <p>Wanjuki Muchemi CBS, FCI, Arb Board Member</p>	<p>Mr. Muchemi is a senior legal practitioner with a wealth of experience in International Commercial Law, Arbitration, Alternative Dispute Resolution, Multilateral and Bilateral Finance negotiations. He is currently serving as a non- Executive Director in the Boards of several listed and private companies.</p> <p>Previously, Mr. Muchemi served as the Solicitor General of the Republic of Kenya and the Principal Assistant to the Attorney General. During his tenure, he was awarded the Chief of the Order of the Burning Spear (CBS) (First Class) by His Excellency, President Mwai Kibaki, for his dedicated service. In addition, he previously served as a Director in several State Corporations as well as at the Centre for Corporate Governance for 10 years.</p> <p>He holds a Master of Business Administration (MBA) degree in Strategic Management and a Bachelor of Laws (LL.B. Hons.) degree from University of Nairobi. He is an Advocate of the High Court of Kenya, Fellow of The Chartered Institute of Arbitrators, London, U.K. (FCI Arb.), Member of The Institute of Certified Public Secretaries of Kenya (CPS (K)), and The Law Society of Kenya.</p> <p>Date of Birth: 30th November 1951</p>
 <p>CPA. Moses Gitari Alternate to the PS, Ministry of Energy</p>	<p>CPA Moses Gitari is the Head of Accounting Unit, State Department for Energy and the Alternate Director on the EPRA Board. He holds an MBA in Strategic Management from Nairobi University and BBA in Accounting and Finance from KEMU. CPA Gitari is a practicing Accountant and a member of Institute of Certified Public Accountant of Kenya (ICPAK). He has vast experience in Accounting Systems Implementation and Business process re-engineering.</p> <p>He has previously worked in the Ministry of Health as an Accountant and at the National Treasury IFMIS Department as the Head of Business process re-engineering.</p> <p>Date of Birth: 22nd July, 1971</p>
 <p>Mrs. Jacqueline Mogeni (Council of Governors Representative)</p>	<p>Mrs Jacqueline Mogeni is the Chief Executive Officer of the Council of Governors. Ms. Mogeni is an advocate of the High Court of Kenya and a Human Rights Specialist. In her previous capacities, Jacqueline has worked as a member of the Transition Authority as the Chairperson of the Legal and Intergovernmental Committee. She also worked as the Gender and Advocacy Development Advisor with SNV Development Organization. She holds a Master's Degree in International Studies and a Bachelor of Law both from the University of Nairobi.</p> <p>Jacqueline is passionate about promoting women and children's rights. She is the Chairperson of the East African Women Lawyers Association and also sits as a Board Member of Senior Women Citizens for Change. She has championed for the rights of women through various published works including, Women's silent cries: Cases of Violence against women in the Printed Media (1988-2001) and the book dubbed 'A look at Child Abuse, its perpetrators and the Law (Publication of the SNV- Street Children Program). Ms. Mogeni is an active member of the International Commission of Jurists (Chapter one) and the Law Society of Kenya. She received an awarded from H.E Uhuru Kenyatta, President of the Republic of Kenya where she was honoured as Moran of the Order of the Burning Spear (MBS) for her good work in the devolution space in Kenya since 2013.</p> <p>Retired on 3rd June 2021</p> <p>Date of Birth: 1st May 1969</p>

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2. Board members




	<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 Institute of Certified Secretaries of Kenya and Chartered Institute of Arbitrators. She has also trained extensively in Good Corporate Governance</p> <p>She started her career as an advocate and worked as an associate with the law firm of Robson Harris & 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 Board Secretary and Director Legal Services.</p> <p>Date of Birth: 28th February, 1964</p>
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Ms. Mueni Mutunga - Board Secretary

Energy & Petroleum Regulatory Authority

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3. Management Team

 <p>Mr. Daniel Kiptoo Director General</p>	<p>Director General: Board Member and Chief Executive Officer of the Authority.</p>
 <p>Dr. John Mutwii Mutua PhD (Economics)</p>	<p>Ag. Director Economic Regulation: Heading the Economic Regulation function of the Authority.</p>
 <p>MBA, LL. B (Hons), CPS (K), Dip. Law (KSL)</p>	<p>Board Secretary & Director Legal Services: Secretary to the Board and Head of the Legal function of the Authority</p>

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3. Management Team

 <p>Eng. Edward Kinyua Msc, B.Tech (Mech. & Prod. Eng)</p>	<p>Director Petroleum & Gas: Heading the downstream petroleum & gas regulation function of the Authority.</p>
 <p>Mr. Cyprian Nyakundi MBA, Bcom, CPA(K)</p>	<p>Director, Enforcement & Consumer Protection: Heading the Enforcement & Consumer Protection function of the Authority</p>
 <p>CPA James Kilonzo MBA, Bcom, CPA(K), CISA</p>	<p>Ag. Director, Corporate Services: Heading the Corporate Services functions of the Authority (Finance & Accounts, HR & Admin, Corporate Communications & ICT)</p>
 <p>CPA Everlyne Orege MBA, Bcom, CPA (K), IIA.</p>	<p>Manager, Internal Audit and Risk Assurance: responsible for providing independent and objective assurance & risk management, governance and internal control processes are operating effectively.</p>

Energy & Petroleum Regulatory Authority

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3. Management Team

 <p>Ms. Loise Thuge MSc, BA MCIPS(UK), MKISM</p>	<p>Head of Supply Chain Management: Heading the supplies and procurement functions of the Authority.</p>
 <p>Ms. Esther Njengah MBA, Msc, PGDip, HRM. MIHRM, IHRM(P), MKIM</p>	<p>Ag. Manager Corporate Strategy & Performance: Heading the Corporate Strategy and Performance department of the Authority.</p>
 <p>Eng. Joseph Oketch MBA, BSc (Elec. Eng.), R. Eng., MIEK</p>	<p>Director Electricity & Renewable Energy: Heading the electricity & renewable energy subsector regulation function of the Authority</p>

Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2021

4. Chairman's Statement

I take great honor to present to you the Authority's annual report and financial statements for the year ended 30th June 2021. The report reflects the efforts made by the Authority towards achievement of the Government's Third Medium Term Plan 2017-2022 of the Vision 2030 that aims to transform Kenya into an industrialized middle-income country offering a high quality of life to all our citizens. The Authority has continued to support aspirations of the Big Four Agenda and subsequently the country's Vision 2030 in regulating and steering the energy sector towards sustainable, affordable and adequate energy services. This is attributed to the fact that energy is considered a major infrastructural enabler of the country's development agenda.

The Country's economic performance for the year experienced mixed performance, with the World Bank projecting a growth rate in the Gross Domestic product (GDP) by 4.5%. The expansion is attributed to partial easing of COVID-19 containment measures that consequently led to gradual resumption of a number of economic activities.

Successes

The Energy Act 2019 provides a framework for the energy sector development and coordination through the proposed 5-year National Energy Policy and the envisaged 3 year Integrated National Energy Plan (INEP). The Act aims to support provision of affordable, adequate and reliable electricity services to the country necessary to steer the country towards achieving its Vision 2030 objectives. A special focus on Renewable Energy resource utilization has been given prominence with investment in geothermal power production which offers comparatively lower generation tariffs being given priority.

The other key statute that is a pillar in the regulatory mandate of the Authority is the Petroleum Act 2019. The Act provides for the development of the National Petroleum Policy, a framework that guides the petroleum sub-sector owing to the successful discovery of crude oil in Turkana. The Authority's mandate in regulation of upstream petroleum and capacity building initiatives are bound to ensure successful regulation and promotion of the sector that is deemed crucial for achievement of the Big Four Agenda.

The Authority continues to spearhead the smooth functioning of the sector through the use of various regulatory instruments including licensing, Power Purchase Agreement (PPA) approvals, regulation development and enforcement, monitoring performance of sector utilities, Energy sector pricing as well as complaints resolutions. Each of these processes are being improved by ensuring that less time is taken to process any legal instrument issued by the Authority. Among critical activities this year, the Authority continued to monitor the implementation of Time of Use (TOU) tariff for large commercial and industrial consumers. In addition, the Authority continued with implementation of special tariffs for Special Economic Zones (SEZ) as well as introduced an Industrial and Commercial Tariff for customers to be metered at 220kV. The aim is to support Agro-processing and the manufacturing sectors as envisioned in the Big Four Agenda.

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. This energy transition initiative has seen consumption of LPG increase from 2.3 Kilos per Capita in 2012 to 7.5 Kilos per capita in 2021. On this account, the Authority is encouraging the shift to LPG through fiscal and regulatory incentives. That aside, the Authority continues to intensify the quality of petroleum fuels used in the country through a national marking and monitoring program and a revamped enforcement, compliance and consumer protection team with offices across the country. This will ensure that consumers are protected from adulterated fuels, malpractices in electrical energy service provision as well as quality control of petroleum dispensing facilities. The efforts also protect the Country's tax revenue by preventing dumping of tax-exempt export bound petroleum products into the local market.

Energy & Petroleum Regulatory Authority

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Chairman's Statement

With regard to the Energy Sector Plans, the Authority completed the coordination of the transitional Least Cost Power Development Plan 2020-2040, that will be an input into the Integrated National Energy Plan (INEP). The plan provides a framework for the sectors' development in terms of forecasted demand based on major demand drivers and projected supply in terms of committed projects in the electricity subsectors.

Challenges

The Authority continues to experience some challenges as it endeavours to discharge her mandate. There have been limitations associated with the Covid-19 pandemic that posed challenges to the regulatory mandate of the Authority. In order to mitigate this challenge, we have utilized technology for collaborations. We have continued to ensure prudent management of resources during this period.

The second challenge that the Authority faced during the year was that of inadequate manpower and physical resources to effectively carry out its mandate. The Authority has continued to seek appropriate approval to recruit.

Finalizing of the new regulation to ensure implementation of the Energy Act 2019 and Petroleum 2019 has been the other major challenge facing the sector. There are many regulations that required to be developed or updated to conform to the new statues. The Authority will continue to work with the Ministry of Energy and that of Petroleum and Mining to ensure these regulations are developed and implemented.

Lastly but not the least is the challenge of dealing with high cost of energy and petroleum services and products. This has occasionally created dissatisfaction with stakeholders who wish to pay lower costs on these services. There has been an upsurge in international oil prices that have affected the end user tariffs and prices. The Authority has been engaging with the government to ensure we manage the negative impacts such as increase in inflation.

Way Forward

Going forward, we will ensure continued collaborations with our stakeholders. We will continue to enhance our regulatory mandate by adopting best practices and improve the environment of doing business in the country.

Finally, the Authority 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 commend the Authority's staff, Management and my fellow Directors of the Board for the conclusion of yet another successful year and for executing our mandate with vigor, passion and distinction in our quest to meet or exceed our stakeholders' expectations.



Hon. Justice (Prof) Jackton B. Ojwang
Chairman

Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2021

5. Report of The Director General

As we conclude the 2020/21 financial year, I take this opportunity to appreciate the concerted efforts made in improving delivery of services to the public from all relevant stakeholders in the energy sector. The multiagency approach to planning and enforcement of regulations and guidelines within the sector has seen the Authority continue to achieve unprecedented levels of compliance to statutory requirements among regulated entities.

In accordance with Part 2 section 4-8 of the Energy Act of 2019, the Cabinet Secretary, in coordination with other stakeholders is mandated to develop an Integrated National Energy Plan (INEP) in respect of coal, renewable energy and electricity so as to ensure delivery of reliable energy services at least cost. During the year 2020/21, the Authority coordinated preparation of the transitional Least Cost Power Development Plan 2021-2040, which will be an input to the Integrated National Energy Plan.

At sector performance level, the electricity sub-sector performance continued to slowly recover from the adverse effects of the global pandemic, COVID-19, with peak demand for the year recorded to rise to 1,994MW in June 2021. The resurgence in the subsector also saw the energy peak rise to 36,338MWh for the one-year period ending June 2021. Electricity access in the country during the FY 2020/21 remained relatively stable at 77.4%, with 8,216,253 customers connected as May 2021. On electricity generation, the interconnected system in Kenya has a total installed capacity of 2,949.3MW as at June 2021, comprising of 838.1MW hydroelectric power generators, 863.1MW of Geothermal, 660.3MW of Thermal, 435.5MW of Wind, 90.3MW of Solar and 2MW from Biomass. In addition, there is also 34.4MW from isolated mini-grids bringing the total installed capacity to 2,984MW.

The Authority has continued its commitment to reviewing Power Purchase Agreements (PPA's) within 60 days of receipt of materially complete applications, in accordance with the Energy Act 2019, a significant reduction from the statutory 90 days stipulated in the Energy Act 2006. During the financial year, the Authority reviewed and approved amendment to the PPA between KPLC and Orpower4 for 139MW Olkaria III project within the stipulated timelines. The timely review ensures significantly reducing reliance on thermal generation as a move towards embracing renewable energy. Additionally, the country has heavily invested in wind and solar technologies. The financial year saw two new Independent Power Producers come on board to the grid, namely 100MW Kipeto Wind Power and 40MW Selenkei Solar Plant.

On power evacuation, the size of transmission network (400kV, 220kV and 132kV) is approximately 7,220KM of which 2,411.85km (33.4%) is owned by Kenya Electricity Transmission Company (KETRACO). This includes 1,008.41kms of 132kV lines, 382.5km of 220kV lines and 1,020km of 400kV lines which are currently being operated at 220kV awaiting construction and completion of Mariakani, Suswa and Isinya 400/220kV substations. KETRACO has since completed and commissioned 32 new substations and 20 substation extensions.

In the Petroleum sub-sector, for the period ending June 2021, the consumption for Illuminating Kerosene, Premium Motor Spirit, and Automotive Gas Oil was 151,657.71 M³, 2,088,661.65 M³ and 2,705,158.44 M³ respectively. By June 2021, the Authority had issued a total of 12,359 Petroleum Business Licenses. In addition, the Authority continues to set maximum retail prices for three critical products namely Diesel, Premium Motor Spirit and Illuminating Kerosene. The Authority additionally sets wholesale prices for the main supply depots in Kenya as stipulated in Energy Act 2019. The key determinants of pricing include, importation costs on international oil prices as per Platts, average bank exchange rates, taxes and levies, premiums, storage costs, pipeline tariff costs and transportation costs. This exercise has been efficiently and prudently executed on the 14th Day of every month without fail and with stakeholder participation in the whole pricing process.

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5. Report of The Director General

In the year under review, the Authority collected KES. 1.2 billion from the petroleum levy compared to KES. 1.1 billion the previous year, an increase of 16.5%. On the other hand, the electricity levy reduced by 10% from KES. 263 million in 2019/2020 to KES. 236 million in 2020/2021. We did not receive any Government support during the period. In total, non-exchange revenue went up by 11.2% from KES.1.31 billion in 2019/20 to KES. 1.46 billion in 2020/21. The total recurrent expenditure increased by 6.26% from KES. 1.29 billion in 2019/20 to KES. 1.35 billion in 2020/2021.

The Authority's total asset base increased by 32.2% from KES. 442.6 million in the previous period to KES. 588.9 million in 2020/21. Non-current assets decreased by 8% to KES. 220 million from KES. 233 million. Current assets went up by 76% to KES. 368.3 million from KES.209.6 million. This is attributed to increased cash position as a result of increase in petroleum levies collected. Current liabilities reduced by 10.9% to KES 244.9 million down from KES.274.6 million in the 2019/20 financial year. Further, total equity increased by 81.7% from KES 168.1 million in 2019/2020 to KES 344.1 million in 2020/2021.



Mr. Daniel Kiptoo Bargoria
Director General

Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2021

6. Statement of EPRA's performance against predetermined objectives.

Section 81 Subsection 2 (f) of the Public Finance Management Act, 2012 requires the accounting officer to include in the financial statement, a statement of the national government entity's performance against predetermined objectives.

EPRA has (4) strategic pillars and objectives within its Strategic Plan for the FY 2020/2021 - 2022/2023. These strategic pillars are as follows:

Pillar 1	Sustainable Development
Pillar 2	Innovation and Data Management
Pillar 3	Consumer Protection
Pillar 4	Institutional Capabilities

EPRA develops its annual work plans based on the above 4 pillars. Assessment of the Board's performance against its annual work plan is done on a quarterly basis. The EPRA achieved its performance targets set for the FY 2020/2021 period for its 4 strategic pillars, as indicated below:

Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2021

6. Statement of EPRA's performance against predetermined objectives.

<u>Strategic Pillar</u>	<u>Objective</u>	<u>Key Performance Indicators</u>	<u>Activities</u>	<u>Achievements</u>
Pillar 1- Sustainable Development	To promote energy sector growth and development	a)Regulatory Impact Assessment study reports b) Stakeholder/public participation in development/revision of regulations, standards and codes c)Energy efficiency and conservation measures d)Number of licenses/permits issued e)Turn-around time for processing licenses/permits	a)Develop regulations b)Undertake energy efficiency capacity building c)Process applications for Petroleum Business Licenses, Energy Auditors, Solar PV technicians, Energy Audit Firms, Solar PV contractors, electrical worker, electrical contractors and Power Purchase Agreements	a) A set of 11 Petroleum regulations were reviewed and taken through public stakeholder consultation; b) 4 capacity building forums on energy efficiency and 2 seminars for licensed energy auditors were organised; c) Processed a total of 19,984 petroleum and LPG business licences within an average of 9.59 days; d) Licensed 343 electrical workers and 146 electrical contractors within an average of 129 days and 18 days respectively.

Energy & Petroleum Regulatory Authority

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6. Statement of EPRA's performance against predetermined objectives.

<p>Pillar 2- Innovation and Data Management</p>	<p>To strengthen energy and petroleum sector research, data management and information dissemination</p>	<p>a)Research week b)Energy statistic reports c)No. of innovation events d)Staff sensitization</p>	<p>a)Undertake research and innovation week b)Undertake regulatory research on topical issues c) Analyse and report on electricity, energy efficiency renewable energy and petroleum statistics d)Implement the knowledge management policy</p>	<p>a) Research week was undertaken virtually in June 2021; b) Energy and Petroleum Statistics Report 2020 was published; c) Coordinated the sector LCPDP Technical Committee to review assumptions of electricity demand and supply forecasting within the framework of the Integrated National Energy Plan; d) Undertook estimation of electricity demand and supply for the period 2020-2040; e)Capacity building training on Knowledge management was undertaken for directors and managers.</p>
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Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2021

6. Statement of EPRA's performance against predetermined objectives.

<p>Pillar 3-Consumer Protection</p>	<p>To enhance regulatory awareness, compliance and safety (Consumer Protection)</p>	<p>a) Number of stakeholder sensitization forums on energy related issues b) No. of public safety campaigns conducted c) Report on outcome of inspections undertaken (compliant vs non-compliant) d) number of operational partnerships and collaborations</p>	<p>a) Organize public awareness/ sensitization forums b) Design and implement public safety campaigns c) Undertake inspections of petroleum, LPG, Renewable Energy and Electricity facilities, to enforce compliance with Energy Act 2019 and Petroleum Act 2019 d) Implement strategic partnership & collaboration</p>	<p>a) Conducted 4 stakeholder awareness and education campaigns on the Authority's social media platforms e.g. "Stori ya Gas" campaign; b) Hosted a total of 12 public awareness workshops across the country. Some of the workshops were streamed live to enable remote participation. c) A total of 22,370 tests were conducted at 4,887 petroleum sites. From the tests, 4880 (99.03%) of the sites were found to be compliant. However, tests from 47 sites (0.97%) turned out to be non-compliant; d) 2 joint workshops were undertaken with CAK.</p>
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Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2021

6. Statement of EPRA's performance against predetermined objectives.

<p>Pillar 4-Institutional Capability</p>	<p>To enhance our institutional capabilities (Institutional Capabilities)</p>	<p>a) Number of interns engaged b) Board Evaluation Report c) Compliance with the Quality Management System d) Number of processes audited e) Amount allocated to special groups, i.e., youth, women and PWDs f) Amount allocated to procurement budget for locally sourced goods and services g) Assets disposed f) Operational disaster recovery plan</p>	<p>a) Offer internship opportunities b) Undertake Board Evaluation c) Maintain the Quality Management System d) Provide risk assurance by performing risk-based audits of the processes e) Uptake of 30% value of tender awarded f) Reserve a minimum of 40% of the procurement budget for locally sourced goods and services g) Undertake disposal of idle assets h) Review and implement the disaster recovery plan</p>	<p>a) Engaged a total of 26 interns; b) Board Evaluation was undertaken on 29th July, 2020 and Board induction on 12th – 13th August, 2020; c) KEBS surveillance audit was undertaken in November at the Kisumu office, Nyeri office and the Headquarters; d) Realized a total of KSh 1,510,211,435.34 as compared to the revised projected revenue of KSh 1,887,092,148.887 representing 80.03%. c) Utilized KSh 1,295,714,731.04 out of a revised budgeted amount of KSh. 1,891,024,267.04 which represents 68.52% budget utilization. d) Awarded contracts worth KES 18,963,075.84 to Youths, Women and PWD categories of suppliers e) Awarded tenders worth KES 221,231,401.00 for supply of locally produced goods and services f) Disaster recovery site was setup in Kisumu</p>
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Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2021

7. Corporate Governance Statement

1. Introduction

The Board of Directors acknowledge the need to conduct the business and operations of the Authority with integrity and in accordance with generally accepted corporate practice and internationally developed principles of corporate governance. The Board recognize corporate governance as an essential element towards achieving the Authority's regulatory mandate provided in both the Energy Act, 2019 and Petroleum Act, 2019. The Board members 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 Authority;
- Ensure fair staff remuneration and promotion
- Promotion of legitimate interests of all stakeholders;
- Ensure that the organization acts as a good corporate citizen.

The Board members will continue to focus their attention on maintaining the highest standards of corporate governance and business ethics in the Authority's operations.

2. Board members

2.1 Board Composition, Appointment and Size

The Board of Directors of the Authority as provided under section 12 of the Energy Act, 2019 consist of the Chairman, the Principal Secretary in the Ministry of Energy or his representative, the Principal Secretary in the Ministry of Petroleum and Mining or his representative, the Principal Secretary in the National Treasury or his representative, one County Executive Committee member or his representative nominated by the Council of County Governors, the Director General and five other members who represent the private sector. The Chairman and the five members from the private sector are appointed by the President and the Cabinet Secretary respectively. The Chairman (Hon. Justice (Prof) Jackton B. Ojwang) is Non-Executive. The Chairman's term is four years and that of the other Board members is three years and the respective terms are renewable once for the same duration. The Director General is the Chief Executive of the Authority 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 Board with no voting rights at the Board meetings.

The Board 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 the Authority's operations.

The appointment of the Board members can be terminated in accordance with the provisions of Second Schedule of the Energy Act, 2019 or through voluntary resignation.

Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2021

7. Corporate Governance Statement

2.2. Independence and Separation of Roles and Responsibilities

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

The Chairman of the Board is primarily responsible for the activities of the Board and its Committees. The Chairman in consultation with the Director General sets the agenda for Board meetings, chairs the meetings and ensure effective communication to stakeholders. The Chairman acts as the spokesperson for the Authority and is the principal contact for the Director General. The Director-General who is the Chief Executive of the Authority, is responsible for the day-to-day management of the Authority subject to the Board's direction.

2.3. Board Responsibilities

The Board's responsibility is to promote the long-term success of the organization. The Board provides leadership, strategic direction and exercises effective control of the Authority. The Board members assume collective responsibilities though their duties are discharged through the Board or its Committees

2.4. Board and Committee Meetings

The Energy Act 2019 provides that Board 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 Board members and set out in the Board Work Plan. Notices of the location and the timing of meetings are issued seven days prior to the meetings. The Work Plan is adjusted when deemed necessary by the Board.

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

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

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, members were Prof. George Achoki (Chair), Mr. Wanjuki Muchemi, Ms. Jacqueline Mogeni, and Director General.

2.6. Technical Committee

The Technical Committee's responsibilities are to provide technical and strategic direction to the Authority and approve technical plans, activities, reports and budgets. During the year, the Committee members were Mrs. Lilian Mahiri-Zaja (Chair), Mr. Wanjuki Muchemi, Ms. Jacqueline Mogeni, Mr. Albert Mwenda and Director General.

Energy & Petroleum Regulatory Authority

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7. Corporate Governance Statement

2.7. Audit and Risk Committee

The responsibilities of the Audit and Risk Committee are to; review the financial information of the Authority, 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 Authority. During the year the Committee members were Dr. Sellah Kebenei (Chair), Eng. Samuel Mugo, Mrs. Lilian Mahiri-Zaja, Mr Moses Gitari, and Mr. Albert Mwenda.

2.8. Board Charter and Work Plan

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

2.9. Directors Induction and Skills Development

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

2.10. Board Effectiveness and Evaluation

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 Authority under the guidance of a representative of the State Corporation Advisory Committee (SCAC) conducts Board performance evaluation.

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

The Evaluation is undertaken at three levels:

- Peer Review
- Self-evaluation
- Board evaluation

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

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7. Corporate Governance Statement

2.11. Remuneration of the Board of Directors

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

2.12. Ethical Leadership and Corporate Citizenship

The Board members are required to act in the best interest of Authority 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 Authority over other interests. The Directors on appointment are sensitized on the requirements of the Mwongozo Code of Governance and have expressly committed to adhere to it.

Both the Board members and employees of the Authority are expected to act honestly and in good faith so as to create a culture built on principles of integrity, accountability and transparency. The Authority has developed a Code of Conduct and Ethics to guide the Directors and the employees when undertaking their duties. All the Board members and employees sign a declaration of interest form indicating they will disclose any interest that may conflict with the interest of the organization. The Board members declare their interest at every Board or Committee meeting. The Board members 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 Board members are appointed at different times so that the respective expiry dates of their terms of office falls at different times.

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7. Corporate Governance Statement

2.14. Compliance with the Law

The Authority conducts its business affairs in compliance with all applicable laws, regulations, policies and accepted national and international standards. The Authority is in compliance with the Constitution, the Energy Act 2019, the Petroleum Act 2019, Leadership and Integrity Act, 2012, the Public Officers Ethics Act, 2003, the Public Procurement and Assets Disposals Act, 2015, the Public Finance Management Act, 2012, the Employment Act among other legislation. The Board complies with the requirements of the Mwongozo Code of Governance and has developed a Board Charter that is based on the Mwongozo principles of good governance.

The following are significant cases in which the Authority is a party during the reporting period:

1) Council of County Governors vs ERC and 7 Others HC Pet. 279 of 2017

This matter was instituted by the Petitioners challenging the constitutionality of the functions and mandate of ERC as was provided for by the Energy Act, 2006. The Petitioners sought to have some of the mandate vested on the Authority 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 Council of County Governors alleges that the statutory laws establishing these government entities are unconstitutional. The matter is awaiting hearing in Court.

2) High Court Constitutional Petition No. 380 of 2019: Kenya Independent Petroleum Distributors Association Ltd v EPRA & IG of Police.

The suit relates to allegations that EPRA (1st Respondent) and the IG (2nd Respondent) on 19th September 2019 as well as on other occasions, unlawfully raided the premises of one of the members of the Petitioner (Mr. John Mwangi Kiarie) as well as other members of the Petitioner and preferred charges against him for not having an oil retailers license from EPRA. The Petitioner claims that the sought licenses as per the Energy Act, 2019 ought to be issued from the respective county government and not EPRA. The Petitioner is seeking temporary restraining orders against EPRA and the IG from raiding and closing down the business premises of the Petitioners members pending the hearing and determination of the suit. The matter is awaiting a hearing date.

3) ELC Petition No.31 of 2019: Justin Karionji Nyagah V EPRA and two others

The Petitioner seeks orders compelling EPRA to commence mediation proceedings to ensure resolution of a dispute brought about by the purported unlawful intrusion through electric poles into his property in Gumba Estate. The matter is awaiting a mention date.

4) Mombasa Civil Suit No. 2372 of 2018: Marine Waste Collection Dealers Ltd v ERC.

The Plaintiff alleges that the Commission forcefully invaded the Plaintiff's yard on 14th November 2018, assaulted three employees and confiscated working tools. The Plaintiff seeks orders restraining the Commission from entry and interference with the Petroleum business on LR.MN/1V/2457 Port Reitz, Changamwe Area, Mombasa County. The matter is awaiting mention date in court.

5) Bungoma Civil Suit No.77 of 2019: Margaribi Service Station Limited v ERC.

The matter was initiated by a licensed retail filling station operator disputing the existence of export bound petroleum in the products found his facility. Further, the operator disputes the mandate of the Commission to sub-contract the fuel marking and monitoring program. The matter is awaiting a hearing date in court.

7. Corporate Governance Statement

6) JR Misc. Application No. 60 OF 2020- Swift Energy Distributors Ltd. VS. EPRA

The Applicant filed this suit seeking leave to apply for Judicial review remedies of Certiorari, Mandamus and prohibition and for stay of EPRA's decision to close its premises. The matter is awaiting a mention date in court.

7) Constitutional Petition No. 5 of 2020: Swift Energy Distributors Limited Vs. EPRA and 2 Others

The Petitioner filed this Petition challenging the decision by the authority to revoke its license for storage and filling of cylinders. The matter is awaiting a mention date in Court.

8) Commercial Suit No. E728 of 2020: Moregas Limited vs. EPRA

The Plaintiff filed this suit seeking, *inter alia*, Injunctive Orders to have its premises unsealed, the release of a motor vehicle and cylinders belonging to the Plaintiff as well as an award of damages. The Plaintiff further filed an Application dated 5th October, 2020, under Certificate of Urgency seeking *inter alia*; interim injunctive orders against the Authority. The matter is awaiting a hearing date in Court.

9) Nakuru Civil Case No E3 of 2020 Excellent Logistics vs Topline Traders Limited & EPRA

The Plaintiff instituted this suit vide Plaint dated 21st October, 2020 seeking a permanent injunction restraining the 1st Defendant, Topline Traders Limited from trading, advertising, marketing, possessing the Plaintiff's LPG branded cylinders or cylinders closely resembling or incorporating the Plaintiff's trademarks. The Plaintiff alleges that the 1st Defendant infringed its Trademark and committed torts amounting to Passing off. The Plaintiff further alleges that the 2nd Defendant (EPRA) breached its statutory duties. The matter is awaiting a mention date in Court.

10) Nanyuki Law Courts Civil Case No. 1 OF 2020 Excellent Logistics Ltd VS. Oxx Energy Ltd. & EPRA

The Plaintiff instituted this suit seeking *inter alia*, a permanent injunction restraining the 1st Defendant, OXX Energy Limited from trading, advertising, marketing, possessing the Plaintiff's LPG branded cylinders or cylinders closely resembling or incorporating the Plaintiff's trademarks; an order directing the 2nd Defendant (EPRA) to commence investigations into the activities of the 1st Defendant; and an order directing the 2nd Defendant to close the 1st Defendant's premises where the alleged illegal refilling and selling of the Plaintiff's cylinders is undertaken. The Plaintiff alleges that the 1st Defendant infringed its Trademark and committed torts amounting to Passing off. The Plaintiff further alleges that the 2nd Defendant (EPRA) breached its statutory duties. The matter is awaiting a mention date.

11) Milimani Commercial Courts Civil Case No. E435 of 2021 Alfa Gas Limited VS. EPRA.

The Applicant instituted this suit seeking orders *inter alia*, that the Respondent (EPRA) be directed to reopen and unseal the Applicant's LPG storage and filling plant. The matter awaits a mention date in Court.

10) Kerugoya HCJR E001 OF 2021: Republic VS. EPRA & 3 Others and Jeremiah Gateri

The Applicant instituted the subject suit seeking judicial review orders of certiorari, prohibition and mandamus against EPRA, KEBS, KRA and the Deputy County Commissioner of Kirinyaga County for allegedly illegally sealing and closing down his petrol station. On 10th November 2020 during the fuel monitoring program at the station, the presence of domestic kerosene marker was detected in the Premium Motor Spirit (PMS) tank at the station confirming that the PMS product was adulterated. The matter awaits a mention date in Court.

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7. Corporate Governance Statement

11) Kiambu Civil Case No. E109 OF 2019- Hunkar Trading Co. Ltd. vs. ERPA, PIEA & DCI

The Plaintiff filed this suit seeking, *inter alia*, Injunctive Orders to have its premises unsealed. The Plaintiff further filed an Application dated 4th March 2021, under Certificate of Urgency seeking *inter alia*; interim injunctive orders against the Authority. This was following an enforcement activity at the Plaintiff's facility on 3rd March 2021 wherein the plaintiff's agents and or employees, refilling nine (9) LPG cylinders belonging to other brand owners without their authorization or consent. The matter awaits a mention date in Court.

12) Judicial Review Application No.E021 OF 2021-Joseph Karanja Nganga T/A Simkel Traders vs. EPRA

The Applicant has filed a Chamber Summons Application seeking leave to apply for JR orders compelling the Respondent to forthwith release, handover, deliver back, restore possession use and control of Petroleum Tanker KAS 231B. the matter awaits a ruling date in Court.

13) Milimani Civil Case No. E1854/ 2021- Country Choice Limited vs. EPRA

The Plaintiff instituted the present suit seeking, *inter alia*, orders restraining the Authority from interfering with their business. On 23rd March, 2021, they filed a further Application seeking orders to have their facility unsealed and reopened. The Applicant was granted interim ex-parte orders directing the Authority to re-open the facility. The matter awaits a mention date in court.

14) Nakuru HCJR No. 6 OF 2021- Smart Gas Energy Limited VS. EPRA

The Applicant commenced the present proceedings seeking leave to apply for Judicial Review orders of Mandamus, Prohibition and Certiorari and stay of the Authority's decision to close and seal its LPG storage and filling facility. On 31st March 2021, the Court via Order dated on even date, granted the Applicant to leave apply for Judicial Review. The matter is awaiting a mention date.

15) Makadara Misc Case No. 201 OF 2021- Green Energy Limited VS. EPRA.

The Applicant filed this suit on 6th April, 2021 seeking, *inter alia*, Injunctive Orders to have its premises unsealed. The matter is awaiting a ruling date.

16) Milimani Civil Suit No. E777 OF 2021 - Salama Gas Ltd vs EPRA

The Applicants filed this suit seeking, *inter alia*, Injunctive Orders to have its premises unsealed. The Applicant was then granted interim ex-parte orders directing the Authority to re-open the facility. The matter is awaiting a hearing date in Court.

17) Constitutional Petition No.173 OF 2021 City Gas East Africa Ltd vs EPRA, IG, DCI & AG

The Petitioner filed the Petition seeking a declaration that the action by the Respondent of sealing the Petitioner's facility amounted to violation of the Petitioners' right to own property as well as the Petitioners' right to fair hearing. The matter awaits a mention date in Court.

18) Milimani Commercial Suit No. E.877 OF 2021- Kofurow Gas Limited vs. EPRA.

Energy & Petroleum Regulatory Authority

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7. Corporate Governance Statement

The Applicants filed this suit seeking, *inter alia*, Injunctive Orders to have its premises unsealed. The Applicant was then granted interim ex-parte orders directing the Authority to re-open the facility. The matter is awaiting a hearing date in Court.

GOVERNANCE AUDIT

The Mwongozo Code requires all State Corporations to comply with governance parameters as set out in the Constitution, applicable laws and best practices. It sets out the modalities of compliance on governance matters within State Corporations. State Corporations are required to conduct a governance audit annually with an objective of establishing their level of compliance with relevant regulatory requirements and sound governance practices.

This makes it necessary for the Authority to carry out periodic governance audits to ensure that their structures, policies, systems and practices are in conformity with the Constitution and relevant regulatory requirements as well as the highest standards of good governance and identify areas for improvement.

Within the financial year 2019-2020, the Authority duly procured the law firm M/s Munyao, Muthama and Kashindi Advocates to undertake a Governance Audit of the Authority. Implementation of the recommendations of the Governance Audit Report was undertaken during the financial year 2020-2021.

The audit exercise enabled the Authority to minimize governance risks and ensure it conducts and operates in accordance with the Constitution, all relevant laws and best practices anchored in principles of good governance, accountability and transparency. In addition, the audit ascertained the Authority's compliance and enforcement levels.

LEGAL AUDIT

The Mwongozo Code requires all State Corporations to conduct a legal compliance audit at least once every two years to check on their level of compliance with the Constitution of Kenya 2010, applicable laws, regulations, policies, guidelines and circulars.

Within the financial year 2020-2021, the Authority engaged the firm of Munyao, Muthama and Kashindi (MMK) Advocates together with consultants from KPMG and three other individual consultants to conduct a legal compliance audit as required by the Mwongozo Code of Governance for State Corporations (Mwongozo Code). The legal compliance audit covered the 2018/2019 and 2019/2020 financial years.

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7. Corporate Governance Statement

2.15. Delegation of Responsibilities

The preparation of Authority'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 Authority's annual financial statements and
- The safeguarding of Authority's assets

Responsibility for the integrity, reliability and objectivity of the Authority's financial statements lies with the Board. 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 Board has recognized 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 Authority; from the setting of objectives, to financial planning towards achieving the set objectives, through to departmental processes established to aid provision of services by the Authority. It is believed that effective risk management will help the Authority to achieve its corporate objectives and provide better services. The Authority 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 Authority. The Authority through the Audit and Risk Committee has a responsibility for overseeing risk management within Authority by ensuring that appropriate risk management strategies and policies are in place, and that processes established are adequate and effective. The Board defines the Authority's overall level of risk tolerance and ensures that there are adequate tools and resources for managing risks. The Board 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 Authority 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 EPRA. The continuity of operations is ensured by safeguarding critical functions and essential resources.

Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2021

7. 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

Board of Directors	Designation	Board Meeting Total No. of Meetings (21)	Finance & Administration Committee - Total No. of Meetings (14)	Technical Committee - Total No. of Meetings (8)	Audit & Risk Committee - Total No. of Meetings (3)	Pension Board Meetings (2)
Hon. Justice Jackton Ojwang	Board Chairman	19/21				
Eng. Samuel Maugo	Member	12/21	1/14	1/8	3/3	2/2
Dr. Sellah Kebenei	Member	18/21	1/14	2/8	3/3	2/2
Ms. Lilian Mahiri-Zaja	Member	13/21	1/14	5/8	3/3	
Prof. George Achoki	Member	21/21	13/14	2/8		2/2
Mr. Moses Gitari	Member	18/21		2/8	3/3	
Mr. Wanjuki Muchemi	Member	21/21	13/14	6/8		
Mr. Albert Mwenda	Member	13/21	12/14	1/8	1/3	
Mr. Wanjuki Muchemi	Member	21/21	13/14	6/8		
Mr. Daniel Kiptoo	Director General	14/21	10/14	7/8		

Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2021

8. Management Discussion and Analysis

SECTION A: OPERATIONAL AND FINANCIAL PERFORMANCE

ECONOMIC REGULATION

The year ending June 2021 saw Kenya's total installed capacity rise to 2,949.3MW, comprising of 838.1MW hydroelectric power generators, 863.1MW of Geothermal, 660.3MW of Thermal, 435.5MW of Wind, 90.3MW of Solar and 2MW from Biomass. Notable during the year was the addition of two Independent power producers into the National Grid, namely; 100MW Kipeto Wind Power Plant and the 40 Selenkei Solar plant.

In addition, there is also 34.4MW from isolated mini-grids bringing the total installed capacity to 2,984MW. This was against maximum demand of 1,994MW and energy peak demand of 36,338MWh recorded in June 2021. The contribution of each technology to the interconnected system is illustrated in table 1.

Table 1 Generation Capacity as at June 2021

Generation Type	Mar-21		June -21		% contribution (Effective)
	Installed MW	Effective MW	Installed ¹ MW	Effective ³ MW	
Hydro	816.2	766.9	838.1	809.1	28.79%
Geothermal	251.4	244.9	863.1	805.1	28.65%
Thermal (MSD)	466.0	447.5	660.3	640.4	22.79%
Temporary Thermal -grid	120.0	120.0	0	0	0.00%
Thermal (GT)	60.0	27.0	60.0	56.0	1.99%
Wind	5.1	5.1	435.5	384.5	13.68%
Biomass	26.0	22.0	2.0	2.0	0.07%
Solar	-	-	90.3	90.3	3.21%
Interconnected System	1,745	1,633	2,949.3	2,787.4	99.18%
Off grid thermal	22.1	18.7	31.5	21.3	0.76%
Off grid Solar	0.6	0.2	2.3	1.9	0.07%
Off grid Wind	0.2	0.5	0.6	0	0.00%
Imports	-	-	-	-	0.00%
Total Capacity MW	1,768	1,653	2,984	2,811²	100.0%

Energy Planning

During the financial year 2020/2021, the Energy and Petroleum Regulatory Authority prepared the transitional Least Cost Power Development 2021-2040 as envisaged in Part II section 5(1) of the Energy Act 2019. The LCPDP will feed into the Integrated National Energy Master Plan as outlined in the Energy Act 2019. The plan integrated recommendations and took into account the Revised IPP/PPA taskforce report 2020, Sustainability report for KPLC by joint EPRA/KPLC/Treasury team, Post Covid 19 sector report and Revised planting sequence of generation projects arising from Force Majeure recommendations by sector players.

From the simulations, energy demand is forecasted to grow at an average of 5.28% while the peak load is forecasted to grow at an average of 5.38% in the reference scenario; 8.20% and 8.35% in the vision scenario and 4.78% and 4.89% in the low scenario respectively. Peak demand is forecasted to grow at an average of 5.3% from 1,976MW in the base year to 5,526MW at the end of the planning period under the Reference scenario. Similarly, under the Vision scenario peak demand increases to 9,635MW in 2040 growing at an average rate of 8.35%. The Low scenario peak demand increases to 5,028MW in 2040 at an average rate of 4.89%.

Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2021

Management Discussion and Analysis

Under the fixed case with candidates scenario in Generation planning, the total interconnected capacity grows from the current total interconnected capacity of 2,654 MW in 2020 to 8,186.5 MW in 2040. The reserve margin as percentage of peak load averages 13% over the planning period. The LEC increases from US Cents 8.31/kWh in 2020 to peak at US Cents 12.68/kWh in 2027, before decreasing to US Cents 11.12 /kWh in 2040. Under the Optimised case reference demand scenario, the total interconnected capacity grows from the current 2,654 MW in 2020 to 8,186 MW in 2040. The average annual excess energy as share of generation in the period 2020-2030 is 1%, but increases thereafter to an average of 4%. However, the level of vented steam remains high at an average of 18% of the possible maximum geothermal generation over the planning period. The LEC, rises from US Cents 8.31/KWh in 2020 to peak at US Cents 10.23/KWh in 2033, before decreasing to US Cents 9.69 /KWh in 2040

From the simulations of tariff evolution, the total cost implication for planned projects under the optimized case is KShs. 692,302,518,693. The average base retail tariff is projected to increase from KSh20.85/kWh in 2020 to KShs. 24.48/kWh in 2025. The generation cost in the rises from Kshs.9.82/kWh in 2020 to KSh. 11.68/kWh in 2025. The fixed case with candidates in the period 2020-2025 is KShs 723,806,943,976. The average base retail tariff is projected to increase from the KShs 20.85/kWh to KShs 25.98/kWh. Over the same period, the generation unit cost is estimated to rise from Kshs 9.82/kWh in 2020 to 13.00/kWh in 2025.

Energy Pricing

The Authority is mandated under Sections 11(c) and 163(1) of the Energy Act, 2019 to review and approve bulk tariffs and network tariffs.

Bulk Electricity Tariffs/Prices

The Energy Act, 2019 mandates the Energy & Petroleum Regulatory Authority to process Power Purchase Agreements within 60 days of their receipt.

During the financial year 2020/21, the Authority received and approved the amendment to the Power Purchase Agreement between Kenya Power and Orpower 4. Inc. for the Olkaria III Power Plant within 28 days.

Mini-grid Tariffs

During the financial year under review, the Authority received and approved various mini-grid applications for tariff approval and tariff renewal as shown below:

- i. Yelele Limited for a site in Kalobeyei Settlement, Turkana County
- ii. Renewvia Limited for a site in Olkirimatian, Kajiado County
- iii. Magiro hydro power for sites in Muranga County
- iv. Renewvia Kenya Limited for sites in Ndeda and Oyamo, Homabay County
- v. Kudura Power East Africa for 10 sites in Busia County
- vi. Talek Power for a site in Talek town in Narok County
- vii. Renewvia Kenya Limited in Ringiti Island, Homabay County

Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2021

Management Discussion and Analysis

Retail Electricity Prices

During the financial year under review, the approved Fuel Energy Cost (FEC) increased from Ksh 2.4/kWh in July 2020 to Ksh 3.3/kWh in June 2021 as thermal generation increased from 6.2% to 8.2% over the same period. Hydropower generation decreased over the period from 36.5% to 31% due to declined hydrology. WARMA levy was therefore reflected at KShs 0.0211/kWh and 0.0223/kWh in June 2021 and July 2020 respectively. FERFA increased over the financial year and was reflected in consumer bills at KShs +0.39647/kWh in July 2020 and KShs +0.7672/kWh in June 2021. Similarly, Inflation adjustment on end-user tariffs increased from KShs 0.3 /kWh to KShs 0.37 /kWh.

Petroleum Pump Prices

According to Part III section 11 (b) of the Energy Act 2019, the Energy & Petroleum Regulatory Authority has the powers set, review and approve contracts, tariffs and charges for common user petroleum logistics facilities and petroleum products. On this account, the Authority, on 14th of every month publishes prices for selected petroleum products which includes Premium Motor Spirit (PMS), Automotive Gas Oil (AGO) and Dual Purpose Kerosene (DPK).

EPRA Energy and Petroleum Statistics Report 2021

Pursuant to Section 10(jj) of the Energy Act, 2019, the Energy and Petroleum Regulatory Authority is mandated to collect and maintain energy data. During the financial year 2020/2021, the authority undertook the collection, collation, analysis and maintenance the energy data and statistics which was used in the preparation of the bi-annual and the annual Energy and Petroleum Statistics Reports.

Research Papers

During the financial year 2020/2021 the Authority undertook research on the impact of adoption of digital technology on energy regulatory practices in Kenya. The research study focused on how digital technology has influenced performance and execution of the mandate of the Authority as provided in the Energy Act 2019 as well as its predecessor Energy Act 2006. The study assessed digitization of licensing, pricing, enforcement and consumer protection, customer service and corporate service practices within itself.

The findings which were presented during the research and innovation day revealed that the digitalization of the Authority's services has improved efficiency in the operations of the Authority, improved level of customer satisfaction and an improvement in the image of the organization.

Research and Innovation Week

One of the key strategic priorities of the Energy and Petroleum Regulatory Authority is strengthening Energy and Petroleum Sector Research, data management and information technology. In line with this the Authority held the Second Research and Innovation week during the 4th quarter of the financial year 2020/2021.

The virtual workshop majorly involved the internal stakeholders due to limitations paused by the covid 19 pandemic. The workshop saw presentation of nine research papers by the Authority's staff with each Directorate and Departments well represented. The activity also involved external judges among them Academicians and Energy sector players.

Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2021

Management Discussion and Analysis

Performance and Competition monitoring in the Energy Sector

The Energy and Petroleum Regulatory Authority (EPRA) undertakes an assessment of the performance and state of competition of the Energy Sector annually. This is in a bid to provide an in-depth analysis of the trends in energy sector growth and development in terms of the Key Performance Indicators (KPIs) which include; competition, infrastructural development, governance and regulatory environment and their combined outcome as based on impact to consumers.

The information paper for the financial year 2020/2021 analyzed the impacts of emerging trends in the Kenya Energy and petroleum. These included the effects of the COVID-19 pandemic that shocked the world since 2020 as well as compliance with global environmental commitments.

With regards to competition in the electricity subsector the paper established the rate of competition in electricity generation to be low at 0.54 in comparison to the EPRA required threshold of 0.1. The paper therefore recommends the need to encourage new entrants into the generation market to enable dispatch based on cost of generation. For the petroleum subsector the paper recommends the need for the Authority to monitor the Rate at which mergers and acquisitions are undertaken to prevent further increase of the HHI.

PETROLEUM AND GAS

The Authority has the mandate to implement the functions as listed under the Petroleum Act No. 2 of 2019 ("the Petroleum Act"), namely regulation of the up-, mid- and downstream sub-sectors.

1. Construction Permits issued.

- a. During the period, the Authority reviewed a total of 1,123 construction permit applications. Of these, 263 were approved having submitted materially complete applications. In the same period, 860 were rejected for not meeting the license application requirements.
- b. Table 1 and Figure 1 below shows the performance in the period.

Table 1: *Applications for construction permits received and the average performance*

Application Category	Approved with conditions	Deferred	Average No. of days to Process	Total
2018/19	82	129	15.09	211
2019/20	95	214	13.02	309
2020/21	86	517	8.86	603
Total No. of applications processed in the period				1,123

Management Discussion and Analysis

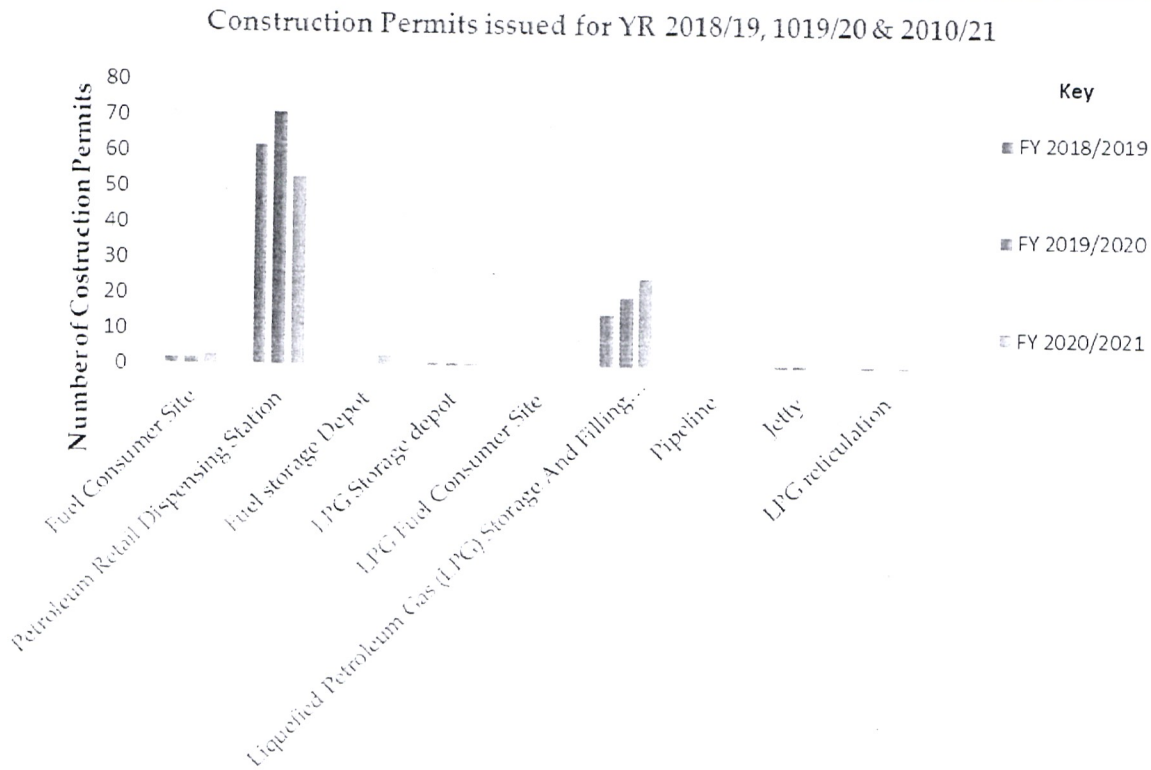


Figure 1:-Graph showing trend of applications received in the financial years 2018/2019 to 2020/2021

2. Issuance of Licences for Petroleum Undertakings

During the period, the Authority reviewed a total of 46,353 licence for petroleum undertakings. Of these, 29,883 were approved having submitted materially complete applications. In the same period, 16,470 were rejected for not meeting the license application requirements.

Table 2 below and Figure 2 shows the performance in the period.

Table 2: Applications received and the average performance

Management Discussion and Analysis

Financial Year	Average Processing days			Total Number of Applications processed
	Petroleum Business Licences	Tanker permits	Petroleum Tanker Driver Certificates	
2018/2019	13.993	14.322	14.052	4,025
2019/2020	9.830	8.864	8.677	22,344
2020/2021	10.240	7.265	9.588	19,984
Total applications processed in the period				46,353

Graph Showing Applications Received and Average Performance for FY 2018/2019 to 2020/2021

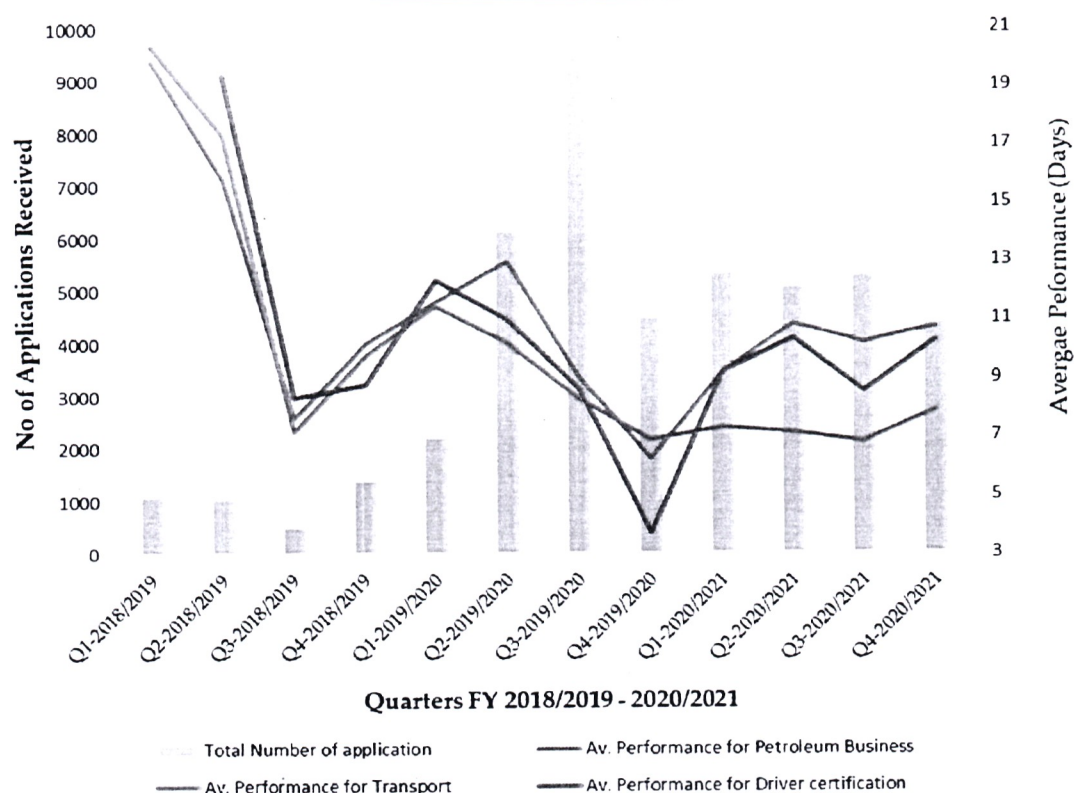


Figure 2:-Graph showing trend of applications received and the average performance for the financial years 2018/2019 to 2020/2021

3. Carrying out technical audits for petroleum facilities

During the period, the Authority carried out a total of **1,057** technical audits on petroleum facilities. The facilities included petroleum bulk storage facilities, LPG storage and refilling plants, pipelines and retail sites.

From the results of the audits, **911** showed a compliance rate of over 50% and **146** were below 50%.

Management Discussion and Analysis

Corrective action plans were developed and agreed by all the audited facilities and the same was forwarded to the Directorate of Enforcement and Consumer Protection (EC&P) for follow-up.

Figures 3 and 4 below shows the performance in the period.

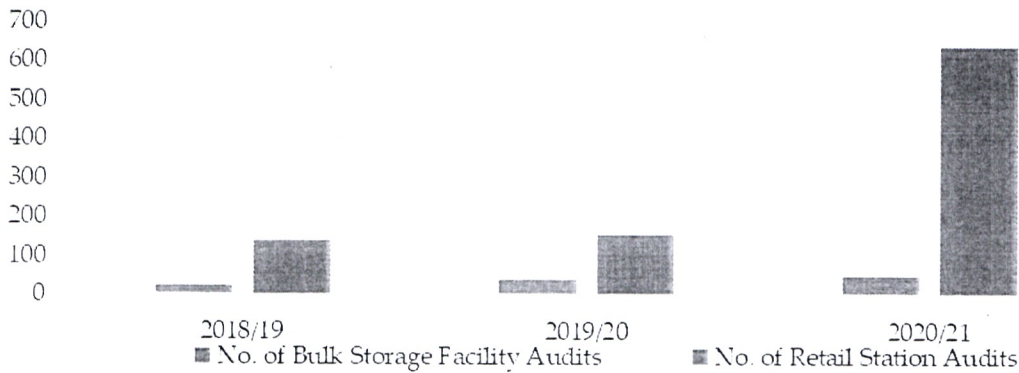


Figure 3: Technical audits carried out in the financial years 2018/19 to 2020/21

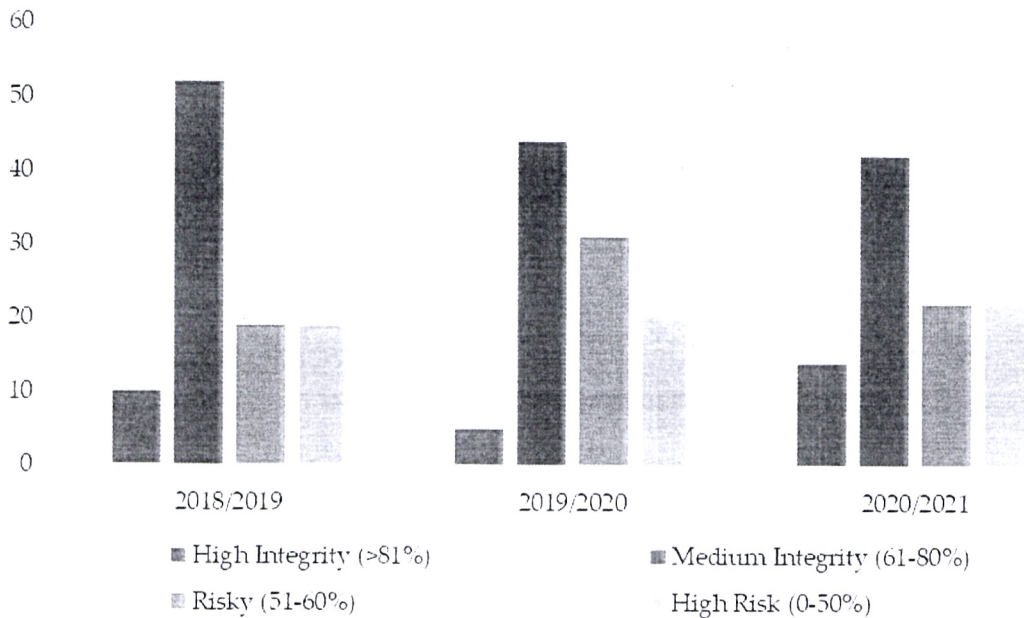


Figure 4: Performance of facilities audited in the financial years 2018/19 to 2020/21

4. Carrying out accident investigations in the petroleum sector

During the period, the Authority carried out a total of 105 petroleum accident investigations of the 105 reported.

Management Discussion and Analysis

The investigations are as shown in Figure 5 below.

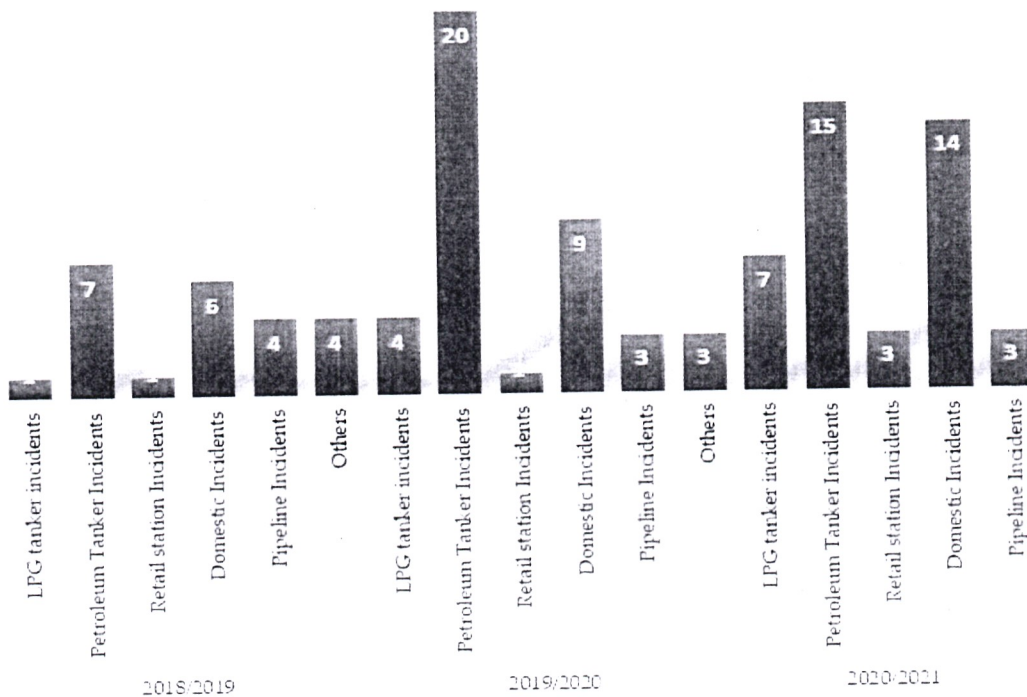


Figure 5: Classification of petroleum accidents in the financial years 2018/19 to 2020/21

5. Collating and maintaining petroleum data and statistics

During the period, the Authority collated, analysed and maintained petroleum data and statistics for the sector.

Management Discussion and Analysis

The petroleum data and statistics for the period are as listed in Annex I, here-in attached.

Compliance Status of Audited Stations

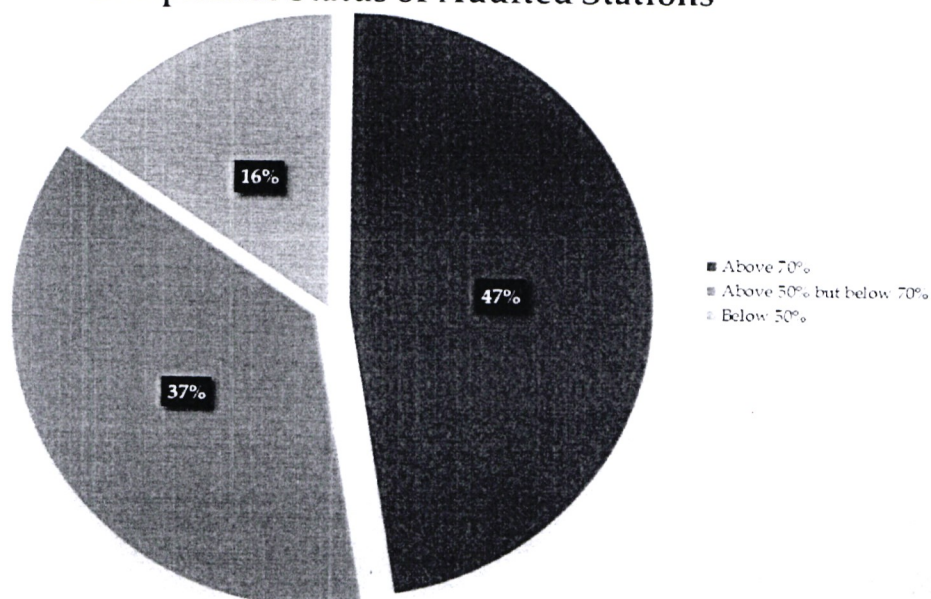


Figure 6: Compliance status of retail stations audited in the financial year 2020/2021.

ANNEX I: PETROLEUM DATA AND STATISTICS

Table 3:-Consumption of Imported Petroleum products from 2018/2019

Month	IK (M ³)	JET A1 (M ³)	AGO (M ³)	PMS (M ³)	Total (M ³)
Jul '18 - Sep '18	91,771.08	229,918.92	679,192.66	467,356.02	1,468,238.69
Oct '18 - Dec '18	62,025.33	208,760.63	609,859.24	471,045.13	1,351,690.34
Jan '19 - Mar '19	64,024.18	221,618.34	654,489.74	484,254.20	1,424,386.47
Apr '19 - Jun '19	55,092.80	207,222.79	663,841.97	488,270.16	1,414,427.71
Total FY 2018/2019	272,913.40	867,520.68	2,607,383.61	1,910,925.51	5,658,743.21

Table 4:-Consumption of Imported Petroleum products from 2019/2020

Month	IK (M ³)	JET A1 (M ³)	AGO (M ³)	PMS (M ³)	Total (M ³)
Jul '19 - Sep '19	46,655.33	234,300.09	662,249.66	494,140.26	1,437,345.33
Oct '19 - Dec '19	48,152.95	225,730.15	620,517.51	503,378.60	1,397,779.21
Jan '20 - Mar '20	38,747.51	207,443.05	652,507.69	482,834.85	1,381,533.09
Apr '20 - Jun '20	43,087.24	54,802.00	515,333.15	385,849.75	999,072.12
Total FY 2019/2020	176,643.00	722,275.28	2,450,608.01	1,866,203.45	5,215,729.74

Table 5:-Consumption of Imported Petroleum products from 2020/2021

Management Discussion and Analysis

Month	IK (M³)	JET A1 (M³)	AGO (M³)	PMS (M³)	Total (M³)
Jul '20 - Sep '20	39,094.86	106,230.57	676,656.69	509,209.80	1,331,191.93
Oct '20 - Dec '20	35,351.52	137,876.40	691,217.35	553,348.72	1,417,793.96
Jan '21 - Mar '21	40,828.47	158,074.23	680,607.65	522,350.04	1,401,860.39
Apr '21 - Jun '21	36,382.88	140,887.20	656,676.76	503,753.09	1,337,699.91
Total FY 2020/2021	150,359.74	565,821.70	2,712,904.47	2,100,157.41	5,529,243.31

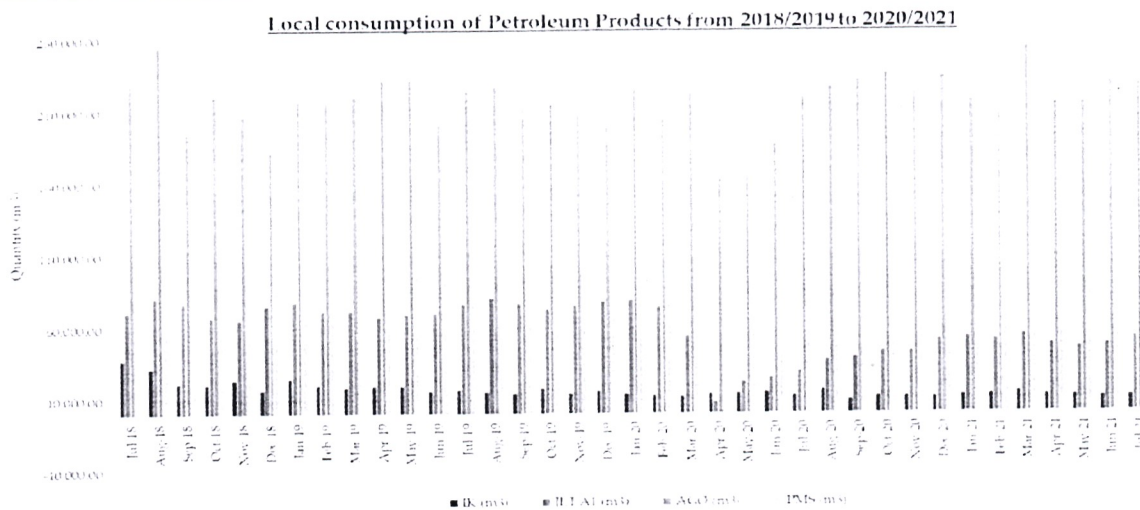


Figure 7:-Local consumption of imported petroleum products in the period 2018/19 to 2020/21

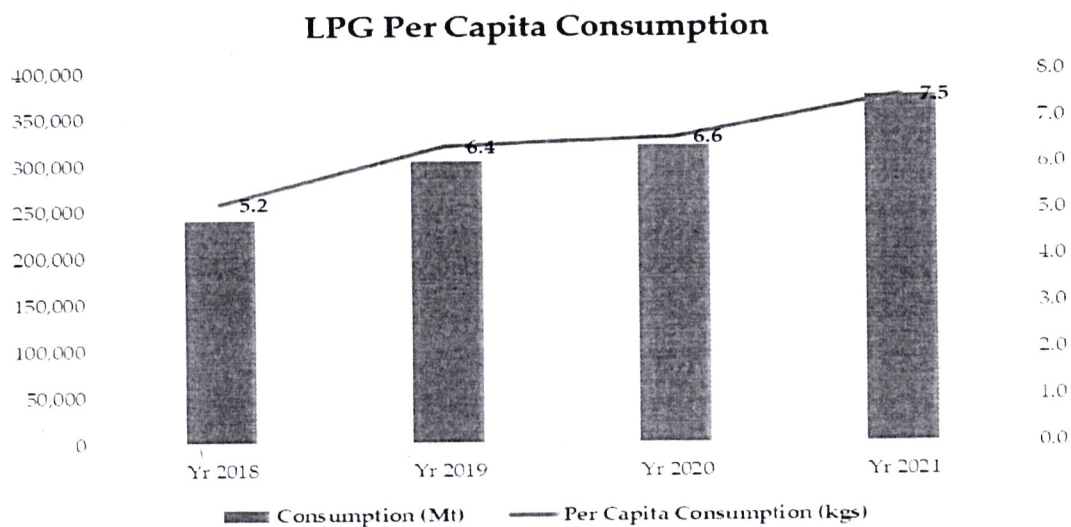


Figure 8:-LPG consumption per-capita in the periods 2018/19 to 2020/21

ELECTRICITY AND RENEWABLE ENERGY

Table 6:-Licences issued from 2019/20- 2020/21 (Renewable Energy)

Energy & Petroleum Regulatory Authority

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Management Discussion and Analysis

Year	Solar PV Technician	Solar PV Contractors	Energy Auditors	Energy Audit Firms	Appliance Registration Certificates issued
2020/2021	47	159	5	1	401
2019/2020	60	105	7	0	380

Table 7:-*Technical Audits from 2019/2020-2020/21 (Renewable Energy)*

Year	Solar PV	Energy Management Compliance	Control Audits	Standards and Labeling
2020/2021	23	30	33	30
2019/2020	20	30	27	30

Table 8:-*Technical Audits and project Monitoring for the last 3 years (Electricity)*

Year	Technical audits for facilities carried out	Generation and transmission projects monitored	New Connections Audited/Inspected (Metering points)
2019/2020	10	8	486
2020/2021	11	11	525

Table 9:-*Licences Issued for the last 3 years (Electricity)*

Financial Year	Issued Electrical Worker Licences	Issued Electrical Contractor Licences	Issued Power Undertaking Licences	
			Generation licences	Distribution and Supply Licences for Mini Grids.
2019/2020	282	203	14	10
2020/2021	426	270	42	16
2021/2022*	351	129	11	7

ENFORCEMENT AND COMPLIANCE

Petroleum Fuels Marking and Monitoring Program:

This ensures that all petroleum products offered for sale in Kenya conforms to the Kenyan standards. The monitoring program involves marking of all export petroleum products and all local domestic kerosene at all loading depots across the country. Additionally, the program includes random inspections of petroleum retail facilities and carrying out quality tests to ensure compliance.

Management Discussion and Analysis

Volumes of Petroleum products marked with Export and Kerosene markers

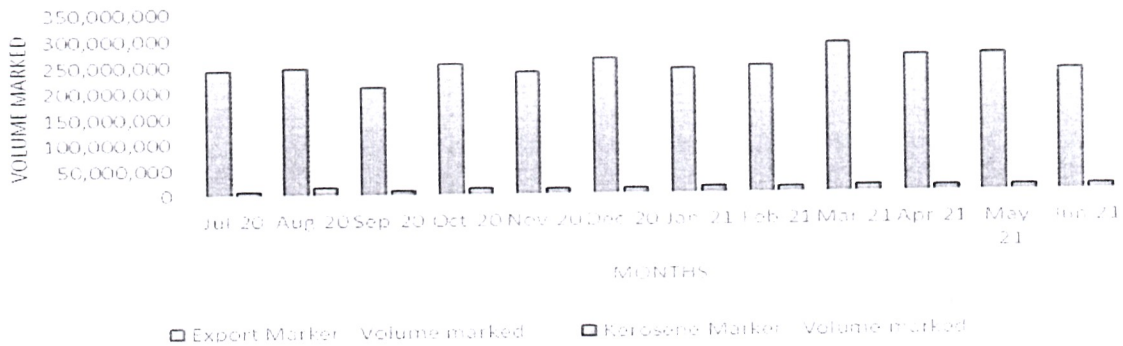


Figure 9:-Volumes of Petroleum Products marked with Export & Kerosene Markers during FY 2020-21

Number of Samples tested

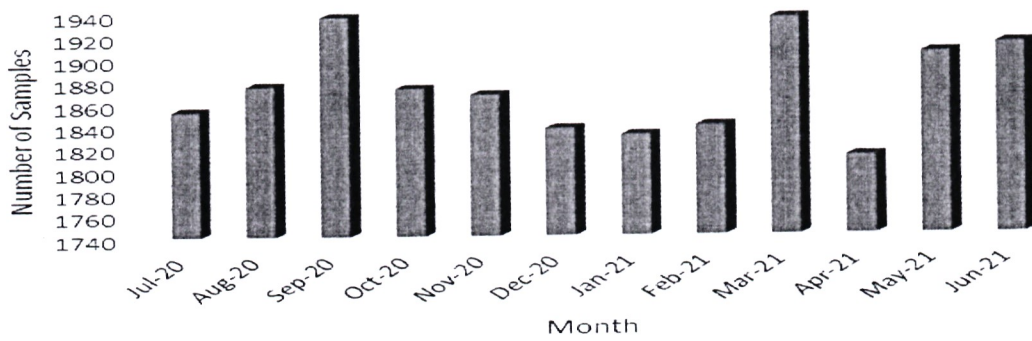
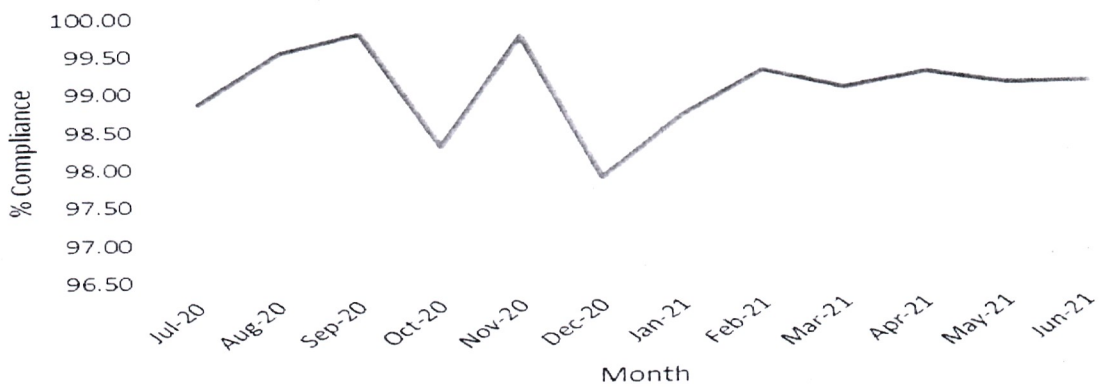


Figure 10:-Number of samples tested during the FY 2020-21

% Compliance



Management Discussion and Analysis

Figure 11:-Percentage of fuel quality compliance for the FY 2020-21

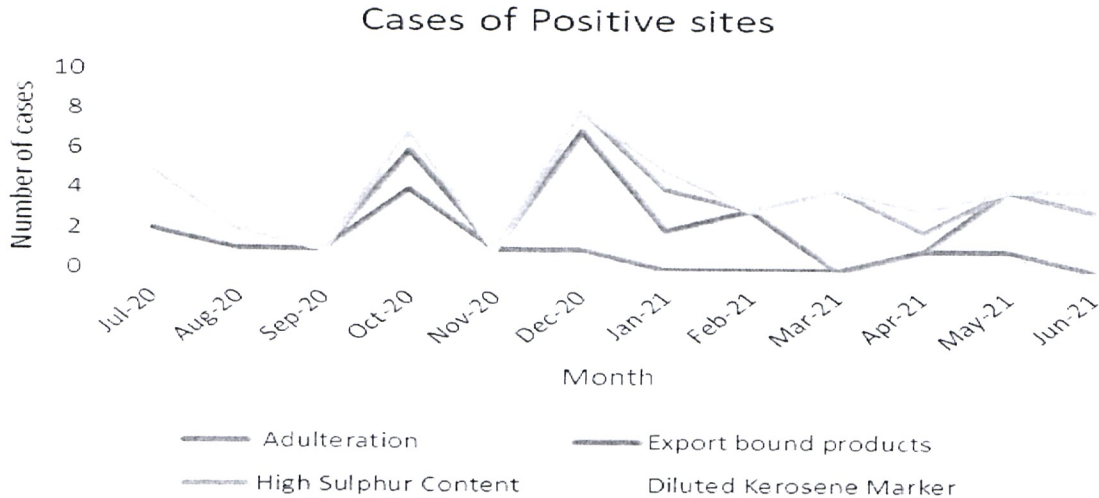


Figure 12:-Number of cases of positive sites for the FY 2020/21

LPG COMPLIANCE

Inspections are undertaken to ensure that all LPG businesses in Kenya operate in a safe manner. During the period FY 2020/21, the Authority undertook inspections of 36 LPG Storage & filling facilities, 1,560 wholesale and retail sites and 150 LPG Road tankers. So far, the programme has seen an increase in the overall compliance level to 83% up from 72% in the previous year. The non-compliant sites were published in the newspapers on quarterly basis to deter non-compliant practices in addition to prosecution.

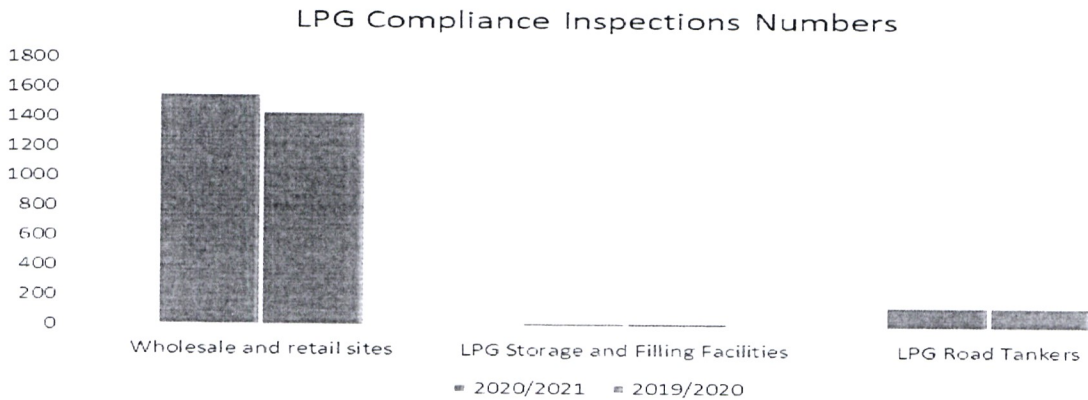
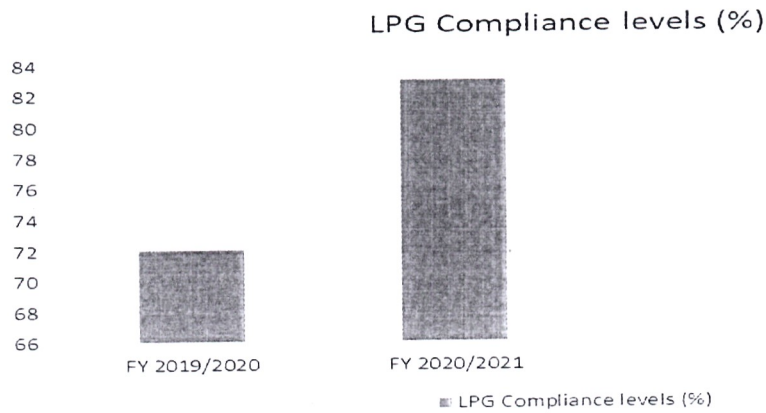


Figure 13:-LPG Compliance Inspection Numbers FY2019/20 & FY2020-21

Management Discussion and Analysis



Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2021

9. Environmental and Sustainability Reporting

During the review period, the Authority revised the Corporate Social Responsibility (CSR) Policy to align it with the dynamic strategic environment and the growing stakeholder base. The policy identifies Corporate Governance and Ethical Business Practices, Environmental Rehabilitation, Responsibility to Communities, Promoting Energy Efficiency, Support for Education causes, Responsibility for Consumers and Staff as the key pillars of EPRA's CSR programs. During the Financial Year 2020/21, the Authority undertook the following CSR activities:

Health

The Covid-19 pandemic that started as a health crisis in Quarter three (3) later escalated into an economic crisis putting a financial burden on governments around the world. The Kenyan government set up an Emergency Response Fund and appealed to both individuals and corporates in the country to assist in the fight against the virus through donations to the Fund.

The Authority responded to the appeal by donating Kshs. 10 Million to the Fund. The donation was used to support the government's efforts in the supply of medical facilities and equipment and support for vulnerable communities.

Environmental Performance

The regulation activities of the Authority contribute to environmental conservation. Apart from these, the Authority is also keen on undertaking extra activities, outside its regulatory mandate, to promote environmental stewardship. One of the activities is under the Presidential Directive to dedicate 10% of the CSR budget towards tree planting activities. In the year under review, the Authority planted an additional 10,000 trees in Menengai forest, Nakuru County. The exercise was conducted in collaboration with the Kenya Forest Service and the Menengai Forest Service. The former allocated the land and the latter provided support for the pitting and maintenance of the seedlings. During project implementation, all procurement related to manpower, food & beverage, seedlings and other logistics was done within the surrounding communities to ensure they directly benefit from the project. The Authority is monitoring the performance of the project, for the last three years. The report will be ready by the end of the second quarter, after maintenance scheduled for November 2021.

Employee Welfare

EPRA recruitment is guided by the Human Resource Policy and Procedures Manual. In addition, the Authority has welfare policies (Workplace Guidelines) that are established not only to comply with the legal requirements, but also to ensure from onboarding to exit, employees' welfare are taken care of in a conducive working environment. Conducive work environment entails everything from services, facilities and benefits that are provided by an employer for the advantage or comfort of an employee. The policies include Disability mainstreaming, HIV and Aids, Gender Mainstreaming, Sexual harassment, Drug and Alcohol Abuse.

EPRA is compliant with OSHA (2007), and audits are carried out annually, recommendations shared with management and implemented to improve the welfare of the employees.

Energy & Petroleum Regulatory Authority

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9. Environmental and Sustainability Reporting

To ensure that employees maintain a positive psychological contract, EPRA has an elaborate training and development policy, which focuses on wholesome development, through mentorship, coaching, on the job training and networking opportunities, workshops and conferences among other methods of training and development. This ensures a healthy balance between an individual's aspirations, career growth and the needs of the Authority.

Responsible Supply chain and supplier relations

The Authority maintains good business practices by working closely with its key suppliers long after a contract has been signed by embracing supplier relationship management through observance of the highest ethical standards as laid out in the supply chain policy document. This is done by ensuring continuous capacity building of suppliers and communication with the suppliers with the aim of improving their bidding experience and ensuring dedicated services thus enhancing value for money for the organization.

EPRA engages suppliers through valid contracts and purchase orders which have clear obligations to be met by all the parties from time to time. Compliance to the relevant laws and guidelines in the procurement process is wholly observed.

The supply chain function also engages the internal customers actively involved in the procurement process by soliciting feedback and information regarding their objectives and business needs to ensure continuous availability of supplies and increased responsiveness to customers' changing needs.

Education

The Authority understands and appreciates the important role education plays towards bridging students to their future and achieving the goals set out in Vision 2030. Consequently, the Authority funded the construction of a classroom in St. Mary's Girls Secondary School in Nakuru County. This project aimed at supporting learning and promoting the quality of education in the school.

Corporate Governance and Ethical Business Practices

The Authority also heeded to calls by the President, Hon. Uhuru Kenyatta to support the Kazi Mtaani II initiative. During the 2020/2021 Financial Year, the Authority procured 2000 reflector jackets and 1000 face masks in support of the project.

This project ensured that the Youth based in communities around the country benefited economically amidst the Covid -19 pandemic by engaging in clean up exercises that was geared towards improving sanitation.

Responsible Marketing and Advertisement

The Authority has been at the forefront of promoting responsible marketing to ensure business continuity in the midst of the Covid-19 pandemic. The marketing and advertising priorities were centered on having socially conscious consumers, align stakeholders to the Authority's strategic objective number two (2) on consumer awareness, and ensure business continuity. The Authority deploys a mix of communication channels including, radio, television, newspaper and social media in a bid to ensure that it reaches every stakeholder in their various preferred choice of media.

Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2021

9. Environmental and Sustainability Reporting

During the 2020/2021 Financial year, the Authority aired a public campaign dubbed 'Story Ya Gas Campaign' which was aimed at sensitizing LPG dealers, retailers and the general public on LPG safety, LPG Licensing and the 2019 LPG regulations. The campaign also won the Public Sector Campaign of the year during the 2020 PRSK awards.

Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2021

10. Report of The Board of Directors

The Board of directors submit their report together with the audited financial statements for the year ended June 30, 2021, which show the state of the Authority's affairs:

1. Principal activities

The principal activities of the Authority 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 Authority for the year ended June 30, 2021 are set out from page 55.

3. Board Members

The members of the Board of Directors who served during the year are shown on pages 6-7. The Directors are appointed in line with the 2nd Schedule of the Energy Act 2019.

4. Dividends/Surplus remission

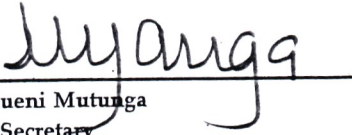
In accordance with section 219(2) of the Public Financial Management Act regulations, regulatory entities shall remit into the consolidated fund, ninety per centum of its surplus funds reported in the audited financial statement after the end of each financial year. Energy & Petroleum Regulatory Authority had a surplus of KES 2,412,828.00 and remitted KES 2,171,545.00 to the National Treasury.

5. Auditors

The Auditor General is responsible for the statutory audit of the Authority 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 pages 55-63 which have been prepared on the going concern basis, were approved by the board on ^{29th Sept 2021} and were signed on its behalf by:

By Order of the Board


Ms. Mueni Mutunga
Board Secretary

Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2021

11. Statement of Directors Responsibilities

Section 81 of the Public Finance Management (PFM) Act, 2012, section 8 (3) of the Second Schedule of the Energy Act 2019 and section 14 of the State Corporations Act, require the Directors to prepare financial statements in respect of the Authority, which give a true and fair view of the state of affairs of the Authority at the end of the financial year/period and the operating results of the Authority for that year/period. The Directors are also required to ensure that the Authority keeps proper accounting records which disclose with reasonable accuracy the financial position of the Authority. The Directors are also responsible for safeguarding the assets of the Authority.

The Directors are responsible for the preparation and presentation of the Authority's financial statements, which give a true and fair view of the state of affairs of the Authority for and as at the end of the financial year ended on June 30, 2021. 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 Authority;
- (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 Authority;
- (v) Selecting and applying appropriate accounting policies; and
- (vi) Making accounting estimates that are reasonable in the circumstances.

Section 81 of the Public Finance Management (PFM) Act, 2012, section 8 (3) of the Second Schedule of the Energy Act 2019 and section 14 of the State Corporations Act, require the Directors to prepare financial statements in respect of the Authority, which give a true and fair view of the state of affairs of the Authority at the end of the financial year/period and the operating results of the Authority for that year/period. The Directors are also required to ensure that the Authority keeps proper accounting records which disclose with reasonable accuracy the financial position of the Authority. The Directors are also responsible for safeguarding the assets of the Authority.

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

Approval of financial statements.

The annual report and financial statements set out on pages 55-63, which have been prepared on the going concern basis, were approved by the directors on ^{29th Sept 2021} and were signed on its behalf by:



Mr. Daniel Kiptoo Bargarua
Director General



Hon. (Prof) Jackson Boma Ojwang
Chairman

REPUBLIC OF KENYA

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E-mail: info@oagkenya.go.ke
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HEADQUARTERS
Anniversary Towers
Monrovia Street
P.O. Box 30084-00100
NAIROBI

REPORT OF THE AUDITOR-GENERAL ON ENERGY AND PETROLEUM REGULATORY AUTHORITY FOR THE YEAR ENDED 30 JUNE, 2021

PREAMBLE

I draw your attention to the contents of my report which is in three parts:

- A. Report on the Financial Statements that considers whether the financial statements are fairly presented in accordance with the applicable financial reporting framework, accounting standards and the relevant laws and regulations that have a direct effect on the financial statements.
- B. Report on Lawfulness and Effectiveness in Use of Public Resources which considers compliance with applicable laws, regulations, policies, gazette notices, circulars, guidelines and manuals and whether public resources are applied in a prudent, efficient, economic, transparent and accountable manner to ensure Government achieves value for money and that such funds are applied for intended purpose.
- C. Report on Effectiveness of Internal Controls, Risk Management and Governance which considers how the entity has instituted checks and balances to guide internal operations. This responds to the effectiveness of the governance structure, the risk management environment, and the internal controls developed and implemented by those charged with governance for orderly, efficient and effective operations of the entity.

An unmodified opinion does not necessarily mean that an entity has complied with all relevant laws and regulations, and that its internal controls, risk management and governance systems are properly designed and were working effectively in the financial year under review.

The three parts of the report are aimed at addressing the statutory roles and responsibilities of the Auditor-General as provided by Article 229 of the Constitution, the Public Finance Management Act, 2012 and the Public Audit Act, 2015. The three parts of the report, when read together constitute the report of the Auditor-General.

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of Energy and Petroleum Regulatory Authority set out on pages 55 to 86, which comprise of the statement of financial position as at 30 June, 2021, and the statement of financial performance,

statement of changes in net assets, statement of cash flows and the 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, except for the effect of the matters described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, in all material respects, the financial position of the Energy and Petroleum Regulatory Authority as at 30 June, 2021, and of its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Accrual Basis) and comply with the Public Finance Management Act, 2012 and the Energy Act, 2019.

Basis for Qualified Opinion

1.0 Inaccuracies in Property, Plant and Equipment

The statement of financial position reflects property, plant and equipment amount of Kshs.211,238,288 as disclosed in note 23 to the financial statements. Included in the balance is an amount of Kshs.79,067,020 in respect of partitions works in four (4) regional offices whose contract value totalled to Kshs.69,343,570 resulting to unreconciled variance of Kshs.9,723, 450.

Further, the final accounts by the supervising consultant in respect of the works above indicated the work done to be valued at Kshs.58,130,808 resulting in an unexplained and unaccounted for variance of Kshs.11,212,762 compared to the contract sum of Kshs.69,343,570.

In addition, examination of the final certificate of completion indicates that the works were certified as complete on 27 August, 2021, but the partitions were capitalized in the year under review. Management has not explained the reasons for capitalizing the works yet the final certificate of completion had not been issued.

In the circumstances, the accuracy, completeness and regularity of the property, plant and equipment balance of Kshs.211,238,288 could not be confirmed.

2.0 Inaccuracies in Employee Costs

The statement of financial performance reflects employee costs of Kshs.630,822,709 as disclosed in Note 12 to the financial statements. However, review of the payroll details indicated total employee costs of Kshs.516,536,406 resulting to a variance of Kshs.114,286,303.

In the circumstances, the accuracy and completeness of employee costs of Kshs.630,822,709 could not be confirmed.

3.0 Unsupported Expenditure on Consultancy

The statement of financial performance reflects contracted services balance of Kshs.120,872,750 as disclosed in Note 16 to the financial statements. Included in this balance is an amount of Kshs.10,245,718 incurred on Consultancy for Development of Environmental Health Safety (EHS) guidelines for Petroleum Upstream Sector. The contract was awarded to a company on 11 June, 2019 at a contract sum of Kshs.17,076,196. However, Management did not provide documents to support payment of Kshs.10,245,718 for audit.

In the circumstances, the accuracy, completeness and regularity of the consultancy expenditure of Kshs.10,245,718 could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the Energy and Petroleum Regulatory Authority Management in accordance with ISSAI 130 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 qualified opinion.

Key Audit Matters

Key audit matters are those matters that, in my professional judgement are of most significance in the audit of the financial statements. There were no key audit matters to report in the year under review.

Other Matter

Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects budgeted total revenue of Kshs.1,887,092,149 and actual revenue of Kshs.1,510,183,486 resulting to under receipts by Kshs.376,908,663 or 20% of the budget. Similarly, the Authority projected to spend Kshs.1,388,936,050 but incurred Kshs.1,354,664,883 resulting to under expenditure of Kshs.34,271,167 or 2% of the budget.

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

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, except for the matters described in the Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources section of my report, I confirm that, nothing

else has come to my attention to cause me to believe that public resources have not been applied lawfully and in an effective way.

Basis for Conclusion

1.0 Irregular Expenditure on Contract for Monitoring of Domestic Kerosine

The statement of financial performance reflects contracted services balance of Kshs.120,872,750. Included in this balance is an amount of Kshs.77,812,262 incurred on provision of petroleum fuels marking and monitoring services. An amount of Kshs.56,041,963 was paid in the financial year 2019/2020 resulting in total payments of Kshs.133,854,225. According to the tender documents, the contract was awarded to a company on 28 March, 2019 at a contract sum of Kshs.68,512,520 in the two years resulting to an unexplained over expenditure of Kshs. 65,341,705.

Further, according to Part I section 8 of the contract agreement, the Authority had committed to bear the cost of services offered to independent and unbranded retail stations. The Authority was exposed to the risks of additional costs in respect to independent and unbranded stations.

In the circumstances, value for money for the contract could not be confirmed.

2.0 Irregular Extension of Inspection of Liquefied Petroleum Gas Storage and Cylinder Contract

The statement of financial performance reflects contracted services balance of Kshs.120,872,750. Included in this balance is an amount of Kshs.45,529,384 incurred on inspection of Liquefied Petroleum Gas (LPG) storage facilities and LPG cylinders. According to the tender documents, the contract was awarded to a company on 28 March, 2019 at a contract sum of Kshs.35,809,200. The contract duration was for two (2) years commencing 28 March, 2019 to 28 March, 2021. The contract was extended for a period of one (1) year on 25 March, 2021 for a contract sum of Kshs.35,809,200. This was contrary to Section 139, 2 (a) of the Public Procurement and Asset Disposal Act, 2015 which provides that an accounting officer of a procuring entity, on the recommendation of an evaluation committee, may approve the request for the following, which request shall be accompanied by a certificate from the tenderer making a justifications for such cost.

Review of the financial records revealed the firm has been paid a total of Kshs.85,515,453 since inception of the contract resulting in an unexplained overpayment of Kshs.13,897,053.

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

3.0 Unutilized Office Space

The Authority entered into a lease agreement with a landlord for office rent fifth (5th) floor at an amount of Kshs.2,785,050 per month payable quarterly in advance. However, a physical verification of the premises confirmed that the Authority had not occupied the office as from 1 July, 2020 until the time of the audit in March, 2022 despite paying rent

of Kshs.6,684,120. According to the Management, the non-occupancy was as a result of long period of partitioning, fittings and remodelling of the office to conform to the Authority's needs and brand.

In the circumstances, the Authority did not obtain value for money on the expenditure.

4.0 Failure to Remit Surplus Funds to Kenya Revenue Authority

Examination of expenditure records revealed that the Kenya Revenue Authority through a notice dated 25 August, 2020 demanded remittance of surplus funds amounting to Kshs.240,041,236. The Authority failed to remit the funds contrary to Sec 219(2) of Public Finance Management Act, 2012 on dividend policy and surplus funds. Further, in a letter dated 6 November, 2020 Kenya Revenue Authority (KRA) required the Authority to pay tax owed of Kshs. 276,731,953. The Management has explained they had communicated with The National Treasury indicating that they cleared the issue. However, no official communication from KRA confirming the clearance of the issue was provided for audit.

In the circumstances, Management was in breach of law.

5.0 Irregular Appointment of the Director General

Review of human resource records and minutes of the Board of Directors meetings revealed irregularities in the appointment of the Director General of the Authority. The details are provided below:

- i. The Board held 79th special Board meeting on the 14 of December, 2020 and confirmed the interdiction of the former Director General. Upon further deliberations, the members unanimously resolved that a recommendation be made to the Cabinet Secretary in Charge of the Ministry of Energy, for appointment of one of their own who was representing the Cabinet Secretary in the Board as the Acting Director General. The appointment was to take effect as from 9 December, 2020. It was however noted that the Board Members did not declare a conflict of interest in the matter since the person to be appointed Acting Director General was a member of the Board and was in the meeting. This was contrary to Section 1.16(1b) of the Code of Governance for State Corporations (Mwongozo) which requires that a Board Member disclose all real or perceived conflict of interest and manage these within an agreed framework.
- ii. Further review indicated that the special Board meeting held on 14 December, 2020 ended at 8p.m, while the letter from the Board seeking approval for appointment of Acting Director General was done and sent to the Cabinet Secretary on the same day. The Board issued an appointment letter on 14 December, 2020 to one of their own to act as Managing Director on 14 December, 2020 before the approval was granted. The Acting Managing Director who was a member of the Board and was present in the meeting accepted the appointment the same day. However, the letter from the Ministry on the appointment was issued on the 15 of December, 2020. This implies that the Board appointed him before getting the Ministry's approval. This was contrary, to Part 13(1) of the Energy Act 2019, that stipulates that the Board shall

subject to the approval of the Cabinet Secretary, appoint a Director General who shall be the Chief Executive Officer of the Authority.

- iii. The position of the Director General was declared vacant by the Board during its 109th regular meeting held on 31 March, 2021 and subsequently the position was advertised on 27 April, 2021. The 83rd special meeting of the Board held on 20 May, 2021 delegated the task of shortlisting the applicants to the Finance and Administration Committee (FAC) which in turn formed a team consisting of Management to open and compile the applications. The team prepared the report dated 28 May, 2021 which indicated there were 23 applicants.
- iv. The Board sought approval of the Cabinet Secretary on 28 June, 2021 to appoint the Director General. However, the Cabinet Secretary appointed the Director General on 28 June, 2021 whose terms of offer were accepted and signed by the nominee on the same day instead of the Board of Directors as required by Section 13 (1) of the Energy Act, 2019.
- v. According to Section 13 (3)(c) (d) of the Energy Act, a person shall be qualified for appointment as a Director-General if such person has at least seven (7) years management experience at a senior level and at least two (2) years of experience in petroleum and energy. However, review of the applicant's documents confirmed that the person lacked the requisite management experience at senior level for appointment as a Director General.

In view of the foregoing, the regularity and suitability in the appointment of the Director General could not be confirmed and Management was in breach of law.

6.0 Irregular Payment of Retention Money

Review of financial records confirmed that the works for partitioning the regional offices in Nyeri, Mombasa, Kisumu and Eldoret had accrued bills amounting to Kshs.21,207,345 out of which an amount of Kshs.5,077,257 was paid to the contractor as retention monies leaving a closing balance of Kshs.16,130,088. However, payment of retention monies was done before issuance of the final certificate of completion contrary to Section 151, (2),(h) of the Public Procurement and Asset Disposal Act, 2015.

In the circumstances, Management was in breach of law.

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 about whether the activities, financial transactions and information reflected in the financial statements are in compliance, in all material respects, with the authorities that 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 with ISSAI 2315 and ISSAI 2330. The standards require that I plan and perform the audit to obtain assurance about whether effective processes and systems of internal controls, 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 Board of Directors

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 controls as Management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error and for its assessment of the effectiveness of internal controls, risk management and overall governance.

In preparing the financial statements, Management is responsible for assessing the Authority's ability to continue to sustain its services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless Management is aware of the intention to terminate the Authority or to cease operations.

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.

The Board of Directors is responsible for overseeing the Authority's financial reporting process, reviewing the effectiveness of how Management monitors 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 that 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 audit is planned and performed to express a conclusion about whether, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities that 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 controls in order to give an assurance on the effectiveness of internal controls, risk management and overall 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 controls would not necessarily disclose all matters in the internal controls that 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 that 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 controls 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 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 that 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 controls.

- 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 applicable basis of accounting and based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Authority's ability to continue to sustain its services. 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 Authority to cease to continue to sustain its services.
- 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 that achieves fair presentation.
- Obtain sufficient appropriate audit evidence regarding the financial information and business activities of the Authority 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 controls that are identified during the audit.

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


 CPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

12 September, 2022

Energy & Petroleum Regulatory Authority
Annual Report And Financial Statements for the year ended 30 June 2021

13. Statement of Financial Performance for the year ended 30 June 2021

Figures in Kenyan Shilling	Note(s)	2020 - 2021	2019 - 2020 Restated
Revenue			
Revenue from non-exchange transactions			
Transfer revenue			
Electricity levy	7	236,696,328	263,003,453
Petroleum levy	8	1,219,365,768	1,046,308,204
Total revenue from non-exchange transactions		1,456,062,096	1,309,311,657
Revenue from exchange transactions			
Other income	9	50,731,803	65,241,029
Interest received - investment	10	3,389,587	10,206,607
Total revenue from exchange transactions		54,121,390	75,447,636
		54,121,390	75,447,636
		1,456,062,096	1,309,311,657
Total revenue		1,510,183,486	1,384,759,293
Expenses			
Use of goods and services	11	(512,301,015)	(582,231,585)
Employee costs	12	(630,822,709)	(565,479,923)
Board Expenses	13	(16,939,646)	(19,373,137)
Depreciation and amortisation expense	14	(64,841,656)	(46,440,383)
Repair & Maintenance	15	(8,887,107)	(5,633,978)
Contracted Services	16	(120,872,750)	(74,509,188)
Total expenses		1,354,664,883	(1,293,668,194)
Other gains (losses)			
Gain on disposal of assets and liabilities	17	3,738,122	-
Surplus (deficit) before taxation		159,256,725	91,091,099
Taxation		-	-
Surplus for the year from continuing operations		159,256,725	91,091,099
Remission to National Treasury	18	(2,171,545)	-
Surplus/Deficit for the year		157,085,180	91,091,099

Energy & Petroleum Regulatory Authority


Annual Report And Financial Statements for the year ended 30 June 2021

13. Statement of Financial Performance for the year ended 30 June 2021

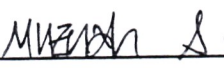
Figures in Kenyan Shilling	Note(s)	2020 - 2021	2019 - 2020 Restated
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The notes set out on pages 64 to 84 form an integral part of these Financial Statements.

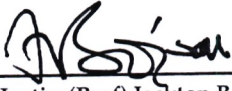
The Financial Statements set out on pages 55 to 63 were signed on behalf of the Board of Directors by:



Mr. Daniel K. Bargoria
Director General



Ms. Muznah Sisiwa
Ag. Manager Finance & Accounts
ICPAK No. 21186



Hon. Justice (Prof) Jackton B. Ojwang
Chairman

Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2021

14. Statement of Financial Position As At 30 June 2021

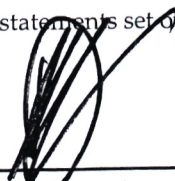
Figures in Kenyan Shilling	Note(s)	2020 - 2021	2019 - 2020 Restated
Assets			
Current Assets			
Cash and cash equivalents	19	220,041,194	65,639,846
Receivables from exchange transactions	20	17,130,343	34,105,136
Receivables from non-exchange transaction	21	126,057,990	106,448,154
Inventories	22	4,269,954	3,425,225
		367,499,481	209,618,361
Non-Current Assets			
Property, plant and equipment	23	211,238,288	215,507,859
Intangible assets	24	9,411,968	17,500,828
		220,650,256	233,008,687
Non-Current Assets		220,650,256	233,008,687
Current Assets		367,499,481	209,618,361
Non-current assets held for sale (and) (assets of disposal groups)		-	-
Total Assets		588,149,737	442,627,048
Liabilities			
Current Liabilities			
Payables under exchange transactions	25	183,766,001	223,320,625
Employee benefits Obligations	26	60,545,893	51,239,152
		244,311,894	274,559,777
Non-Current Liabilities			
Current Liabilities		244,311,894	274,559,777
Liabilities of disposal groups		-	-
Total Liabilities		244,311,894	274,559,777
Assets		588,149,737	442,627,048
Liabilities		244,311,894	274,559,777
Reserves			
Capital replacement reserve		55,000,000	55,000,000
Accumulated surplus		288,837,843	113,067,271
Total Net Assets/Equity		343,837,843	168,067,271
Total Net Assets and Liabilities		588,149,737	442,627,048

Energy & Petroleum Regulatory Authority
Annual Report And Financial Statements for the year ended 30 June 2021

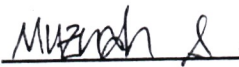
14. Statement of Financial Position As At 30 June 2021

Figures in Kenyan Shilling	Note(s)	2020 - 2021	2019 - 2020 Restated
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The financial statements set out on pages 55 to 63 were signed on behalf of the Board of Directors by:



Mr. Daniel Kiptoo Bargaroria
Director General



Ms. Muznah Sisiwa
Ag. Manager Finance & Accounts
ICPAK No. 21186



Hon. Justice (Prof) Jackton B. Ojwang
Chairman

Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2021

15. Statement of Changes in Net Assets

Figures in Kenyan Shilling	Capital replacement reserve	Accumulated surplus	Total net assets/equity
Balance at 01 July 2019	55,000,000	219,494,964	274,494,964
Changes in net assets/equity			
Surplus for the year	-	91,091,099	91,091,099
Reduction In Reserves	-	(199,449,674)	(199,449,674)
Prior Year Adjustments	-	1,930,882	1,930,882
Total changes	-	(106,427,693)	(106,427,693)
Restated* Balance at 01 July 2020	55,000,000	113,067,271	168,067,271
Changes in net assets/equity			
Surplus for the year	-	159,256,725	159,256,725
90% Remittance to National Treasury	-	(2,171,545)	(2,171,545)
Prior Year Adjustments	-	18,685,392	18,685,392
Total changes	-	175,770,572	175,770,572
Balance at 30 June 2021	55,000,000	288,837,843	343,837,843

Prior Year adjustment of Kes 18,685,392 is as a result of accruals which did not materialise hence adjusted from retained earnings.

Energy & Petroleum Regulatory Authority
Annual Report And Financial Statements for the year ended 30 June 2021

16. Statement of Cash Flows For The Year Ended 30 June 2021

Figures in Kenyan Shilling	Note(s)	2020 - 2021	2019 - 2020 Restated
Cash flows from operating activities			
Receipts			
Levy		1,443,486,156	1,206,966,285
Lisence fees		47,899,592	63,822,771
Interest Income & Miscellenous		6,222,798	12,518,933
		1,497,608,546	1,283,307,989
Payments			
Board expenses		(16,717,146)	(19,136,887)
Employee Costs		(591,780,362)	(505,479,921)
Use of goods and services		(492,247,849)	(445,200,166)
Repair & Maintenance		(4,887,106)	(6,655,917)
Contracted Services		(117,873,250)	(71,580,192)
Reduction In Reserves		-	(199,449,674)
90% Transfer To National Treasury		-	(260,550,327)
		(1,223,505,713)	1,597,949,267
Total receipts		1,497,608,546	1,283,307,989
Total payments		(1,223,505,713)	1,597,949,267
Net cash flows from operating activities	27	274,102,833	(314,641,278)
Cash flows from investing activities			
Purchase of Fixed Assets & WIP	23	(123,506,884)	(101,685,397)
Proceeds from sale of Fixed Assets	23	3,805,400	3,738,122
Purchase of other intangible assets	24	-	(14,250,250)
Net cash flows from investing activities		(119,701,484)	(112,197,525)
Net increase/(decrease) in cash and cash equivalents		154,401,349	(426,838,803)
Cash and cash equivalents at the beginning of the year		65,639,846	496,564,772
Cash and cash equivalents at the end of the year	19	220,041,195	65,639,846

Energy & Petroleum Regulatory Authority

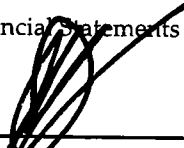
Annual Report And Financial Statements for the year ended 30 June 2021

16. Statement of Cash Flows For The Year Ended 30 June 2021


Figures in Kenyan Shilling	Note(s)	2020 - 2021	2019 - 2020
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Restated


The Financial Statements set out on pages 55 to 63 were signed on behalf of the Board of Directors by:



Mr. Daniel Kiptoo Bargoria
Director General



Ms. Muznah Sisiwa
Ag. Manager Finance & Accounts
ICPAK No. 21186



Hon. Justice (Prof) Jackton B. Ojwang
Chairman

Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2021

17. Statement of Comparison of Budget and Actual Amounts For The Year Ended 30 J

Budget on Accrual Basis

	Approved budget	Adjustments	Final Budget	Actual amounts on comparable basis	Performance Difference	% Utilization
Figures in Kenyan Shilling						
Revenue						
Revenue from non-exchange transactions						
Transfer revenue						
Electricity levy	346,455,498	(51,468,325)	294,987,173	236,696,328	(58,290,845)	80%
Petroleum levy	1,595,896,315	(71,300,434)	1,524,595,881	1,219,365,768	(305,230,113)	80%
Total revenue from non-exchange transactions	1,942,351,813	(122,768,759)	1,819,583,054	1,456,062,096	(363,520,958)	
Revenue from exchange transactions						
Other income	64,917,662	(1,146,681)	63,770,981	50,731,803	(13,039,178)	79%
Interest received	5,000,000	(1,261,886)	3,738,114	3,389,587	(348,527)	91%
Total revenue from exchange transactions	69,917,662	(2,408,567)	67,509,095	54,121,390	(13,387,705)	
'Total revenue from exchange transactions'	69,917,662	(2,408,567)	67,509,095	54,121,390	(13,387,705)	80%
'Total revenue from non-exchange transactions'	1,942,351,813	(122,768,759)	1,819,583,054	1,456,062,096	(363,520,958)	80%
Total revenue	2,012,269,475	(125,177,326)	1,887,092,149	1,510,183,486	(376,908,663)	80%
Expenditure						
Use of Goods and Services	(497,445,447)	35,953,752	(461,491,695)	(512,301,015)	(50,809,320)	110%
Employee costs	(803,166,324)	95,008,495	(708,157,829)	(630,822,709)	77,335,120	89%
Board Expenses	(20,000,000)	-	(20,000,000)	(16,939,646)	3,060,354	85%
Repair & Maintenance	(19,196,680)	410,402	(18,786,278)	(8,887,107)	9,899,171	48%
Contracted Services	-	-	-	-	-	-
Depreciation and amortisation expense	(103,654,061)	35,603,813	(68,050,248)	(64,841,656)	3,208,592	95%
Contracted Services	(112,450,000)	-	(112,450,000)	(120,872,750)	(8,422,750)	107%
Total expenditure	1,555,912,512	166,976,462	(1,388,936,050)	(1,354,664,883)	34,271,167	
	2,012,269,475	(125,177,326)	1,887,092,149	1,510,183,486	(376,908,663)	80%
	1,555,912,512	166,976,462	(1,388,936,050)	(1,354,664,883)	34,271,167	97.5%
Operating surplus	456,356,963	41,799,136	498,156,099	155,518,603	(342,637,476)	
Gain on disposal of assets and liabilities	-	-	-	3,738,122	3,738,122	

Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2021

17. Statement of Comparison of Budget and Actual Amounts For The Year Ended 30 J

Budget on Accrual Basis

	Approved budget	Adjustments	Final Budget	Actual amounts on comparable basis	Performance Difference	% Utilization
Figures in Kenyan Shilling						
Surplus (Deficit) Before Taxation	456,356,963	41,799,136	498,156,099	159,256,725	(338,899,374)	
Taxation	-	-	-	-	-	
Surplus (Deficit) Before Taxation	456,356,963	41,799,136	498,156,099	159,256,725	(338,899,374)	
Remission to National Treasury	-	-	-	(2,171,545)	-	
Actual Amount on Comparable Basis as Presented in the Budget and Actual Comparative Statement	456,356,963	41,799,136	498,156,099	157,085,180	(341,070,919)	

The budget and financial statements of EPRA are reported on accrual basis, hence differences arising from accounting treatment are not expected. The variance between the approved and final budget are due to reallocations, which were submitted to the National Treasury through the Ministry of Energy for approval. The variance between the actual and budget are as enumerated and explained hereunder;

- There was unfavorable variance of 19.8% in electricity revenue collection translating to Kshs. 58,290,845. This adverse variance in collection was occasioned by a slowdown in economic activities as a result of Covid-19 pandemic.
- Petroleum levy received was below budget by Kshs. 305,230,113 representing an under collection of 20%. This is as a result of a combination of many economic factors that impacted on the fuel prices and supply chain hence depressed consumption of petroleum products among them, high international crude oil prices for the better part of the year and the covid-19 pandemic which resulted in near shut down of economic activities due to restriction of movement.
- Other income was within budget.
- Interest received was within budget.
- Use of goods and services was within the budget
- Expenditure on employees was within budget
- Expenditure on board activities is below the budget by KES 3,060,354 representing under expenditure of 15.3%. This resulted from savings that emanated from suspension of physical meetings, local travel, international travel and trainings and subsequent adoption of online meetings, trainings and webinars following the Covid-19 pandemic.
- Expenditure on Depreciation is within the budget.
- Expenditure on Repair & Maintenance is below the budget by Kshs. 8,887,107 representing under expenditure of 52.6%. This is due restricted travels which reduced mileage covered by motor vehicles.

Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2021

18. Notes to the Financial Statements

1. General information

The Energy Regulatory Commission was established under the Energy Act, 2006. In March 2019, the Energy Act 2019 and the Petroleum Act 2019 were enacted. The Energy Act 2019 provides for the establishment of the Energy and Petroleum Regulatory Authority as the successor to the Energy Regulatory Commission. EPRA is wholly owned by the Government of Kenya and is domiciled in Kenya. The Authority's principal activities are regulation of all forms of energy except nuclear power.

2. Statement of compliance and basis of preparation

The Authority'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 Authority. The accounting policies have been consistently applied to all the years presented.

The Authority adopted IPSAS in the year 2014 following the gazettelement of the Public Sector Accounting Standards Board (PSASB), which was established by the Public Financial Management Act (PFM) No. 18 of 24th July 2012. PSASB issued financial reporting standards and guidelines to be adopted by all state organs and public sector entities, which the Authority 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 Authority 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 2020

- IPSAS 40 – Public Sector Combinations 01 January 2019

3.2 New and amended standards and interpretations in issue, but not yet effective in the year ended 30 June 2021

The entity has not applied the following standards and interpretations, which have been published and are mandatory for the entity's accounting periods beginning on or after 01 July 2021 or later periods:

Standard/ Interpretation:	Effective date: Years beginning on or after	Expected impact:
• IPSAS 41 Financial Instruments	01 January 2023	
• IPSAS 42. Social Benefits	01 January 2023	
• Amendments to Other IPSAS resulting from IPSAS 41, Financial Instruments	01 January 2023	
• Other Improvements to IPSAS	01 January 2021	

3.3 Early adoption of standards

The Entity did not early- adopt new or amended standards in the F/Y 2020/2021.

Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2021

18. Notes to the Financial Statements

4. Summary of significant accounting policies

a) Revenue recognition

i) Revenue from non-exchange transactions

Electricity and Petroleum Levies

The Authority 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 Authority 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 Authority 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 2020/2021 was approved by the National Treasury through Ministry of Energy on 29th July 2020. Subsequent revision or additional appropriations were made to the approved budget in accordance with specific approvals from the appropriate authorities. The additional appropriations are added to the original budget by the entity upon receiving the respective approvals in order to conclude the final budget.

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 Authority. 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.

18. Notes to the Financial Statements

4. Summary of significant accounting policies (continued)

c) Taxation/Transfer to treasury

No provision has been made for Income Tax. The Authority 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 any contributions to EPRA established funds within the year.

d) 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 Authority 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%
• Other Equipment	12.5%

e) Leases

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

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

Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2021

18. Notes to the Financial Statements

4. Summary of significant accounting policies (continued)

i) Research and development costs

The Authority expenses research costs as incurred. Development costs on an individual project are recognized as intangible assets when the Authority 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.

j) Financial instruments

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

Government securities

Government securities comprise treasury bonds which are debt securities 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. 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. Impairment

of financial assets

The authority has a number of deposits but which are part of debtors, and are not considered to be impaired.

Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2021

18. Notes to the Financial Statements

4. Summary of significant accounting policies (continued)

k) Provisions

Provisions are recognized when the Authority 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 Authority 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.

l) Contingent liabilities

The Authority 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. Further details on contingent liabilities are given in Note 30.

m) Contingent assets

The Authority 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 Authority 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.

n) Nature and purpose of reserves

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

Accumulated Surplus

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

- To safeguard the Authority'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 that the Authority has set aside for replacement of fixed assets.

o) Changes in accounting policies and estimates

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

Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2021

18. Notes to the Financial Statements

4. Summary of significant accounting policies (continued)

p) Employee benefits

Retirement benefit plans

The Authority provides retirement benefits for its employees. Defined contribution plans are post-employment benefit plans under which the Authority pays fixed contributions into a separate 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.

q) 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.

r) Related parties

The Authority 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 Authority. Members of key management are regarded as related parties and comprise Board Members and senior managers (see further disclosures of related parties in note 41).

The Government (represented by Ministry of Energy and Ministry of Petroleum and Mining) is also regarded as a related party. The Permanent Secretaries in the two Ministries or their representative are members of the Board.

s) Cash and cash equivalents

Cash and cash equivalents comprise cash in Mpesa 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.

t) Comparative figures

Comparative figures for the previous financial year have been restated to conform to the required changes in presentation.

s) Inventories

Inventory is measured at cost upon initial recognition. Inventories are expensed when deployed for consumption.

Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2021

18. Notes to the Financial Statements

5. Significant judgements and sources of estimation uncertainty

The preparation of the Authority'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 Authority 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 Authority. Such changes are reflected in the assumptions when they occur.

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 Authority.
- 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 33. 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, 2021.

6. Transfers from government

7. Electricity levy

Electricity levy	236,696,328	263,003,453
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Legal Notice No. 148 of 1999.

8. Petroleum levy

Petroleum levy	1,219,365,768	1,046,308,204
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Legal Notice No. 162 of 2018

Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2021

18. Notes to the Financial Statements

Figures in Kenyan Shilling	2020 - 2021	2019 - 2020 Restated
9. Other income		
Licence Fees	47,898,591	63,822,770
Miscellaneous	2,833,212	1,418,259
	50,731,803	65,241,029
10. Interest received		
Interest	3,389,587	10,206,607
11. Use of Goods and Services		
Training Seminars and Workshops	55,977,009	71,847,859
Professional Subscription	1,802,116	1,533,023
Staff Welfare	4,823,234	1,068,387
General Office	15,642,459	20,785,847
Fuel	7,974,163	4,999,917
Insurance, licenses & MV subscriptions	3,029,595	2,873,793
Travel, Inspections, Surveillance & Audit	98,077,155	74,380,456
Corporate Subscriptions	5,930,132	5,062,891
Seminar Workshops, Public hearings and CSR	17,125,870	44,510,238
Advertising and gazette notices	96,426,322	87,876,775
Branding / Printing	13,628,604	7,443,736
Telephone and Internet	8,350,220	9,186,413
Software licenses, support, and disaster recovery	3,955,779	14,792,200
Rent & Services Charge	61,735,442	53,788,646
Security-Office	4,321,940	3,048,005
Electricity	5,614,818	4,255,058
Office Cleaning	4,318,456	3,704,961
Consultancies	48,523,497	73,293,097
HIV, Safety, Culture change and Related	11,838,443	4,671,810
Kenya Energy-Sector Environment and Social Responsibility Program Fund	2,000,000	2,000,000
Transfer to Mortgage and Car Loan	40,000,000	90,000,000
Bank Charges	1,205,761	1,108,473
	512,301,015	582,231,585

18. Notes to the Financial Statements

Figures in Kenyan Shilling	2020 - 2021	2019 - 2020 Restated
12. Employee costs		
Basic Salary	364,998,664	327,022,073
Employee Compensation - Court	2,000,000	-
Pension and Gratuity	80,957,303	68,637,880
Special duty and Acting allowances	6,782,914	11,270,659
Car and Commuter allowance	29,195,652	27,560,801
House allowance	89,190,006	80,673,802
Fringe benefits	2,657,538	1,915,536
Leave and Other allowances	5,545,494	8,697,218
Medical	42,762,449	32,795,840
Life and Accident Insurance	4,057,352	3,452,756
Staff Uniforms	1,702,837	1,317,912
Training and Capacity Building-EPRA Funded	-	1,386,097
Meal Allowance	972,500	749,349
	630,822,709	565,479,923
13. Board Expenses		
Monthly Fees and Honorarium	6,659,833	5,715,359
Sitting Allowance	7,178,000	5,346,000
Meeting, Entertainment and Others	872,499	1,521,073
Seminars, Travel and accommodation	1,757,179	6,454,642
Medical and GPA	472,135	336,063
	16,939,646	19,373,137
14. Depreciation and amortisation expense		
Property, plant and equipment	55,537,521	35,094,036
Intangible assets	9,304,135	11,346,347
	64,841,656	46,440,383
15. Repairs and Maintenance		
Repair & Service Motor Vehicle	7,921,136	4,867,765
Repair & Maintenance-Office Eq	965,971	766,213
	8,887,107	5,633,978
16. Contracted Services		
Fuel Marking	78,343,366	52,636,361
LPG Inspection	42,529,384	21,872,827
	120,872,750	74,509,188

Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2021

18. Notes to the Financial Statements

Figures in Kenyan Shilling	2020 - 2021	2019 - 2020 Restated
17. Gain on sale of assets		
Property, plant and equipment	3,738,122	-
18. Remission to National Treasury		
Surplus for the year	159,256,725	91,091,099
Purchase of assets	(136,556,254)	(148,004,046)
Capital Commitments	(20,287,643)	-
Realised surplus	2,412,828	(56,912,947)
90% of realized profit	2,171,545	
19. Cash and cash equivalents		
Cash and cash equivalents consist of:		
Mpesa	8,995,984	1,777,220
Bank balances	160,953,748	31,497,466
KCB-Snr Mgt Gratuity Current Account	15,495,712	4,359,770
KCB-Snr Mgt Gratuity Investment	34,595,750	28,005,390
	220,041,194	65,639,846
In the month of October 2018 all Senior management staff were placed on a five year renewable contract. KCB Senior Management Gratuity Account is held for Senior Management gratuity obligation. This is cash payable at the end of each employees' contract.		
20. Receivables from exchange transactions		
Prepayments	96,177	18,168,383
Deposits	17,034,166	15,936,753
	17,130,343	34,105,136

Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2021

18. Notes to the Financial Statements

Figures in Kenyan Shilling 2020 - 2021 2019 - 2020
Restated

20. Receivables from exchange transactions (continued)

Trade and other receivables past due but not impaired

Trade and other receivables are not considered to be impaired.

The ageing of amounts past due but not impaired is as follows:

Description	1-6 Months Ksh	6-12 Months Ksh	Over 1Year Ksh	Total Ksh
Hospital, fuels and rent deposit	-	-	17,034,166	17,034,166
Prepayments	96,177	-	-	96,177
	96,177	-	17,034,166	17,130,343

Deposits and prepayments amounting to KES. 17,130,343 are for Rent, KQ, Fuel and Insurance. Rent deposits and prepayments of KES 14,283,062 relates to deposit for 3 months for the 4 floors that EPRA occupies at Eagle Africa Building and regional offices. KES 2,000,000 is KQ deposits and KES 847,281 for fuel.

21. Receivables from non-exchange transaction

Board Imprest	393,224	315,257
Staff Imprest	3,311,889	(1,763,163)
Revenue Debtors	119,789,127	102,360,793
Staff salaries & Medical advances	2,563,750	1,311,424
Other receivables from non-exchange revenue 2	-	4,223,843
	126,057,990	106,448,154

22. Inventories

Inventories	4,269,954	3,425,225
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23. Property, plant and equipment

Company	2021			2020		
	Cost / Valuation	Accumulated depreciation and accumulated impairment	Carrying value	Cost / Valuation	Accumulated depreciation and accumulated impairment	Carrying value
Furniture and fixtures	219,319,162	(127,207,536)	92,111,626	137,383,526	(115,272,250)	22,111,276
Motor vehicles	135,739,527	(84,452,165)	51,287,362	109,839,216	(81,436,936)	28,402,280
Office equipment	32,970,231	(16,936,081)	16,034,150	29,814,471	(15,174,751)	14,639,720
IT equipment	125,533,504	(73,728,354)	51,805,150	123,912,626	(52,625,063)	71,287,563
Work in Progress	-	-	-	79,067,020	-	79,067,020
Total	513,562,424	(302,324,136)	211,238,288	480,016,859	(264,509,000)	215,507,859

Energy & Petroleum Regulatory Authority

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18. Notes to the Financial Statements

Figures in Kenyan Shilling

23. Property, plant and equipment (continued)

Reconciliation of property, plant and equipment

Cost	Furniture and fixtures	Motor vehicles	Office equipment	IT equipment	Work in Progress	Total
At 01 July 2019	134,609,543	109,839,216	24,140,761	72,617,038	5,056,490	346,263,048
Additions	2,773,983	-	5,455,710	51,513,588	-	59,743,281
WIP	-	-	-	-	74,010,530	74,010,530
At 30 June 2020	137,383,526	109,839,216	29,596,471	124,130,626	79,067,020	480,016,859
Additions	2,868,616	40,312,758	3,692,604	5,676,526	-	52,550,504
WIP	-	-	-	-	-	-
Disposals	-	(14,412,447)	(365,344)	(2,808,548)	-	(17,586,339)
Adjustments	79,067,020	-	46,500	(1,465,100)	(79,067,020)	(1,418,600)
At 30 June 2021	219,319,162	135,739,527	32,970,231	125,533,504	-	513,562,424
Depreciation and impairment						
At 01 July 2019	(110,569,416)	(66,946,328)	(13,182,693)	(38,579,555)	-	(229,277,992)
Disposals and scrappings - accumulated depreciation and impairment	-	-	-	-	-	-
Depreciation	(4,702,834)	(14,490,608)	(1,912,130)	(14,125,437)	-	(35,231,009)
At 30 June 2020	(115,272,250)	(81,436,936)	(15,094,823)	(52,704,992)	-	(264,509,001)
Adjustments	-	-	(6,665)	209,990	-	203,325
Disposals and scrappings - accumulated depreciation and impairment	-	14,412,447	365,344	2,741,270	-	17,519,061
Depreciation	(11,935,286)	(17,427,676)	(2,199,938)	(23,974,621)	-	(55,537,521)
At 30 June 2021	(127,207,536)	(84,452,165)	(16,936,081)	(73,728,354)	-	(302,324,135)

Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2021

18. Notes to the Financial Statements

Figures in Kenyan Shilling

23. Property, plant and equipment (continued)				
Net book values				
Cost	219,319,162	135,739,527	32,970,231	125,533,504
Accumulated depreciation and impairment	(127,207,536)	(84,452,165)	(16,936,081)	(73,728,354)
At 30 June 2021	92,111,626	51,287,362	16,034,150	51,805,150
				211,238,288

As at 30 June 2021, property and equipment with cost amounting to KES 190,567,992.34 were fully depreciated and intangible assets with cost amounting to 92,432,638.19 were fully amortized.

Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2021

18. Notes to the Financial Statements

Figures in Kenyan Shilling

2020 - 2021 2019 - 2020
Restated

24. Intangible assets

Company	2021			2020		
	Cost / Valuation	Accumulated amortisation and accumulated impairment	Carrying value	Cost / Valuation	Accumulated amortisation and accumulated impairment	Carrying value
Computer software, other	115,415,454	(106,003,486)	9,411,968	113,996,854	(96,496,026)	17,500,828

18. Notes to the Financial Statements

Figures in Kenyan Shilling	2020 - 2021	2019 - 2020 Restated
24. Intangible assets (continued)		
Reconciliation of intangible assets		
Cost		
Opening balance	113,996,854	99,746,604
Additions	-	14,250,250
Adjustment	1,418,600	-
Closing balance	115,415,454	113,996,854
Amortisation and impairment		
Opening balance	(96,496,026)	(84,946,354)
Amortisation	(9,304,135)	(11,549,672)
Closing balance	(105,800,161)	(96,496,026)
Made up as follows:		
Cost	115,415,454	113,996,854
Amortisation and impairment	(106,003,486)	(96,496,026)
Net book value	9,411,968	17,500,828

25. Payables under exchange transactions

Suppliers	130,836,837	66,598,302
Energy Act advances and others	5,295,612	47,313,246
Accruals	25,173,648	94,505,478
Taxes	12,517,963	14,903,599
Other Employee payables	7,770,396	-
Provision- 90% Remission to National Treasury	2,171,545	-
	183,766,001	223,320,625

Description	1-6 Months Ksh	6-12 Months Ksh	Over 1Year Ksh	Total
Suppliers	93,365,860	3,586,901	33,884,076	130,836,837
Taxes	12,517,963	-	-	12,517,963
Energy Act advances & Others	5,295,612	-	-	5,295,612
Accruals	25,173,648	-	-	25,173,648
Other Employee Payables	7,770,396	-	-	7,770,396
Provision- 90% Remission to National Tresury	2,171,545	-	-	2,171,545
	146,295,024	3,586,901	33,884,076	183,766,001

Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2021

18. Notes to the Financial Statements

Figures in Kenyan Shilling	2020 - 2021	2019 - 2020 Restated
26. Employee benefit obligations		
Other payroll benefits	4,877,641	5,756,331
Snr Mgt Gratuity Payable	51,236,103	37,280,234
Contract Staff Gratuity Payable	3,195,850	-
Salary Payable	1,236,299	8,202,587
	60,545,893	51,239,152
27. Cash generated from (used in) operations		
Surplus	159,256,725	91,091,099
Adjustments for:		
Depreciation and amortisation expense	64,841,656	46,440,383
Gain on sale of assets	(3,805,400)	-
Increase in Employee Benefit Provision	9,306,740	20,591,693
90% Transfer To National Treasury	-	(260,550,327)
Reduction In Reserves	-	(199,449,674)
Depreciation for donated motor vehicle	-	136,973
Adjustment	87,323,416	(27,453,370)
Changes in working capital:		
Inventories	(844,729)	38,491
Receivables from exchange transactions	16,974,793	(20,829,438)
Other receivables from non-exchange transactions	(19,609,836)	17,697,981
Payables under exchange transactions	(39,340,532)	17,644,911
Cash generated from (used in) operations	274,102,833	(314,641,278)

28. Risk management

Financial risk management

Risk management is carried out by the management under the supervision of the Board of Directors. The Directors provide 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.

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

Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2021

18. Notes to the Financial Statements

Figures in Kenyan Shilling 2020 - 2021 2019 - 2020
Restated

28. Risk management (continued)

Credit risk management

Credit risk refers to the risk that a 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 Authority's management assesses the credit quality of each customer, taking into account its financial position, past experience and other factors.

Cash flow forecasts are prepared and adequate utilised borrowing facilities are monitored.

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

As at June 2021	Fully performing Ksh	Past due Ksh	Impairment Ksh	Total
Receivables from non exchange transactions	126,057,990	-	-	126,057,990
Bank Balances	220,041,194	-	-	220,041,194
	346,099,184	-	-	346,099,184

As at June 2020	Fully performing Ksh	Past due Ksh	Impairment Ksh	Total
Receivables from non exchange transactions	106,448,154	-	-	106,448,154
Bank Balances	65,639,846	-	-	65,639,846
	172,088,000	-	-	172,088,000

All the Authority'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.

Liquidity risk management

Liquidity risk is the risk that the Authority will not be able to meet its financial obligations when they fall due. The Authority'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 Authority 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 Board of Directors.

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

Energy & Petroleum Regulatory Authority

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18. Notes to the Financial Statements

Figures in Kenyan Shilling	2020 - 2021	2019 - 2020 Restated		
28. Risk management (continued)				
	1- 6 Months	6 - 12 Months	Over 1 Year	Total
Trade & other payables from exchange transactions	93,365,860	3,586,901	33,884,076	130,836,837
Employee benefits Obligation	60,545,893	-	-	60,545,893
Audit fees payable	1,044,000	-	-	1,044,000
Withheld tax and other statutory deductions	12,310,450	-	-	12,310,450
Accruals	25,173,648	-	-	25,173,648
Energy Act Advances and Others	5,353,112	-	-	5,353,112
Other Employee Payables	7,770,396	-	-	7,770,396
Provision- 90% Remission to National Treasury	2,869,774	-	-	2,869,774
	208,433,133	3,586,901	33,884,076	245,904,110

29. Operating Lease Commitments

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

Not later than 1 Year	49,350,260	42,024,201
Later than 1 Year	246,751,300	210,121,003
	296,101,560	252,145,204

The Authority is of the view that future net revenues and funding will be sufficient to cover these commitments. The Authority 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 Authority 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.

30. Contingent Liabilities

EPRA 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, EPRA has made provision for contingency liabilities towards the same amounting to 55.95M. The following is summary of Key matters whose contingent liability is high:

- i) Petition No. 8 of 2018. Eng. John Ng'ang'a v ERC.
- ii) Civil Case No. MCCC/E5986 of 2020. John Muthomi Mathiu v EPRA & 3 Others.
- iii) Prof Moni Wekesa vs. Kenya Power and Energy and Petroleum Regulatory Authority
- iv) Excellent Logistics v. Topline Traders Limited & Energy and Petroleum Regulatory Authority
- v) Excellent Logistics Ltd v. Oxx Energy Ltd and Energy and Petroleum Regulatory Authority
- vi) Moregas Limited v. Energy and Petroleum Regulatory Authority,

Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2021

18. Notes to the Financial Statements

Figures in Kenyan Shilling

	2020 - 2021	2019 - 2020 Restated
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31. Capital Commitments

Authorised and contracted for, commitments amounting to Kes 20,287,643. relates to Furniture and ICT Equipments.

32. 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. EPRA had a deficit during the year (FY 2019/2020). This Financial Year the Authority had a surplus of Kes 2,412,828 and shall remit KES 2,171,545.

33. Events after the reporting date

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

34. Related parties

Key management compensation

Compensation to Senior Managers	87,444,840	71,141,685
Compensation to Director General	9,420,000	9,390,872
	96,864,840	80,532,557

Grants from Government

	-	-
	-	-
	-	-
	-	-

Energy & Petroleum Regulatory Authority

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18. Notes to the Financial Statements

Figures in Kenyan Shilling

2020 - 2021 2019 - 2020
Restated

34. Related parties (continued)

Board Members Remuneration

2021

Name	Monthly Fees and Honoraria	Sitting Allowance	Lunch	Total
Hon. Justice (Prof) Jackton B. Ojwang	1,560,000	420,000	6,000	1,986,000
Dr. Sellah J. Kebenei	600,000	880,000	6,000	1,486,000
Mr Albert Mwenda	-	438,000	4,000	442,000
James Mbugua	-	120,000	2,000	122,000
Eng. Samuel N. Maugo	558,333	480,000	6,000	1,044,333
Lilian Mahiri Zaja	558,333	740,000	4,000	1,302,333
Mr. Moses Gitari	-	520,000	6,000	526,000
Prof. George Achoki	600,000	940,000	6,000	1,546,000
National Treasury	2,183,167	-	-	2,183,167
Ms. Jacqueline Mogeni	-	640,000	2,000	642,000
Christopher Ombega	-	40,000	-	40,000
Lucy Waithira Mugwe	-	40,000	-	40,000
Isaac Omondi Odek	-	520,000	4,000	524,000
Daniel Kiptoo Bargoria	-	400,000	2,000	402,000
Mr. Wanjuki Muchemi	600,000	980,000	6,000	1,586,000
Mr. Andrew Kamau	-	20,000	-	20,000
	6,659,833	7,178,000	54,000	13,891,833

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18. Notes to the Financial Statements

Figures in Kenyan Shilling

2020 - 2021 2019 - 2020
Restated

34. Related parties (continued)

2020	Monthly Fees and Honoraria	Sitting Allowance	Lunch	Total
Name				
Hon. Justice (Prof) Jackton B. Ojwang	130,000	186,000	10,000	326,000
Mr Joshua Oigara	1,035,359	200,000	14,000	1,249,359
Dr. Sellah J. Kebenei	600,000	900,000	640,000	2,140,000
Veronica Kamau	-	400,000	20,000	420,000
Eng. Samuel N. Maugo	600,000	920,000	66,000	1,586,000
Lilian Mahiri Zaja	600,000	520,000	4,000	1,124,000
Dr. Macharia Irungu	100,000	60,000	4,000	164,000
Prof. George Achoki	600,000	960,000	66,000	1,626,000
National Treasury	1,700,000	-	-	1,700,000
Ms. Jacqueline Mogeni	-	620,000	32,000	652,000
Christopher Ombega	-	40,000	4,000	44,000
Lucy Waithira Mugwe	-	100,000	8,000	108,000
Isaac Omondi Odek	-	20,000	2,000	22,000
Daniel Kiptoo Bargoria	-	260,000	18,000	278,000
Wanjuki Muchemi	350,000	160,000	12,000	522,000
	5,715,359	5,346,000	900,000	11,961,359

Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2021

18. Notes to the Financial Statements

Appendix I: Progress on Follow up of Auditor Recommendations

There were no issues raised in the last financial year audit.

Reference No. on the external audit Report	Issue / Observations from Auditor	Management comments	Focal Point person to resolve the issue (Name and designation)	Status: (Resolved / Not Resolved)
1	Compliance with Executive Order on Procurement	Full Automation of procurement process to be done	Loise Thuge. Deputy Director, Supply Chain Management	Not Resolved
2	Withholding of Rental Income Tax	rental income have been withheld and submitted to KRA to date.	All subsequent Muznah Sisiwa. Ag. Deputy Director, Finance & Accounts	Resolved

Energy & Petroleum Regulatory Authority


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3	Overpayment on Account of Rent Review	The Authority will recover the overpaid amount from the landlord in the next invoice	Muznah Sisiwa. Ag. Deputy Director, Finance & Accounts	Resolved
4	Budgeting for UNEP Donor Funds	Authority shall going forward list any donar funds explicitly in the budget and engage the Auditor General further in reporting of the same.	Muznah Sisiwa. Ag. Deputy Director, Finance & Accounts	Resolved
5	Provision of Liquified Petroleum Gas Compliance Inspection Services	Going forward the Authority will ensure consistency in all its contract documentation prior to making paymets for all services	Loise Thuge. Deputy Director, Supply Chain Management	Resolved
6	Human Resources- Unapproved Recruitment	The Staff Recruitment was done at entry level and approval was provided.	Beth Mburai. Deputy Director, Human Resource & Adminstration.	Resolved
7	Report of Internal Controls, Risk Management and Governance (i) Secondment of Staff. and no refunds made	The Authority is in the process of releasing the employee to KPLC, There was delay on the part of KPLC in submitting the Invoice but it has since been paid	Beth Mburai. Deputy Director, Human Resource & Adminstration.	Resolved

Mr. Daniel Kiptoo Bargarioria
Director General

Date: 27/07/2022 .




Hon. Justice (Prof) Jackton B. Ojwang
Chairman

Date 27/07/2022.

Projects Implemented by the Entity

There Authority did not implement any projects during the financial year.

Appendix II: Inter-Entity Transfers

Financial Year 2020/2021

The Authority did not receive any transfers from any Government Entity except for the levies collected on its behalf by Kenya Power and Kenya Revenue Authority.

Ag. Manager Finance & Accounts

Head of Accounting Unit

EPRA

MOE



Sign

Sign

Recording of Transfers from Other Government Entities

The Authority did not receive any transfers from any Government Entity except for the levies collected on its behalf by Kenya Power and Kenya Revenue Authority.
