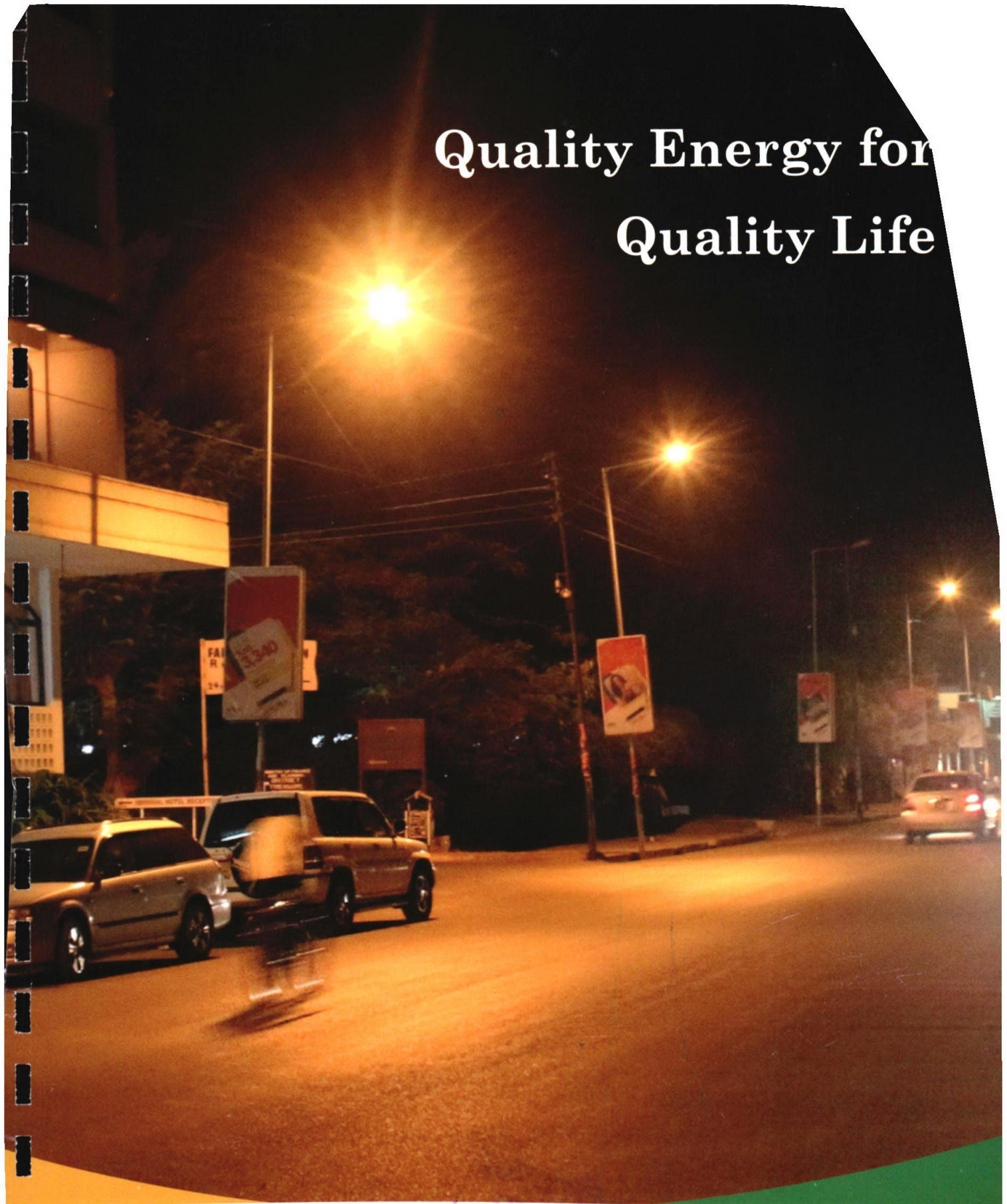


Quality Energy for Quality Life



Annual Report
Financial Statements
2012 - 2013

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ENERGY REGULATORY COMMISSION

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Eagle Africa Centre, Longonot Road Upperhill

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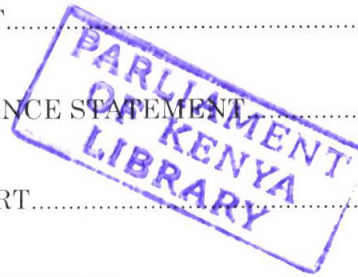
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Corporate Information

Energy Regulatory Commission (ERC) was established under the Energy Act 2006, following the operationalization of the Act on July 7, 2007. The Electricity Regulatory Board became ERC, a single sector regulatory agency, with responsibility for economic and technical regulation of electric power, renewable energy, and downstream petroleum sub sectors. Some of its functions include tariff setting and review, licensing, enforcement, dispute settlement and approval of power purchase and network services contracts.

Vision Statement

To be a globally respected regulator, enabling access to energy for socio-economic transformation.

Mission Statement

To facilitate access to efficient and sustainable energy through enabling regulation that will contribute to better quality of life in Kenya.

Core Values

Professionalism

The Commission shall uphold high standards of professionalism; all members of the Commission and professional staff are expected to adhere to their respective code of ethics.

Predictability

The ERC will follow clearly defined rules and regulations in the delivery of its services.

Integrity

The ERC will ensure the highest levels of integrity in its work.

Responsiveness

The ERC will endeavor to be sensitive and expeditious in dealing with stakeholders.

Teamwork

The ERC will, at all times, embrace teamwork, mutual cooperation and appreciation of diverse perspectives, in the discharge of its functions.

Transparency

The ERC will conduct its work at all times in a transparent manner, consulting widely and making information readily accessible internally and externally to stakeholders.

Accountability

The ERC will ensure the highest levels of accountability in its work.

Independence

The ERC will ensure the highest levels of independence in its work.

Quality Policy

The Energy Regulatory Commission is committed to providing high quality regulatory services in line with accepted international standards and statutory requirements in order to meet the needs and expectations of its stakeholders as well as the Quality Management Systems as set out in ISO 9001:2008.

Customer Focus

- We are a customer-driven organization that views every customer contact as an opportunity to add value and enhance our relationship.
- We listen to our customers, learn and understand their needs thereby enabling us to anticipate and pro-actively offer attractive solutions.
- We continuously strive to offer the best services to our customers.

Communication

- We offer open, honest and constructive communication throughout the organization by supporting healthy debate and individual participation on issues affecting our business.
- We communicate with our customers in a fresh and informative way.

Service

- We optimize the use of technology to deliver attractive customer solutions, increase efficiency and minimize costs.
- We offer reliable service delivery channels that provide a comfortable, secure and user-friendly environment for both customers and employees alike. We constantly seek ways to improve the delivery of service to our customers.



Commissioners

Eng. Emma Kiilu (Mrs.)

Chairperson

Eng. Emma Kiilu was born in 1957. She holds a Masters degree in Business Administration - majoring in Operations Management - and a Bachelor of Science degree in Electrical Engineering from the University of Nairobi.

Eng. Kiilu was with the Ministry of Public Works from 1986 to 1994, first in the Provincial office in Kisumu where she supervised government works in Nyanza Province, then later as District Works Officer in charge of projects in Mombasa. Eng. Kiilu left public service in 1995 to become a Consulting Engineer with Therero Associates, a position she currently holds. She also served as a Board Member of the Rural Electrification Authority.

Eng. Joseph Njoroge

Principal Secretary, Ministry of Energy & Petroleum

Eng. Joseph K Njoroge was born in 1958. He has extensive experience in power engineering and management. He joined Kenya Power and Lighting Company (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 a Masters in Business Administration, majoring in Strategic Management.

Eng. Njoroge 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 Chairman, MBA Chapter, of the University of Nairobi Alumni Association.

Commissioners



Eng. Kaburu Mwirichia

Director General

Eng. Mwirichia was born in 1958. He joined the Energy Regulatory Commission (ERC) as Director General on 22nd August 2007, having previously served as a board Member of the former Electricity Regulatory Board (ERB) from 2003. He holds a Bachelor of Science Degree in Mechanical Engineering from the University of Nairobi and a Masters Degree in Business Administration from the United States International University (USIU).

Eng. Mwirichia worked with the Ministry of Water Development as Assistant Engineer in charge of plant maintenance at the Coast Province between 1982 and 1983 after which he joined General Motors East Africa (GMEA) as Production Engineer. He rose through the ranks and eventually joined the Board of Directors of GMEA in the year 2000. When he left GM in July 2006, Eng. Mwirichia was the Director in charge of Engineering and Regional Integration.

Eng. Mwirichia served as board member of the Kenya Association of Manufacturers from 2001 to 2006. He has attended numerous short courses both locally and abroad. He is a Registered Engineer (R. Eng.) and a member of the Institution of Engineers of Kenya (MIEK).



Mr. David Mutuku

Commissioner

Mr. David Mutinda Mutuku, born on 30th May 1960. He holds a BSc. (Hons) Degree in Civil Engineering from the University of Nairobi and has over 20 years experience in the design and supervision of road construction under equipment-based, intensive labor-based and Roads 2000 strategies of road maintenance.

Over several years, he worked with the Ministry of Roads and Public Works before joining the private sector. Mr. Mutuku is now with Sinoe Construction Limited as Managing Director; a firm that he established.

Ms. Nassra Abdirahman Haji

Commissioner



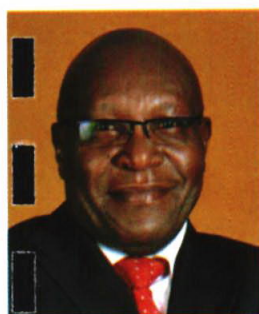
Ms. Nassra A. Haji holds a Masters degree in Public Administration and Public Policy from the London School of Economics and a Bachelor of Science degree in Development Economics from the University of London.

From 2001, she worked for Alliance for Africa, a non-governmental organization that focuses on women empowerment. Ms. Nassra later joined the United Nations (UN) in New York where she was in the Division for Advancement of Women within the Department of Economic and Social Affairs (DESA).

Ms. Nassra later moved to the World Bank as National and Regional Coordinator, Poverty Analysis Data Initiative (PADI) in the Poverty Reduction and Economic Management Sector. She returned to the UN where she worked as an Assistant to the Gender Advisor in the Gender Unit before joining UNICEF, New York in 2005 as a consultant for Gender Equality and Social Change in the Child Protection Section. She currently serves as a Director at Snowcaps Insurance Brokers Limited.

Mr. Mwangi Kariuki

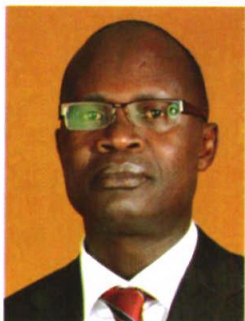
Commissioner



Mr. Mwangi Kariuki, born on 1st January 1955 and holds a Bachelor of Law degree which he obtained in 1978 and was subsequently admitted as an advocate of the High Court of Kenya. He further obtained a Council of Legal Education certificate from the Kenya School of Law in 1979.

Mr. Kariuki worked for Archer Wilcock and Awori & Company Advocates as a legal assistant, and then worked at the Public Trustee Department of the Attorney General's office from 1979 to 1980. Between 1980 and 1982, Mr. Kariuki was a Legal Officer at the Barclays Bank Trust Company Limited of Kenya. He later left and joined the Insurance Company of East Africa Limited as a Legal Officer from 1982 to 1987. Mr. Kariuki currently runs a private legal practice, Mwangi Kariuki and Company Advocates.

Commissioners



Mr. Kenneth W. Akide

Commissioner

Mr. Kenneth Wabwire Akide holds a Bachelor of Laws (LL.B) degree from the University of Nairobi and a Diploma from the Kenya School of Law. Mr. Akide is a practicing Lawyer, an Associate of the Chartered Institute of Insurers (ACII) and an Associate of the Chartered Institute of Arbitrators ACIarb.

Mr. Akide was Chairman of the Law Society of Kenya from March 2010 to March 2012. As a practicing lawyer, he specializes in commercial transactions, commercial arbitration, commercial litigation, drafting commercial agreements, alternative dispute resolution and conveyance, property law among others. He has participated in numerous international and regional conferences including the Commonwealth Law Conference in Nairobi 2007.

Mr. Akide is a member of the East African Law Society and International Commission of Jurists. He was a member of the taskforce on devolved government from 2010 to 2011.



Mr. Stanley Ngaine

Commissioner

Mr. Stanley M. Ngaine was born on 7th September 1949. He holds a Bachelor of Commerce degree (Accounting option) from the University of Nairobi; He is a Fellow of the Chartered Certified Accountants (FCCA-UK) and is also an associate member of the Chartered Institute of Management Accountants (ACMA-UK). Mr. Ngaine is a Certified Public Accountant, CPA (K) and a Fellow of the World Bank Economic Institute.

In 1974, he was employed at Gailey and Roberts as Accounts Manager and Group Accountant. Thereafter, Esso Standard Kenya Limited offered him a job as Chief Accountant in 1976 which led to a one year posting with Esso Europe offices in both UK and Ireland. Mr. Ngaine then had a stint at the Industrial Development Bank (IDB) Ltd as Financial Controller while deputizing the Managing Director. At IDB, he represented the Bank in various boards namely E.A. Oxygen, Hotelspan Ltd and Thika Cloth Mills Ltd.

Mr. Ngaine worked with Business Machines Kenya Ltd from 1985 to 1991 as the Group

Financial Director and Company Secretary. He then moved to his firm, Amuiri Investments and Management Ltd, a financial and management consulting and real estate development firm as Managing Director. In 2001, Mr. Ngaine was appointed Director of Fiscal and Monetary Policy (under World Bank contract). In this new role, he represented the Permanent Secretary, Treasury in the Boards of various organizations namely Consolidated Bank, Capital Markets Authority (CMA), Retirement Benefits Authority (RBA), East Africa Portland Cement and Pan African Paper Mills. He is currently the Executive Chairman of Sterling Capital Ltd. Mr. Ngaine is a Director of Madison Insurance Company Kenya Ltd, and the Deputy Chairman of Remu DTM Ltd.

He was Director, Nairobi Securities Exchange Ltd until March 2012.



Dr. Keren Kaberere

Commissioner

Dr. Keren Kanuthu Gitundu Kaberere holds a Doctor of Philosophy in Electrical Engineering from the University of Cape Town, South Africa. She also holds Masters and Bachelors of Science degrees in Electrical and Electronic Engineering both from the University of Nairobi.

Dr. Kaberere is a Senior Lecturer in the Department of Electrical and Electronic Engineering at Jomo Kenyatta University of Agriculture and Technology (JKUAT) which she joined in 1993. Her area of specialization is power systems with specific interest in power system stability, energy management, renewable energy, distributed generation, and electricity markets.

Dr. Kaberere was a member of the Radiation Protection Board from 2009 to April 2012 during which time she was Chairperson of the Licensing and Technical Committee (LTAC) of the Board. She is a Certified Energy Manager and works as a consultant for Sustainable Energy Initiative Ltd as the Lead Energy Manager in conducting energy audits and studies. She periodically consults for Synchro-consult Associates. In October 2009, Keren was contracted by Kenya Institute for Public Policy Research and Analysis (KIPPRA) to review the draft Proceedings of the National Energy Conference. She participated in auditing the pumping capacity of the Kenya Pipeline Company's Line 1. Dr. Kaberere is a member of the Association of Energy Engineers (AEE) and the Institution of Engineers of Kenya (IEK).

ERC Management, 2012 - 2013



Eng. Kaburu Mwirichia
Director General



Mueni Mutung'a
Commission Secretary



Dr. Frederick Nyang
Director, Economic Regulation



Eng. Linus Gitonga
Director, Petroleum Regulation



Eng. Joseph Ng'ang'a
Director, Electricity



Pavel R. Oimeke
Director, Renewable Energy



Antoinette Kamau
*Senior Manager,
Communication & Public Affairs*



Elizabeth Njau
*Senior Manager,
HR & Administration*



James Kilonzo
*Senior Manager,
Finance & Strategic Planning*



Michael Mwangi
*Acting Manager,
Procurement*

ENERGY REGULATORY COMMISSION INFORMATION

Established: Under the Energy Act, No. 12 of 2006

Commissioners

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

Eng. Emma Kiilu (Mrs)	- Chairperson
Dr. Frederick Nyang	- Ag. Director General, Appointed 21 st August 2013
Eng. Kaburu Mwirichia	- Director General, Retired 20 th August 2013
Eng. Joseph Njoroge, MBS	- Principal Secretary, Ministry of Energy and Petroleum
Eng. Titus Ndonga Gitahi	- Alternate to the PS,
Mr. David M. Mutuku	- Commissioner, Retired on 4 th July 2012
Mr. Mwangi Kariuki	- Commissioner
Dr. Keren Kaberere	- Commissioner
Ms. Nassra Abdirahman Haji	- Commissioner
Mr. Stanley Ngaine	- Commissioner
Mr. Kenneth W. Akide	- Commissioner, Appointed on 22 nd August 2012

Principal Officers

Dr. Frederick Nyang	- Ag. Director General
Ms. Mueni Mutung'a	- Commission Secretary
Eng. Linus Gitonga	- Director Petroleum
Eng. Joseph Ng'ang'a	- Director Electricity
Mr. Pavel Oimeke	- Director Renewable Energy
Ms. Elizabeth Njau	- Senior Manager, Human, Resource & Administration
Mr. James Kilonzo	- Senior Manager, Finance and Strategic Planning
Mrs. Antoinette Kamau	- Senior Manager, Comm. & Public Affairs
Mr. Michael Mwangi	- Ag. Procurement Manager
Mrs. Rosalind Murithi	- Internal Auditor

By Order of the Commission

Mueni Mutung'a

Commission Secretary

Corporate Governance Statement

Introduction

Corporate governance is the process by which companies are directed and controlled. The concept of corporate governance has gained prominence and is enshrined in codes of best practice developed by the Organization for Economic Co-operation and Development (OECD), Commonwealth Association of Corporate Governance (CACG) and the Centre for Corporate Governance in Kenya.

The Commissioners recognize the need to conduct the business and operations of the ERC with integrity and in accordance with generally accepted corporate practice and endorse internationally developed principles of corporate governance. The Commissioners will continue to focus their attention on maintaining the highest standards of corporate governance and business ethics in the ERC's operations.

Commissioners

The Commission is chaired by a Non Executive Chairperson (Eng. Emma Kiilu) appointed by the President. All Commissioners have extensive business and administrative experience in private and/or public sectors that is applied in the management of ERC. Commissioners' allowances, honoraria and related transactions are disclosed in note 4 to the financial statements. Commission meetings are held regularly to review ERC's performance against set targets and business plans as well as to formulate and implement strategy. The Commission has three committees that report to the Commission. The committees are designed to ensure the Commission runs efficiently and effectively and in a manner that embraces corporate governance. The Committees enable the Commission to effectively discharge its responsibility by delving into issues that require greater attention than would be possible during regular Commission meetings.

Commission Finance and Administration Committee

The Commission Finance and Administration Committee is chaired by a non executive Commissioner and meets at least quarterly. The members are Mr. Mwangi Kariuki, Mr. Stanley Ngaine, and Eng. Kaburu Mwirichia. The Committee's responsibilities are ensuring overall sound financial reporting, establishing internal system of controls, business plans and budgets, procurement, ICT, Public Relations, administration and staff affairs.

Commission Audit Committee

The Audit Committee is chaired by a non executive Commissioner. The members are M/s Nassra Haji, Mr. Kenneth Akide and Dr. Keren Kaberere, all non-executive commissioners. The responsibilities of the committee are to review the financial information of the Commission, monitor the effectiveness of management information and internal control systems, deliberate on significant findings arising from both internal and external audits, and reviewing the overall risks facing the Commission.

Commission Technical Committee

The Technical Committee is chaired by a non executive Commissioner and meets at least quarterly. The members are Dr. Keren Kaberere, Mr. Titus Gitahi, Mr. Kenneth Akide, M/s Nassra Haji and Eng. Kaburu Mwirichia. The committee's responsibilities are to provide technical and strategic direction to ERC and approve technical plans, activities, reports and budgets.

Delegation of Responsibilities

The preparation of ERC's financial statements is a role that has been delegated to management. These financial statements have been prepared in accordance with internationally accepted accounting practice based on appropriate accounting policies consistently applied and supported by reasonable judgment and estimates.

Management ensures that adequate internal financial control systems are developed to provide reasonable certainty in respect of:

- The completeness and accuracy of accounting records;
- The integrity and reliability of ERC's annual financial statements and
- The safeguarding of ERC assets.

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

Statement of Risk Management and Internal Control

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

Responsibility

Risk management is one of the most important activities of the Commission. The Commission through the Audit and Risk Committee has a responsibility for overseeing risk management within ERC by ensuring that appropriate risk management strategies and policies are in place, and that processes established are adequate and effective. The Commission defines ERC's overall level of risk tolerance and ensures that there are adequate tools and resources for managing risks.

The Commission has assigned responsibility for risk management to the Director General; hence management ensures that sound risk management processes are implemented and functioning effectively. The costs and resources employed in risk management are

proportional to obtainable benefits.

Internal Controls

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

Chairperson's Report



On behalf of the Commissioners, I am delighted to present to you the Commission's annual report for the year ended 30th June 2013.

In the global arena, the financial year was characterized by growth in demand in energy. This is because the nations that were known as major energy exporters are now becoming leading energy consumers. This is attributed to economic expansion and development of their economies. In times of widespread environmental awareness, the right combination of policies and technologies is proving that the links between economic growth, energy demand and energy-related carbon emissions can be weakened.

The challenge of energy security and sustainability around the world today calls for concerted efforts at all levels (national, regional and international) with a view to identifying and developing alternative options for energy supply. The fast depletion of fossil fuels, coupled with increasing awareness of environmental issues, concern for increasing greenhouse gas emissions and escalating petroleum prices, have led to concerted efforts in the search for renewable and environmentally friendly alternative energy sources.

The continued economic growth in the country, mainly supported by strong expansion in the electricity and water sectors, financial intermediation, agriculture, forestry and manufacturing, is an opportunity to invest in renewable sources of energy and to expand the country's infrastructure. In view of this, the Commission has recorded and gained considerable mileage in discharging its mandate this financial year key among them approving Power Purchase Agreements (PPA's), licensing investors and developing regulations in a timely manner. This is in line with Vision 2030 which is also tied into the Commission's Strategic Plan 2012-2017.

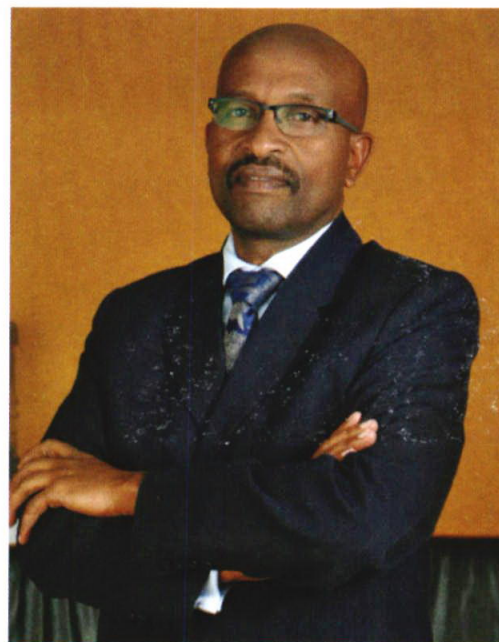
The Commission is not only focused to supporting the management to attain the clearly set out objectives but also remains fully committed to meeting its mandate and maintaining its independence.

Eng. Emma Kiilu
Chairperson

Director General's Report

In the year under review, significant growth was witnessed in the energy sector in Kenya.

In the spirit of national development, major geothermal and wind projects have been undertaken to support the growing demand for electric power and overall energy needs of the country. The key to stabilizing the growth is by embracing renewable energy sources which will in turn ensure cleaner energy and a cleaner environment. Conversely, the Commission has remained focused on discharging its mandate in a predictable and reliable manner and meeting its targets as set out in the Energy Act 2006.



The electricity subsector in Kenya will continue to play a key role in economic growth and realisation of Vision 2030. Electricity systems are complex and require continuous investment to keep them in optimum operating conditions. In order to ensure there is strong electricity infrastructure to cope with growing demand for electricity currently and in future, the Commission continues to license power undertakings in generation, transmission and distribution.

In the year under review, the Commission collected Ksh.137 million from the Petroleum Levy compared to Ksh.123 million the previous year, an increase of 11%. On the other hand, revenue from the Electricity Levy increased 7% from Ksh.183 million in 2011/12 to Ksh.194 million in 2012/13. Government transfers increased by 134% from Ksh.38 million in 2011/12 to Kshs.90 million in 2012/13. In total, revenue went up by 20% from Ksh.355 million in 2011/12 to Ksh.424 Million in 2012/13. Total recurrent expenditure increased by 6% from Ksh.413 million in 2011/12 to Ksh.439 million.

The Commission's total asset base reduced by 14% from Ksh.318 million in the previous period to Ksh.273 million in 2012/13. Non-current assets declined 24% to Ksh.121 million down from Kshs.159 million due to normal depreciation. Current assets went down by 7% from Kshs.103 million to Kshs.96 million. Current liabilities decreased by 26% to Ksh.92 million down from Kshs.125 million in the 2011/12 financial year mainly due to settlement of contracted projects. Further, total equity decreased by 7% to Ksh.180 million down from Ksh.193 million in the previous year due to a deficit of Kshs.13 million realized in 2012/13.

I wish to extend my sincere appreciation to the Government of Kenya and the ERC Commission for their continued support. Finally, I extend my gratitude to the Commission staff who worked tirelessly to achieve the targets clearly set out for the past financial year as recorded in this Annual Report.

Eng. Kaburu Mwirichia



Chapter 1
Status of the Industry



Photo by Nairobi123

Chapter 1: Status of the Industry

1.1 Economy

Kenya experienced improved GDP growth, recorded at 4.3%. This was witnessed in the second quarter of 2013. The growth was supported mainly by strong expansion of activities in the electricity and water sectors, financial intermediation, agriculture, forestry and manufacturing. However, hotels and restaurants and the wholesale and retail trade sectors registered contraction in growth in the second quarter of 2013 due to suppressed investment during the electioneering period.

Agriculture and forestry is estimated to have expanded by 5.0% in the second quarter of 2013 compared to 2.0% growth during a similar quarter in 2012, with most of agricultural crops recorded improved production.

Additionally, the manufacturing sector, which is mostly dependent on the energy sector, grew by 4.3% in the second quarter of 2013 compared to 2.1% in 2012. Growth was driven by the manufacture of motor vehicle tyres, toilet soap, cement, soft drinks, wheat flour and milk which recorded significant growth of 7.2%. However, processing of sugar, coffee and beer declined during the second quarter compared to a similar period in 2012.

1.2 Energy Market

1.2.1 The Electricity Subsector

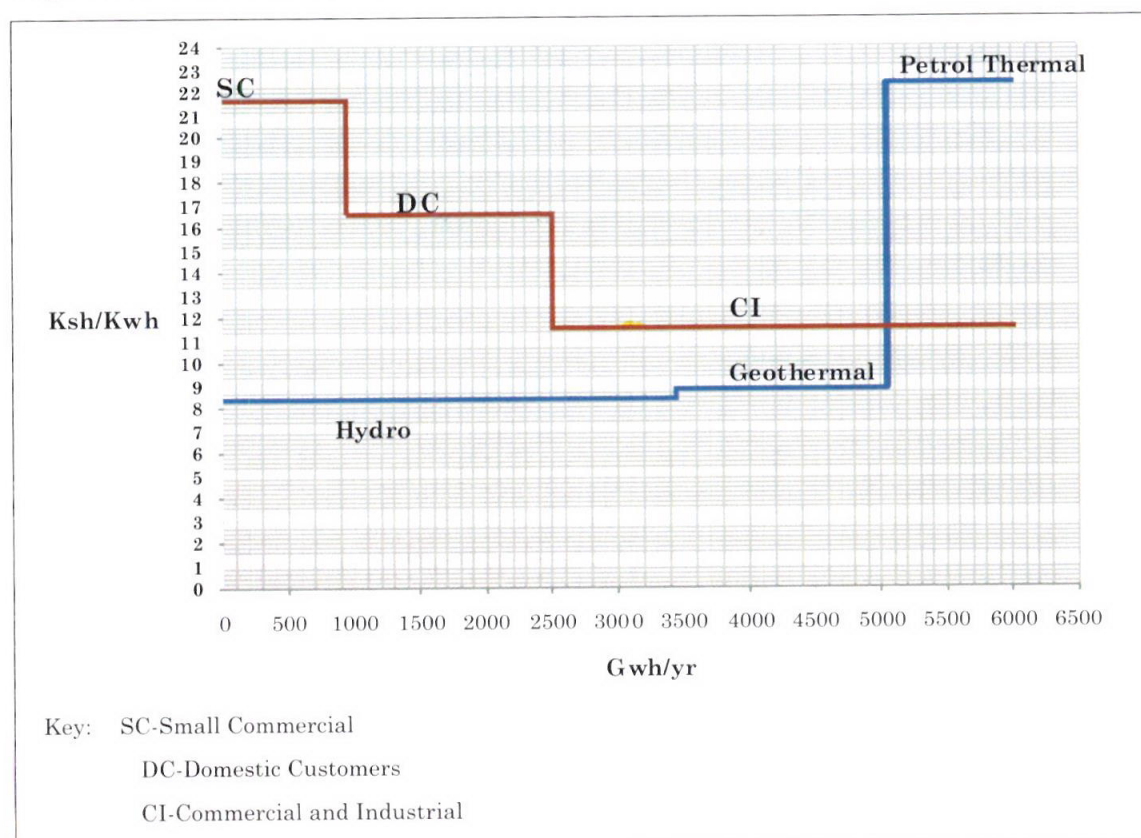
National demand for electric power continued to grow significantly from the year 2007/08 to 2012/13 at an average annual growth rate of 5.37%. This was driven by amalgamation of normal economic growth, increased connections courtesy of the Rural Electrification Programme as well as the flagship projects which are the major drivers of Vision 2030. However, the power market remained unbalanced with this demand not fully met by supply. This is mostly due to system constraints and weather challenges.

Peak demand rose from 1,236MW in 2011/12 to 1,354MW in 2012/13 representing a record high of 9.55% for the past five years. The supply of electricity had a 5.44% increase from 7,670GWh in 2011/12 to 8087GWh in 2012/13. The recorded total consumption also demonstrated a significant increase, recording a total of 6,144GWh compared to 5,959GWh in 2011/2012. Total domestic demand for electricity registered a growth of 3.78% from 6,341 million kWh in 2012 to 6,581 million kWh in 2013.

The number of customers connected to the national grid increased from 2,038,625 in 2012 to 2,330,962 in 2013. This represents a 14.3% increase in customer connections. In the 2011/2012 period, the increase in customers was 16.3%, indicating a slight drop in new customer connections. The increase in consumption is accounted largely by the domestic customer category.

Sales in the industrial/commercial customer category increased marginally, from 3,419GWh in the year 2011/2012 compared to 3,440GWh in the year 2012/2013 representing a 0.6% increase in demand. In terms of customers in this category, there was an increase of 2.3% relative to the previous financial year. The number of customers

Figure 1: Electricity supply in Kenya in 2012/13



Source: Energy Regulatory Commission

connected under the Rural Electrification Programme rose 19% from 382,631 customers in 2011/12 to 453,544 customers in 2012/13.

Table 1, depicts Kenya Power and Lighting Company (KPLC) sales by customer type, dominated by industrial/commercial and domestic consumers who consumed 3,486GWh and 1,645GWh respectively in 2012/13. Total sales increased by 4.0% compared to 3.6% of the previous year. The consumption sales of other categories, which comprises of Small

Table 1: KPLC Sales in GWh by Customer Category

Tariff	Customer	2008/09	2009/10	2010/11	2011/12	2012/13
DC	Domestic	1,254	1,290	1,424	1,531	1,670
SC	Small Commercial	823	823	904	993	998
CI	Commercial and Industrial	3,020	3,153	3,401	3,419	3,440
IT	Off-Peak	43	36	38	31	18
SL	Street Lighting	15	16	18	16	18
	Total	5,155	5,318	5,785	5,959	6,144
	% Increase p.a	2.40%	3.20%	8.80%	3.0%	3.1%

Source: KPLC, 2013

The largest power generator in the country is the Kenya Electricity Generating Company (KenGen) which accounted for 70% of the industry's effective generation capacity by 2012/13. Independent Power Producers (IPPs) accounted for 22% while Emergency Power Producers accounted for 7% in the same period. Isolated grid generation accounted for less than 1% under the Rural Electrification Programme (REP). The generation mix comprises of 46% hydro, 37% fossil fuels, 14% geothermal, 2% bagasse (cogeneration) and 0.3% wind. Kenya's current effective installed (grid connected) electricity capacity is 1,765 MW as depicted in table 2 below.

Table 2: Installed Capacity of Nominal and Effective Power Generation

Ownership	Source	Installed capacity as at 30.06.2012		Installed Capacity as at 30.06.2013	
		Nominal (MW)	Effective (MW)	Nominal (MW)	Effective (MW)
KenGen	Hydro	788	770	816	767
	Petrol-Thermal- EPPs	120	120	120	120
	Petro-thermal	259	236	259	209
	Geothermal	157	150	158	153
	Wind	5.3	5.1	5.3	5.1
IPPs	Petrol-thermal	272.5	272.5	272.6	273.1
	Geothermal	52	48	92.4	92.4
	Bagasse Cogeneration	26	26	26	21.5
	Small hydro	0.3	0.3	0.3	0.3
Imports	UETCL	-	-	-	-
	TANESCO	-	-	-	-
Rural Electrification Programme	Petro-thermal	10.1	8.5	16	11.6
	Totals	1,690	1636.4	1,765.60	1,653.00

Source: Energy Regulatory Commission

1.2.2 Electricity Subsector Infrastructure

The country's demand for electric power continues to grow due to increased investments and accelerated new customer connections. Following the commissioning of OrPower 4's second power plant (39.6MW) and restoration of two Kindaruma units which were optimised to provide 18MW, the installed capacity increased from 1,691MW to 1,765MW in year 2012/2013.

During the year under review, the transmission network increased by 1,825kms from 47,035kms the previous year to 48,860kms. In addition to the increased length, transmission sub-stations with a cumulative total capacity of 2,976MWA and distribution sub-stations with a cumulative total capacity of 2,442MWA were installed during the year. The country's transmission system expansion projects are implemented by KETRACO.

The Commission promotes the use of renewable energy sources to protect the environment. The Commission has also published regulations aimed at increasing energy efficiency and ultimately reducing unnecessary demand from the grid.

1.2.3 The Petroleum Subsector

Demand for petroleum products in the Financial Year declined following a reduction in thermal power generation due to improved hydrology during the period compared to the previous year. Total domestic demand for petroleum products declined from 3,941.6 tonnes in 2011 to 3,686.0 tonnes in 2012.

Similarly, imports of crude petroleum declined from 1,772.1 thousand tonnes in 2011 to 997 thousand tonnes in 2012 while imports of finished petroleum products increased from 2,235.6 tonnes in 2011 to 2,803.4 tonnes in 2012. Demand for Light diesel (AGO) was highest in 2012 at 1,486.3 tonnes up from 1,461.8 tonnes in 2011 compared to demand for other products such as Motor Spirit, Illuminating Kerosene, Fuel Oil, Jet/Turbo fuel and heavy diesel oil.

The Commission regulates the prices of only four of the indicated fuels i.e. Premium Motor Spirit, Regular Motor Spirit, Light Diesel, and Illuminating Kerosene. This is illustrated in table 3 (next page).



Petroleum processing and storage facilities at the Changamwe Oil Refinery, Mombasa

1.2.4 Petroleum Subsector Infrastructure

Recent infrastructural developments in the sector include the African Gas and Oil Company Limited's Liquefied Petroleum Gas bulk storage facility at Miritini, Mombasa which was duly licensed by the Commission on 13th December 2012 marking a major milestone in the LPG industry in Kenya. The facility brings on board 14,000 metric tons additional LPG receipt capacity enabling oil marketing companies to charter bigger LPG vessels and save on freight costs. In addition, bigger import capacity will reduce waiting time for vessel and hence cut down demurrage costs.

Table 3: Petroleum Supply and Demand, 2009-2012

Demand	2009	2010	2011	2012
Liquefied Petroleum Gas	74.6	87.8	91.6	93.60
Motor Spirit (Premium and Regular	461.7	597.2	562.1	618.50
Aviation Spirit	1.4	2.5	2.8	1.80
Jet/turbo fuel	570.9	539.6	670.6	671.00
Illuminating Kerosene	332.8	316.0	269.6	309.00
Light Diesel Oil	1,416.1	1,517.3	1,461.8	1,486.30
Heavy Diesel Oil	23.9	25.0	27.6	20.80
Fuel Oil	729.4	680.3	771.8	437.0
Total	3,610.8	3,765.7	3,857.9	3,638.0
Refinery Usage	92.4	101.4	83.7	48.0
Total Domestic Demand	3,703.2	3,867.1	3,941.6	3,686.0
Export of petroleum fuels	20.7	29.4	32.1	11.7
Total Demand	3,723.9	3,896.5	3,973.7	3,697.7
Supply				
Imports				
Crude oil	1,610.1	1,551.5	1,772.1	997.0
Petroleum fuels	2,259.0	2,071.9	2,235.6	2,803.4
Total	3,869.1	3,623.4	4,007.7	3,800.4
Adjustment	-145.2	273.1	-34.0	-102.7
Total Supply	3,723.9	3,896.5	3,973.7	3,697.7

Source: KNBS, 2013

The downstream petroleum sub-sector infrastructure in Kenya currently comprises the following: four receipt jetties - Kipevu Oil Terminal, Shimanzi Oil Terminal, Mbaraki Wharf, African Gas and Oil Company Limited Single Buoy Mooring for LPG, one refinery, one pipeline company – with a total pipe length of 896km, 33 bulk petroleum depots, 24 bulk LPG facilities, and 1,383 retail stations.

1.2.5 Renewable Energy Sub- Sector



Inspecting a solar water heating installation.

The National Energy Policy, Sessional Paper No.4 of 2004, and the Energy Act No. 12 of 2006 encourage the exploitation of local renewable energy sources to boost the country's electricity supply capacity. Kenya's Renewable Energy Sources (RES) which include wind, biomass, small hydros, geothermal, biogas, solar and municipal waste energy are abundant and sufficient for exploitation of renewable energy.

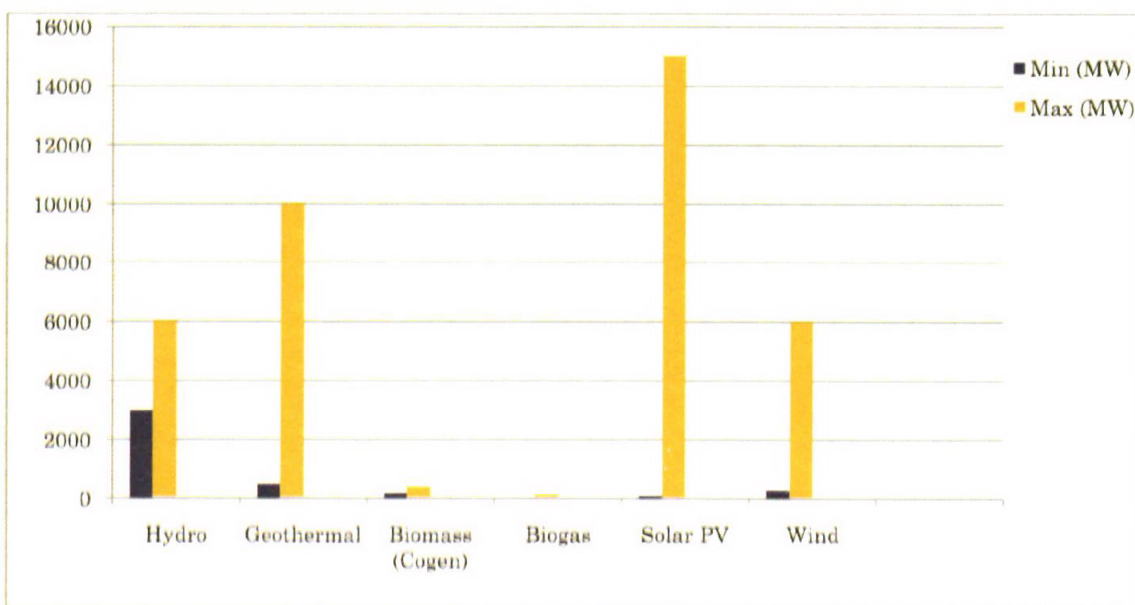
In the Financial Year 2012/13, the government revised and published the Feed in Tariffs (FIT) Policy, (which has been in place since 2008), to make it more attractive to Renewable Energy investors. This policy was published along with standardised Power Purchase Agreements and the FIT Policy Implementation guidelines.

1.2.6 Renewable Energy Resource Potential

The potential for renewable energy in power generation and grid supply is considered to be very significant in Kenya.

Biomass remains the main source of primary energy. Some of the Renewable Energy Sources (RES) have been exploited, mainly in the form of large hydropower (more than 750 MW cumulatively) and large geothermal projects (almost 200 MW). Of the existing installed capacity, small-scale (≤ 10 MW) projects contribute less than 3% though this has grown from 1.1% in 2005.

Figure 2: Kenya's Renewable Energy Potential in MW as at June 2013



Source: Energy Regulatory Commission



Chapter 2

Licensing



Chapter 2: Licensing

As per Section 6 (a) of the Energy Act 2006, the Commission is mandated to license activities in the electricity, petroleum and renewable energy sub-sectors. Furthermore, the Commission ensures that licensees comply with the law, regulations and license conditions so as to empower and protect consumers and investors of energy and to bring order to the sector.

2.1 Electricity Subsector

2.1.1 Generation and Transmission

The licensing of generation and transmission facilities is undertaken to comply with the Energy Act 2006, which mandates the Commission to process applications for licenses and permits for generation and for transmission of electric power.

During the period under review, the following generation Licences and permits were issued as shown in table 4.

Table 4: Electric Power Generation Licences and Permits Issued

Technology	Location	Capacity (MW)	Authorization
Wind	Ngong I Phase I Wind	5.1	Licence
Geothermal	Olkaria (Wellhead)	5	Licence
	Olkaria (Wellhead)	70	Licence
Hydro	Tana	20	Licence
	Wanjii	7.4	Licence
	Sagana	1.5	Permit
	Ndula	2.0	Permit
	Mesco	0.38	Permit
	Kiambere	164	Licence
	Kindaruma	72	Licence
	Masinga	40	Licence
	Kamburu	94.2	Licence
	Gitaru	225	Licence

Source: Energy Regulatory Commission

New licenses were issued to Ngong I Phase I Wind and Olkaria (Wellheads) while the other licenses were modifications of existing licenses.

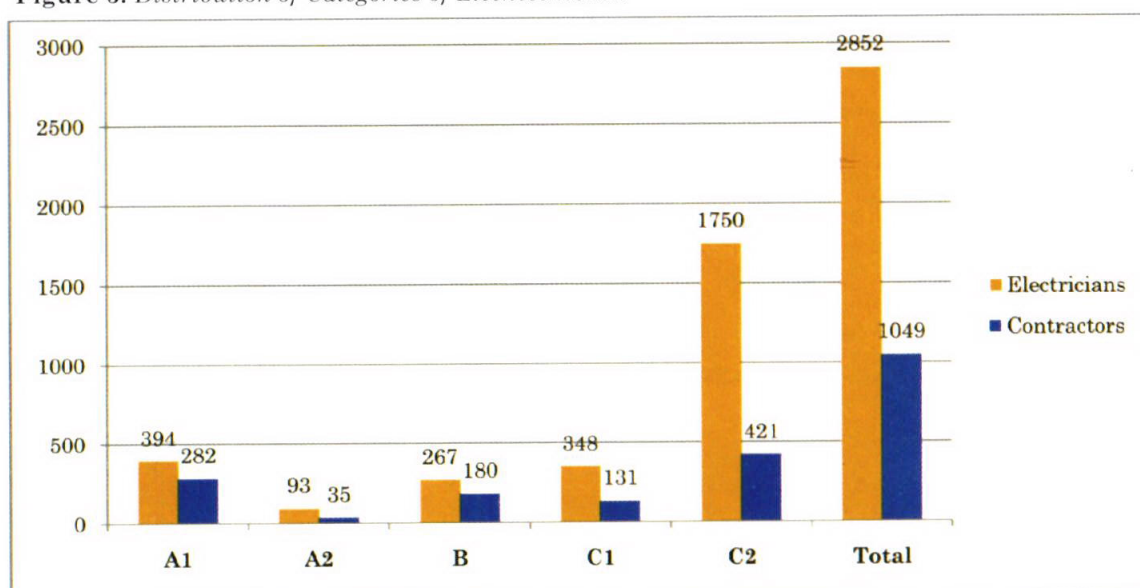
2.1.2 Licensing of Contractors and Electricians

Pursuant to Section 38(4) of the Energy Act 2006, the Commission is mandated to license contractors and electricians. Applications are expected to be processed within 90 days of the date of application.

During the period under review, a total of 942 applications for electrician licences were received out of which 346 applications (36.7%) were successful, 596; (54.6%) were unsuccessful while 81 applicants (8.5%) did not attend the licensing interview.

For electrical contractors, a total of 128 companies submitted applications to be granted electrical contractor licenses. Out of these, 99 (77%) were successful while 14 (10.9%) were unsuccessful and 15 (11.7%) did not attend the license interview. The whole process for both electricians and contractors licensing took an average of 58 days.

Figure 3: *Distribution of Categories of Licences issued*



Source: Energy Regulatory Commission

2.2 Petroleum Subsector

The Commission is obligated by Section 80 of the Energy Act to issue licenses for importation, refining, exportation, wholesale and storage of petroleum products. The Commission received a total of 760 applications out of which 488 were approved and licenses issued while 272 were rejected for failure to fulfill licensing requirements. A summary of the licenses applied for and the outcome is shown in Table 5.

Table 5: Types of licenses received and processed

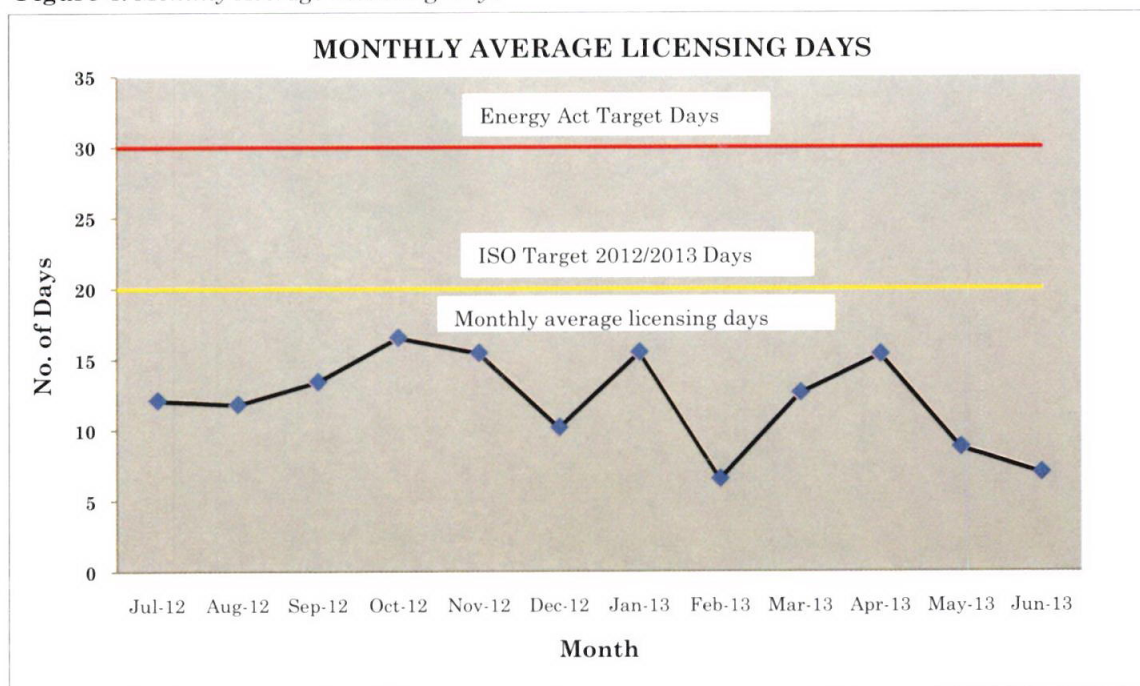
No.	License Description	No. of Applicants	Approved
1	Blending, Storage, Wholesale and Export of Lubricants	3	2
2	Bunkering of Petroleum Products (Except LPG)	3	2
3	Filling of LPG Cylinders	2	1
4	Import Export and Wholesale of Lubricants	4	3
5	Import for Export (Transit) of Petroleum Products (Except LPG)	25	20
6	Import, Export and Wholesale of LPG in Bulk and Cylinders	47	30
7	Import, Export, Storage, Filling and Wholesale of LPG	23	10
8	Import, Export and Wholesale of Petroleum Products (Except LPG)	111	70
9	Import, Storage, Export and Wholesale of Petroleum Products (Except LPG)	7	6
10	Import, Export and Wholesale of Furnace Oil	1	1
11	LPG Cylinder Exchange Pool Membership	2	2
12	Refining and Storage of Petroleum Products	1	1
13	Retail of Petroleum Products (Except LPG)	4	0
14	Storage and Filling of LPG	14	11
15	Storage and Wholesale of LPG in Cylinders	6	5
16	Storage of Petroleum Products (Except LPG)	68	28
17	Transport of LPG in Bulk	54	30
18	Transportation and Storage of Petroleum Products	2	1
19	Wholesale of LPG in Bulk and Cylinders	100	61
20	Wholesale of Petroleum Products (Except LPG)	283	204
	TOTAL	760	488

Source: Energy Regulatory Commission

2.2.1 Performance Level

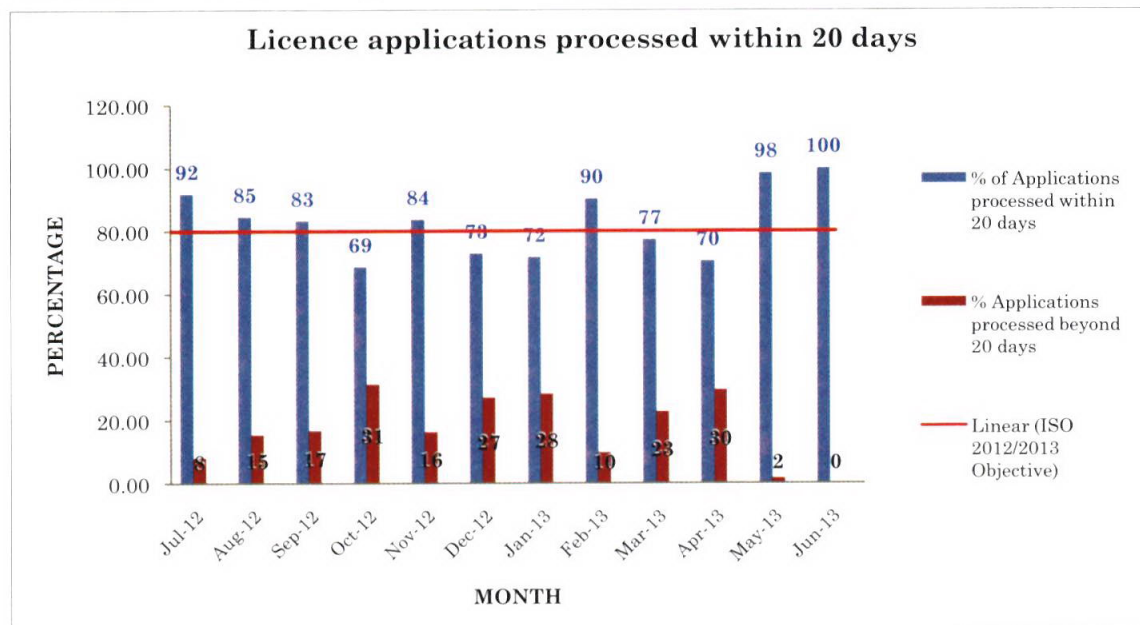
Section 82 (1) of the Energy Act 2006 mandates the Commission to grant a license or decline to grant such a license within 30 days of receipt of application. During the year under review, the average number of days taken to process a license application was 12 days while 84% of total applications received were processed within 20 days well over a target of 80% set for the year 2012/2013. The performance is depicted in Figures 4 and 5.

Figure 4: Monthly Average Licensing Days



Source: Energy Regulatory Commission

Figure 5: License applications processed within 20 days



Source: Energy Regulatory Commission

2.2.2 Renewable Energy Sub-Sector

2.2.2.1 Licensing

Following the gazettment of The Energy (Solar Water Heating) Regulations, 2012 on 25th May 2012, The Energy (Solar Photovoltaic Systems) Regulations, 2012 and The Energy (Energy Management) Regulations, 2012 on 28th September 2012, the

Commission began licensing in March 2013 as per the requirements of the regulations. These regulations provide for licensing of Solar Water heating technicians and contractors, Solar PV technicians, contractors and vendors, energy auditors and energy audit firms. All applicants are taken through written and oral interviews to assess their skills in their specific fields of interest and the whole process takes a maximum of 90 days.

A total of 245 license applications were received through the Regulatory Management Information System (RMIS) during the financial year 2012/2013. Table 6 shows a summary category of the license applications received.

Table 6: *Licensing Applications Received in the Financial Year 2012/2013*

Category	Received Applications	Licences Issued
Energy Audit Firms	1	1
Energy Auditors	7	6
Solar Photovoltaic Contractors	97	0
Solar water heating contractors	3	0
Solar PV Technicians	142	2
Solar Water Heating Technicians	7	1

Source: Energy Regulatory Commission

During the Financial Year, a total of 22 licenses were granted to applicants as shown in table 7.

Table 7: *Licensed Firms, Technicians and Energy Auditors as at June 2013*

Type of License	License Class	Number of Licenses
Solar PV Technicians	SPV T1	0
	SPV T1	3
	SPV T1	4
Solar Water Heating Technicians	SWH Tech	1
Energy Auditors	Energy Auditor A	11
	Auditor E	2
Energy Audit Firms	Energy Audit Firm A	1
	Energy Audit Firm E	0

Source: Energy Regulatory Commission



Chapter 3
Energy Planning



Chapter 3: Energy Planning

3.1 Indicative Energy Planning

In pursuit of the provisions of section 5(g) of the Energy Act No. 12 of 2006 that mandates the Commission to prepare Indicative National Energy Plans, the Commission in conjunction with key stakeholders updates the Least Cost Power Development Plan (LCPDP) every second year. This report focuses on developments in the electric power sector and takes a long-term view of the sector given a set of assumptions. Similar reports are planned for both petroleum and renewable energy sub-sectors.

3.1.1 Least Cost Power Development Plan (2013-2033)

Preparation of the LCPDP for the period 2013 - 2033 started in July 2012 and was finalized in May 2013. The preparation for a complete plan was done in conjunction with stakeholders namely: Kenya Power and Lighting Company (KPLC), Kenya Electricity Generating Company (KenGen), Kenya Electricity Transmission Company (KETRACO), Rural Electrification Authority (REA), Geothermal Development Company (GDC), Ministry of Energy, Kenya National Bureau of Statistics (KNBS) and stakeholders from the private sector. The purpose of the exercise was to update the previous plan covering the period 2011 - 2031 taking into consideration new developments in the sector. The plan consists of a load forecast, generation, transmission and distribution plans for the period.

3.1.2 Highlights of the Plan

In the plan, three demand scenarios were developed on assumptions which were defined to reflect the current and future economic outlook based on Vision 2030. From these assumptions, the load forecast indicated peak demand in the range of 1,370MW in 2012 and between 11,318MW and 31,237MW in 2033.

The generation system planning indicated a strong inverse correlation between the Short Run Marginal Cost (SRMC) of the system and energy generation. Using screening curves, the plan established that hydro and (Medium Speed Diesels) MSDs were suitable for peaking capacity while nuclear, geothermal and GT/Natural gas, wind and coal are suitable for base load operation. The optimum solution indicated that geothermal capacity should be increased from 205MW in 2012 to 6,521 in 2033. The present value of system expansion was estimated at USD 33.1 billion. A transmission system was also developed to ferry the power generated during the period and indicated the need to develop approximately 21,015 km of new lines at a cost of USD 3.77 billion.

3.1.3 Energy Balance

The electricity sub-sector energy balance is indicated in the generation, supply and demand information as well as total system losses. During year 2012, generation increased from 7,272 GWh in 2011 to 7,632 GWh in 2012 while total end use consumption increased from 6,092 GWh to 6,299 GWh in 2011 and 2012 respectively. Total losses during the period increased from 16.2% to 17.4% largely as a result of an increase in technical transmission losses from the Mombasa-Nairobi lines and the increased connectivity of rural households at low voltage. The energy balance in the electricity sector for the period 2009-2012 is as provided in Table 8.

Table 8: Electricity Supply - Demand Balance, Gwh, 2009 - 2012

GENERATION IN KENYA	2009	2010	2011	2012
<i>1. RENEWABLE ENERGY</i>				
1.1. Hydro plants KenGen	2849	2170	3427	3450
IPP Tea factory	0.0	0.3	0.4	0.8
Total Hydro	2849	2170	3427	3451
1.2 Geothermal plants KenGen	903	939	1081	1106
IPP OrPower	276	400	372	392
Total Geothermal	1179	1339	1453	1498
1.3 Wind Farms	0.3	16	18	15
Total Wind	0	16	18	15
1.4 Cogeneration Ken gen				
Cogeneration IPP	4	99	87	100
Total Cogeneration	4	99	87	100
Total renewable energies	4032	3625	4985	5063
<i>2. FOSSIL FUELS</i>				
2.1 Diesel plants Ken Gen	393	335	514	806
AGGREKO	914	1096	267	381
Diesel plants IPP	910	1434	1484	1326
Total diesel	2217	2865	2265	2513
2.2. Gas turbines KenGen	193	145	1	33
Total Gas turbines	193	145	1	33
Total fossil fuels	2410	3010	2266	2546
TOTAL DOMESTIC GENERATION KENGEN	4338	3605	5041	5410
Total IPP	1190	1933	1943	1819

Table 8 (continued): Electricity Supply - Demand Balance, GWh, 2009 - 2012

GENERATION IN KENYA	2009	2010	2011	2012
TOTAL IPP+AGGREKO	2104	3029	2210	2200
OFF GRID (REP)	16	19	21	23
GLOBAL GENERATION	6458	6654	7272	7632
PLUS IMPORTS	30	38	31	37.1
GLOBAL SUPPLY in KENYA	6489	6692	7303	7670
LESS EXPORTS: (Uganda,Tanesco)	27	27	31	42
TOTAL RESOURCES AVAILABLE FOR CONSUMPTION IN KENYA	6462	6665	7272	7628
2 - DEMAND				
1 HV CUSTOMERS=table 10+table 11	430	466	547	548
2. MV CUSTOMERS=table 8+table 9	1,147	1,218	1,362	1,359
3. LV CUSTOMERS				
3.1 Domestic Customers				
Dom 1=table 5	1,254	1,290	1,424	1,520
Total Domestic	1,254	1,290	1,424	1,520
3.2. Commercial and Industrial LV Consumers				
Small Commercial.=table 6	823	823	904	993
Comm. & Indust.-CI1=table 11	1,443	1,469	1,492	1,511
3.3 Street lighting=table 17	15	17	18	16
3.4 REP=table 18	250	279	307	308
3.5 IT Off -peak load=table 16	42	37	38	43
Total Comm. & industrial-LV	2,574	2,625	2,759	2,871
Total LV	3,828	3,915	4,183	4,391

Table 8 (continued): Electricity Supply - Demand Balance, GWh, 2009 - 2012

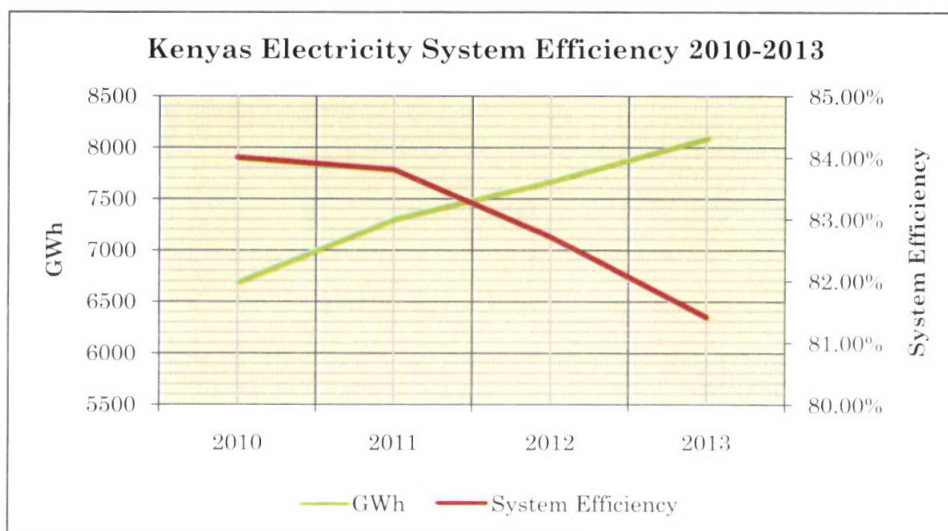
GENERATION IN KENYA	2009	2010	2011	2012
TOTAL END-USE CONSUMPTION	5,405	5,599	6,092	6,299
3. BREAKDOWN OF LOSSES				
3.1 LV LEVEL				
Total sales at LV level	3828	3915	4183	4391
Non technical losses at LV level	0	0	0	0
Total end use consumption at LV level ©	3828	3915	4183	4391
LV technical Losses	482	482	530	590
Total: Energy supplied at MV level for LV customers	4309	4396	4712	4981
3.2 MV LEVEL				
Total sales at MV level	1147	1218	1362	1359
Non technical losses at MV level	0	0	0	0
Total end use consumption at MV level	1147	1218	1362	1359
Energy supplied at MV level for LV customers	4309	4396	4712	4981
MV technical losses	336	339	374	419
Total Energy supplied at HV level for LV & MV customers	5792	5954	6448	6759
3.3 HV LEVEL				
Total HV sales (or HV end use consumption)	430	466	547	548
Energy supplied at HV level for LV & MV customers	5792	5954	6448	6759
HV technical losses	239	247	276	320
Total energy supplied at HV level	6461	6666	7272	7628
3.4 SUMMARIZED RESULTS				
Total sales HV+MV+LV	5405	5599	6092	6299
Total non technical losses	0	0	0	0

GENERATION IN KENYA	2009	2010	2011	2012
Total end-use consumption	5405	5599	6092	6299
Total technical losses	1057	1068	1180	1329
TOTAL ENERGY CONSUMED IN KENYA	6461	6666	7272	7628
3.5 TECHNICAL LOSS RATES				
Technical Loss Rates: High Voltage	3.70%	3.70%	3.80%	4.20%
Technical Loss Rates: Medium Voltage	5.80%	5.70%	5.80%	6.20%
Technical Loss Rates: Low Voltage	11.18%	10.96%	11.24%	11.84%
Global	16.4%	16.0%	16.2%	17.4%
3.6 TECHNICAL LOSS SHARES				
Technical Loss Shares: HV	3.70%	3.70%	3.80%	4.20%
Technical Loss Shares: MV	5.20%	5.09%	5.14%	5.49%
Technical Loss Shares: LV	7.46%	7.23%	7.28%	7.73%
Total Losses	16.36%	16.02%	16.23%	17.42%

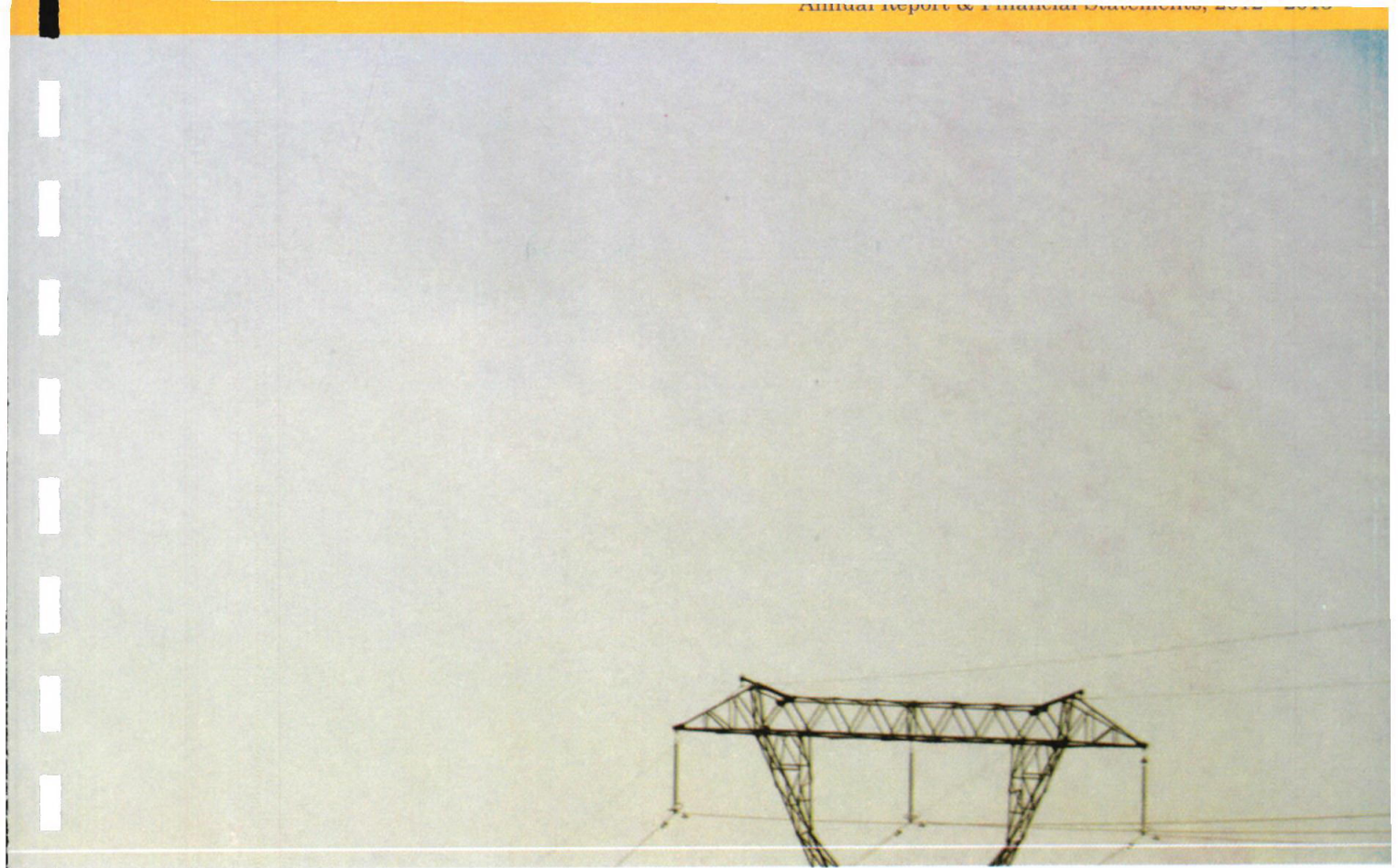
Source: LCPDP Report

Kenya's electricity generation increased from 6,692GWh in 2010 to 8,087GWh in 2013. On the other hand, system losses which are indicative of efficiency have been going from bad to worse since 2010 from 16.0% to 18.6% in 2013. This shows that KPLC has not been meeting the targets as set in the retail tariff review for the tariff control period 2008-2011. KPLC explained that increased connections in rural areas supplied at low voltage and lack of transmission infrastructure to evacuate power from the Coast are the major causes of the setback. Figure 8 represents a summary trend of power generation and system efficiency over the period 2010-2013.

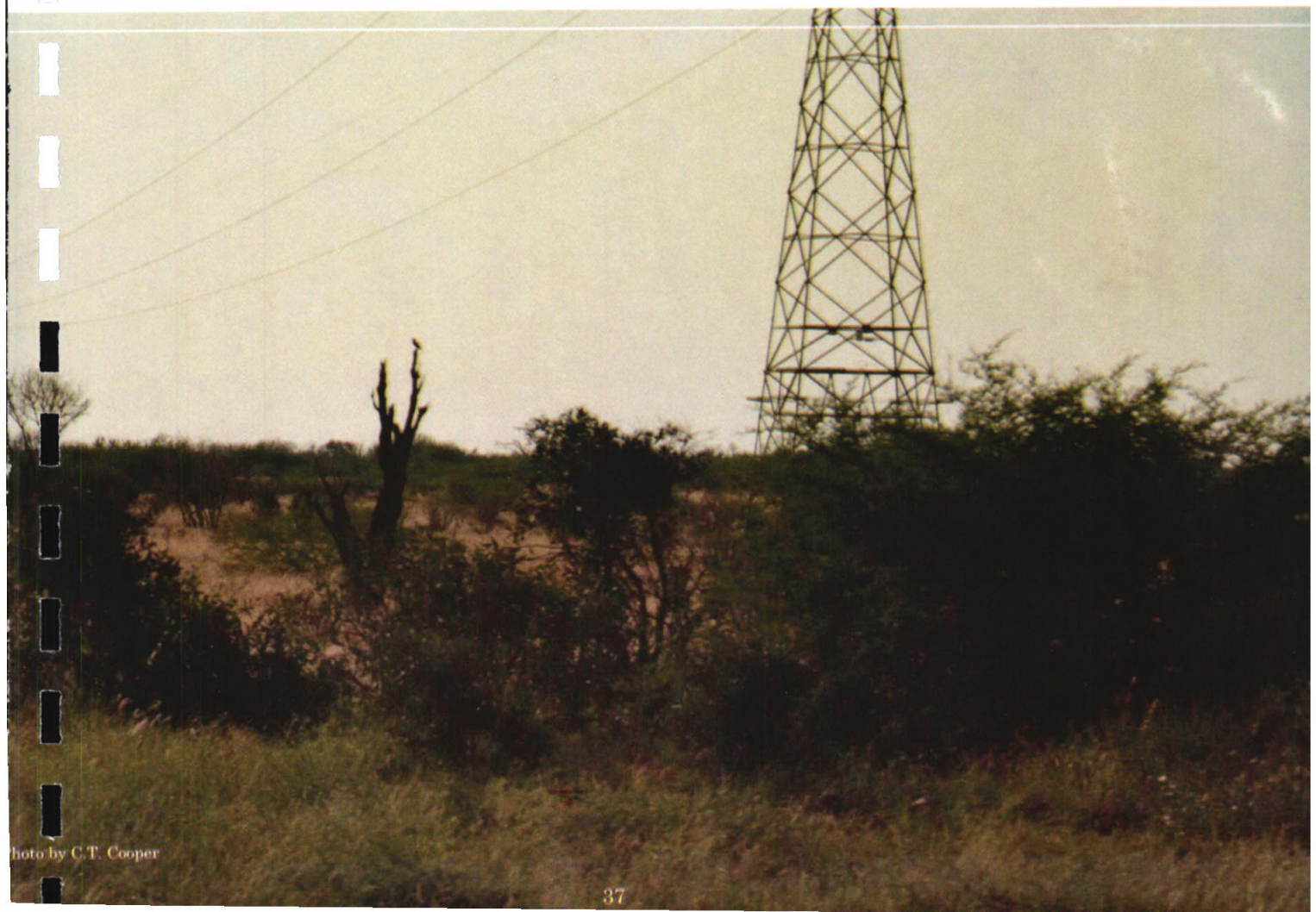
Figure 8: Kenya's Electric Power Sub-Sector: System Efficiency 2010-2013



Source: Energy Regulatory Commission



Chapter 4
Energy Pricing



Chapter 4: Energy Pricing

4.1 Energy Pricing

4.1.1 Power Purchase Agreements

The Commission is required to process all Power Purchase Agreement (PPA) applications and make appropriate decisions within 90 days of receiving an application in compliance with the timeline set in the Energy Act 2006.

Thirteen PPA applications were received from the Kenya Electricity Generating Company (KenGen), Independent Power Producers (IPP's) and the Uganda Electricity Transmission Company Limited (UETCL). The average approval time was approximately 75 days which is 15 days below the statutory approval time, indicating excellent performance. Some of the risks examined in reviewing PPAs include regulatory risk, resource risk, operational risk, commercial/market risk and political risk. The summary of PPAs reviewed is indicated in table 9.

Table 9: Summary of PPAs reviewed

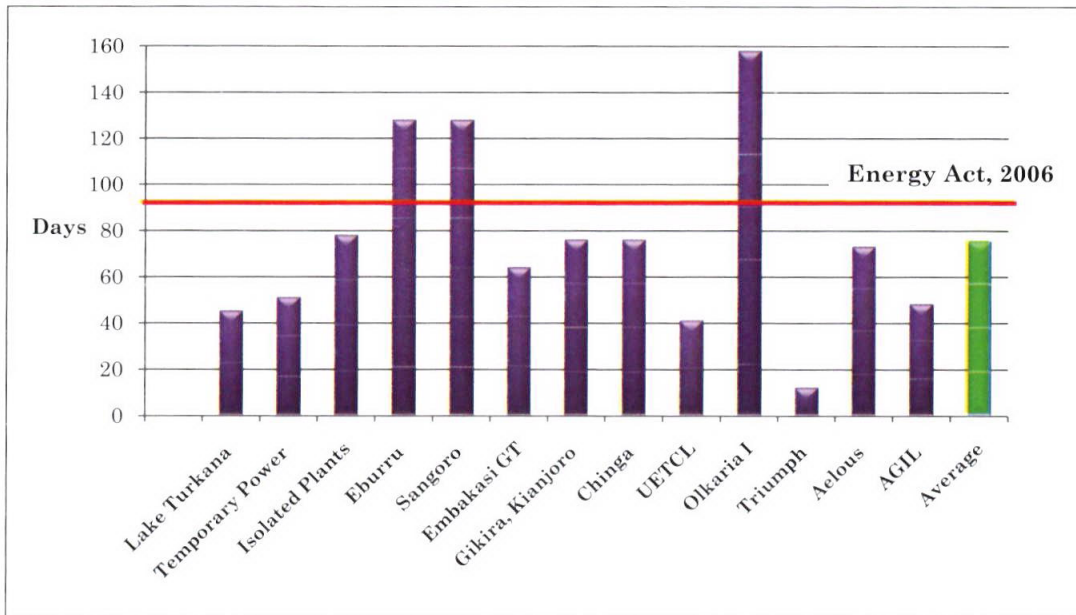
No	Name	Developer	Technology	Capacity (MW)	Process Days
1	LTWP - Renegotiated	IPP	Wind	300.00	45
2	Temporary Power Plants	IPP	Thermal	120.00	51
3	Isolated thermals, small hydro & wind power	KenGen	Thermal, Hydro & Wind	25.53	78
4	Eburru Power Plant	KenGen	Geothermal	2.44	128
5	Sangoro Power Plant	KenGen	Hydro	20.00	128
6	Embakasi Gas turbine	KenGen	Thermal	54.00	64
7	Gikira, Kianjoro Small Hydro Power Plant	IPP	Hydro	0.52	76
8	Chinga Small Hydro Power Plant	IPP	Hydro	0.51	76
9	UETCL	N/A	Energy Exchange	N/A	41
10	Olkaria I	KenGen	Geothermal	45.00	158
11	Triumph Power - Amended	IPP	Thermal	83.00	12
12	Aelous Wind - Amended	IPP	Wind	60.00	73
13	AGIL Power Plant	IPP	Geothermal	140.00	48
AVERAGE DAYS TAKEN					75

Source: Energy Regulatory Commission

4.1.2 Performance Level

Additionally, Figure 9 provides information on the number of days taken to approve a PPA by application and shows the average approval days in 2012/13.

Figure 9: Days taken to approve PPAs July 2012-June 2013



Source: Energy Regulatory Commission

4.2 Renewable Energy Feed in Tariffs (RE-FiTs)

The Commission is mandated to approve applications for investors interested in renewable energy technology in conjunction with the Ministry of Energy and Petroleum and sector stakeholders under the Renewable Energy Feed-in-Tariffs (RE-FiTs) policy. The approval is done by a RE-FiTs committee, which is coordinated by the Ministry of Energy and Petroleum.



Solar photovoltaic panels at a university in Nairobi.

During the period 2012/13, 32 projects were approved under the RE-FiT's programme. Projects using solar power had the highest number of approvals consisting of 50% of the total approved while mini-hydro projects were second consisting of 28.125% of total approvals. Table 10 summarizes the projects that have been received and approved. Out of the 69 applications received, only 32 (46.38%) were approved.

Table 10: Renewable Energy Feed in Tariffs

Technology	Received		Approved		%
	Total MW Received	No of Projects Received	Total MW Approved	No of Projects Approved	
Wind	3361	60	2292	41	40
Biomass	222	5	222	5	5
Hydro	303	50	155	32	31
Geothermal	70	1	0	0	0
Solar	1225	35	530	20	20
Biogas	59	5	49	2	2
Cogeneration	18	1	18	1	1
Sea waves	100	1	100	1	1
Total:	5358	158	3366	102	100

Source: Energy Regulatory Commission

4.3 Retail Electricity Tariffs

The Energy Regulatory Commission is empowered by the Energy Act 2006 Section 6(i) to set, review and adjust electric power tariffs and tariff structures, and investigate tariff charges, whether or not a specific application has been made for tariff adjustment.

Section 45 gives the Commission powers to set tariff and tariff structures including the applicable terms of supply to consumers. Key attributes of a good tariff structure under the section are being just and reasonable. The retail tariff schedule defines the costs applicable to the various categories of consumers on power consumed from the national grid as well as from the off-grid system. The final retail tariff is arrived at by considering the generation cost, transmission and distribution, fuel cost charges, inflation and foreign exchange adjustments.

The base non-fuel tariff was set in July 2008 at KShs.7.12/kWh and will remain so until the next review is scheduled. Kenya Power and Lighting Company submitted an application for retail tariff review and adjustment in February 2011 but the review was deferred. The decision was partially informed by the prevailing unfavourable rising costs of living particularly with regard to high cost of food and petroleum products. However,

Kenya Power resubmitted the application in February 2013 and the Commission has been reviewing the same with the decision set to be announced in November/ December 2013. The Commission has been taking into consideration projects which were not included in the Tariff Control Period 2008-2011 on a case by case basis, to enable Kenya Power and Lighting Company (KPLC) meet its revenue requirements.

During the year under review, crude oil prices in the international market remained high leading to an increase in overall tariffs charged. Prices of Murban crude oil were recorded at US\$101.75/bbl in July 2012 but rose to a peak of US\$115.40/bbl in September 2012 before easing to US\$103.00/bbl in June 2013. Consequently, the average retail tariff was Kshs.16.69/kWh compared to Kshs.15.97/kWh in the previous financial year.

4.3.1 Adjustments to Retail Tariffs: Fuel Cost Charge (FCC), Foreign Exchange Rate Fluctuation Adjustments (FERFA) and Inflation Adjustments

Instruments such as the Fuel Cost Charge (FCC), Foreign Exchange Rates Fluctuation Adjustment (FERFA) and Inflation Adjustment are used for cushioning regulated operators against fluctuations in the concerned parameters which are beyond their control.

During the period under review, the Fuel Cost Charge ranged between Kshs.6.21/kWh in July 2012 and Kshs.4.73/kWh in June 2013. During the same period, Murban crude oil prices ranged between US\$101.75/bbl in July 2012 and US\$103.00/bbl in June 2013.

Inflation adjustment had minimal impact on end-user tariffs and remained at Kshs.0.28/kWh for the first 6 months between July 2012 and December 2012 but was adjusted upwards to Kshs.0.30/kWh between January 2013 and June 2013.

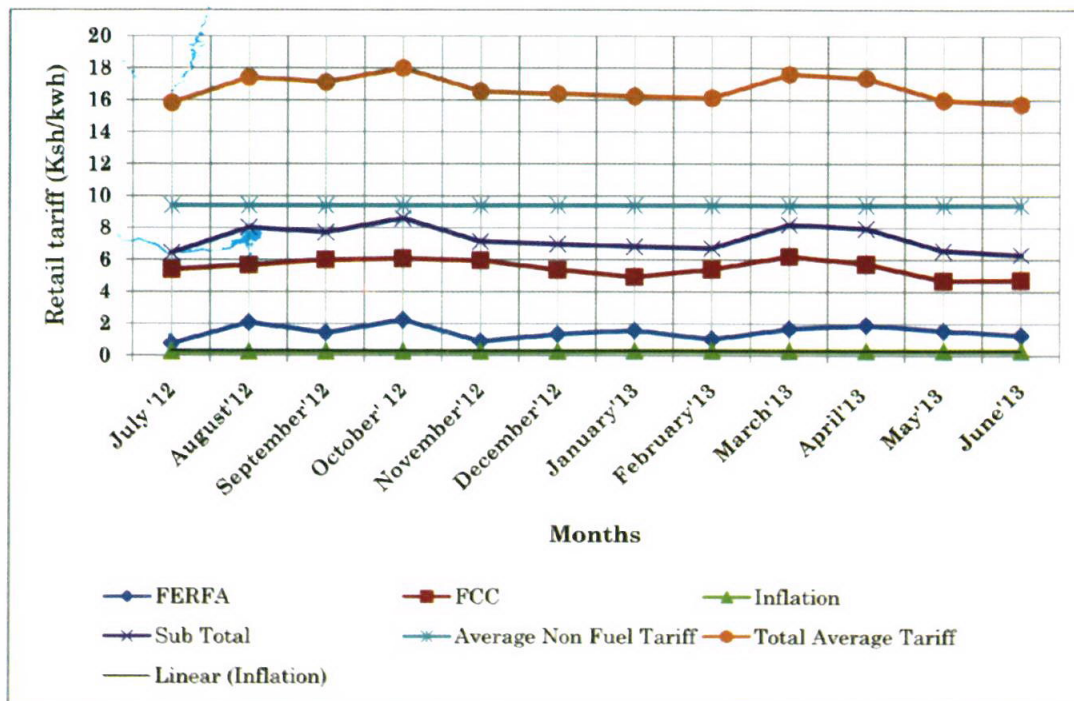
The total retail electricity tariff was Kshs.15.83/kWh in July 2012 and Kshs.15.71/kWh in June 2013. The tariff between the period rose to a high of Ksh.17.99/kWh in October 2012 before declining to Kshs.15.71/kWh by the close of the year. The summary of these adjustments is as indicated in table 11.

Table 11: Electricity retail tariff (Kshs/kWh) 2012/2013

Month	FERFA	FCC	Inflation	Sub Total	Average Non Fuel Tariff	Total Average Tariff
July '12	0.76	5.39	0.28	6.43	9.40	15.83
August'12	2.08	5.66	0.28	8.02	9.40	17.42
September'12	1.44	5.99	0.28	7.71	9.40	17.11
October' 12	2.24	6.07	0.28	8.59	9.40	17.99
November'12	0.90	5.95	0.28	7.13	9.40	16.53
December'12	1.35	5.35	0.28	6.98	9.40	16.38
January'13	1.59	4.93	0.30	6.82	9.40	16.22
February'13	1.04	5.38	0.30	6.72	9.40	16.12
March'13	1.69	6.21	0.30	8.20	9.40	17.60
April'13	1.92	5.73	0.30	7.95	9.40	17.35
May'13	1.57	4.69	0.30	6.56	9.40	15.96
June'13	1.29	4.72	0.30	6.31	9.40	15.71

Source: Energy Regulatory Commission

Figure 10: Trend of Electricity tariff components 2012/13



Source: Energy Regulatory Commission

4.4 Petroleum Pump Prices

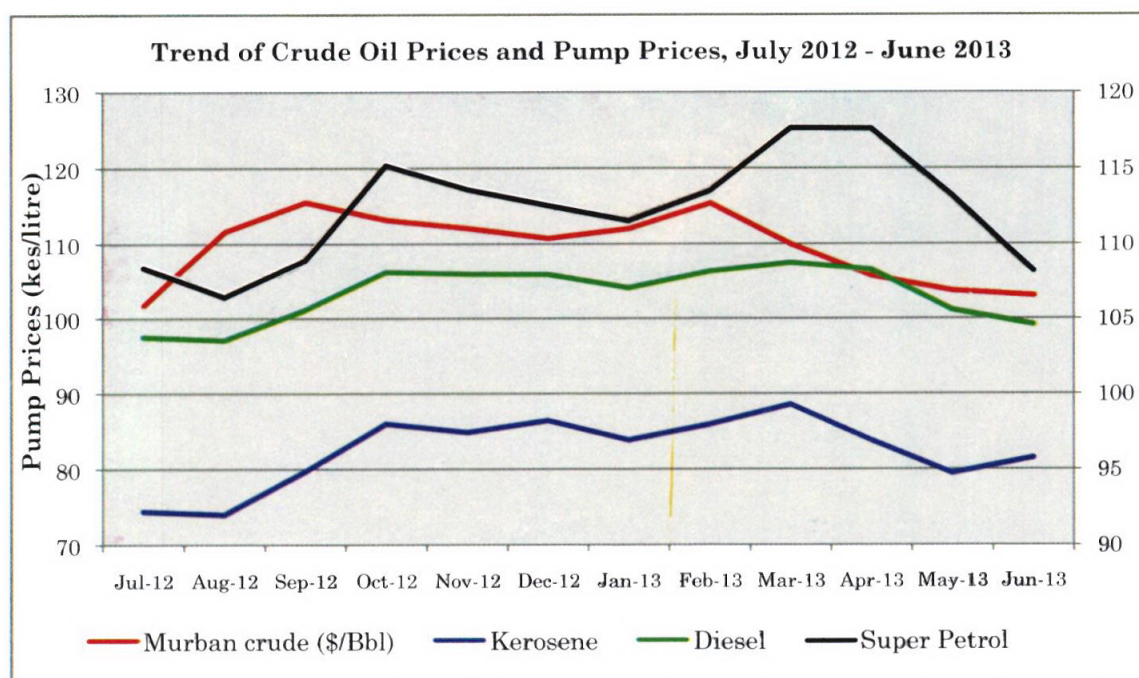
During the year 2012/2013, the Energy (Petroleum Pricing) Regulations, 2010 were amended through Legal Notice No. 26 of 4th April 2012. The revision comprised the review of the period considered for locally refined products in the computation of price from three months to one month.

The merchant mode of operation of the refinery was captured in that the amendment allowed for the fixing of the yield from the refinery and outlined the specific costs to be considered in pricing local refinery products. In addition, the amendment also revised the exchange rate used to convert the US Dollar component of the price build up from the Bill of Lading date to the last date of discharge.

The price of crude increased from US\$101.75 per barrel in July 2012 to US\$115.54 per barrel in September 2012 but sharply declined to US\$103.00 per barrel in June 2013.

Kerosene had the lowest price which ranged from KShs.74.40 per litre in July 2012 to KShs.81.52 per litre in June 2013. The price of Super Petrol and Diesel was relatively stable with Super Petrol recording a high of KShs.115.26 per litre in October 2012 and a low of KShs.106.48 per litre in August 2012 while Diesel recorded a high of KShs.107.37 per litre in March 2013 and a low of KShs.97.09 per litre in August 2012. The trend in fuel prices for the period July 2012 to June 2013 is illustrated in figure 11.

Figure 11: Trend of Crude Oil and Pump Prices



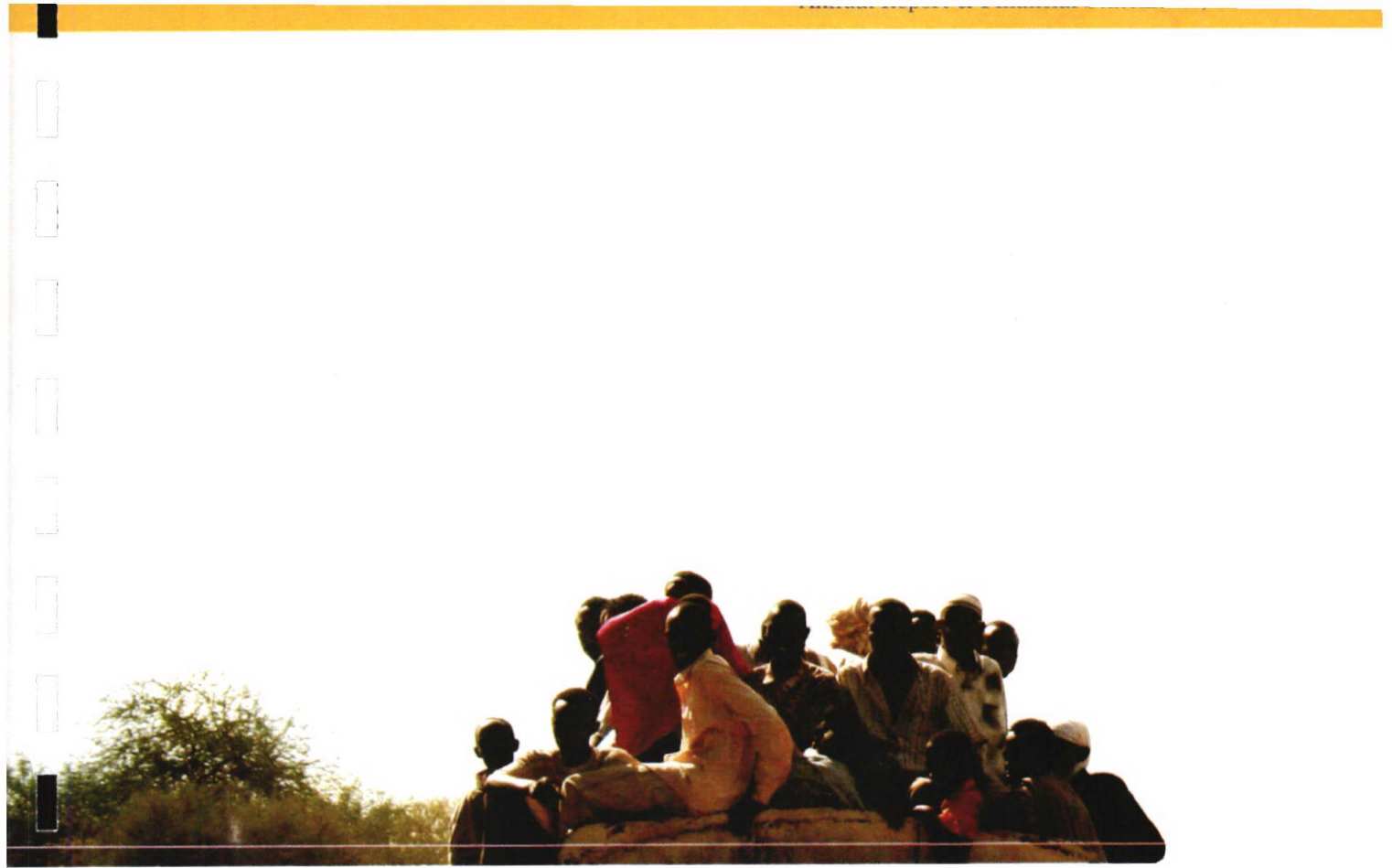
Source: Energy Regulatory Commission

4.5 Financial Performance of Selected Electricity and Petroleum Utilities

Pursuant to sections 5, 6 and 43 of the Energy Act, 2006, the Commission is mandated to monitor and ensure economic and financial viability of sub-sector utilities.

An evaluation was made of the financial performance of nine licensees; six from the electric power sub-sector and three from the petroleum sub sector. They are Kenya Power & Lighting Company Ltd (KPLC), Kenya Electricity Generating Company Ltd (KenGen) and four Independent Power Producers (Tsavo Power Company Ltd, IberAfrica Power (EA) Ltd, Mumias Sugar Company Ltd and OrPower 4, Inc) from the electric power sub-sector and Kenya Pipeline Company Ltd (KPC), National Oil Corporation of Kenya Ltd (NOCK) and Total Kenya Ltd (NSE quoted company) from the petroleum sub sector.

The reports indicate that the sector utilities performed satisfactorily during the period.



Chapter 5
Consumer Protection



Chapter 5: Consumer Protection

5.1 Electricity

5.1.1 System Improvement Projects

In order to ensure there is reliable and quality electricity supply to consumers, the Commission continues to closely monitor the implementation of numerous system improvement projects recommended by the Kenya Electricity System Study that was completed in September 2013.

The transmission and distribution projects identified are on course and are being implemented by KETRACO and KPLC respectively. So far, a good number of projects have been completed as part of system reinforcement and upgrade which is aimed at improving efficiency, reliability and quality of power supply, as well as increasing access to electricity in the country. See table 12.

Table 12: Status of System Improvement projects

Year	Region	Voltage	Asset type	Name/ Location	Equipment	Qty	Unit	Comment	STATUS
2013	Coast	HV	BSP	Malindi	220/33kV 1x23 MVA S/S	1	-	New substation connected by new line from Rabai to Malindi (122km).	Commissioned
2013	Coast	HV	OHL	Galu - Base Titanium	132kV Line - Lynx	14	km		Completed
2013	Mt. Kenya	HV	BSP	Githambo	132/33kV 1x23 MVA S/S	1	-		Commissioned
2013	Mt. Kenya	HV	OHL	Mangu – Githambo	132kV Line - Lynx	50	km		Commissioned
2013	Mt. Kenya	HV	OHL	Mangu - Thika Power #1	132kV Line - Lynx	0.2	km	New MSD Plant at Thika	Commissioned
2013	Mt. Kenya	HV	OHL	Mangu - Thika Power #2 (single circuit)	132kV Line - Lynx	0.2	km	New MSD Plant at Thika	Commissioned
2013	Mt. Kenya	HV	Power Plant	Thika Power	15/132kV 2x60 MVA Transformers				Completed
2013	Mt. Kenya	HV	Power Plant		5x16 MW Diesel, 1x7MW Steam Gen's				Completed – operational
2013	Mt. Kenya	HV	Transf.	Nanyuki	132/33kV 23 MVA	1	-		

Year	Region	Voltage	Asset type	Name/ Location	Equipment	Qty	Unit	Comment	STATUS
					transformer				
2013	Mt. Kenya	MV	OHL	Mangu / Thika #1	66kV 300mm2 OHL	5	km		Completed
2013	Mt. Kenya	MV	Prim. S/S	Thika Industrial	66/11kV 2x45 MVA S/S	1	-		Commissioned
2013	Nairobi	MV	Capacitor	Embakasi	66kV 90 MVar Capacitor	1	-		50% Commissioned
2013	Nairobi	MV	Capacitor	Juja Road	66kV 60 MVar Capacitor	1	-		Commissioned
2013	Nairobi	MV	Capacitor	Nairobi North	66kV 60 MVar Capacitor	1	-		Commissioned
2013	Nairobi	MV	Capacitor	Ruaraka	66kV 32 MVar Capacitor	1	-		Commissioned
2013	Nairobi	MV	Prim. S/S	Eastleigh S/S	66/11kV 2x45 MVA S/S	1	-	supplied via new 10km line from Juja Road	Commissioned
2013	Nairobi	MV	Prim. S/S	Kiambu Road S/S	66/11kV 2x23 MVA S/S	1	-	Looped in between Ruaraka and Kitusuru	Commissioned
2013	Nairobi	MV	Prim. S/S	Langata S/S	66/11kV 2x23 MVA S/S	1	-	Looped in to new line between Embakasi / Matasia - Karen / Ngong Wind	Commissioned
2013	Nairobi	MV	Prim. S/S	Muthurwa S/S	66/11kV 2x45 MVA S/S	1	-	Looped in between Javanjee and Kimathi (1.5km from Kimathi)	Commissioned

Year	Region	Voltage	Asset type	Name/ Location	Equipment	Qty	Unit	Comment	STATUS
2013	Nairobi	MV	Prim. S/S	Ngong S/S	66/11kV 2x23 MVA S/S	1	-	Teed in between Ngong Wind and Karen	Commissioned
2013	Nairobi	MV	Transf.	Kikuyu S/S	66/11kV 23 MVA transformer	2	-		Commissioned
2013	West	HV	BSP	Makutano	132/33kV 1x23 MVA S/S	1	-	Teed on Juja - Lessos, 52km from Lessos and 70km from Lanet.	Commissioned
2013	West	HV	BSP	Nakuru West	132/33kV 1x23 MVA S/S	1	-	Teed in to double circuit between Lessos and Juja Road	Commissioned
2013	West	HV	OHL	Nakuru West Tee #1	132kV Line - Wolf	1	km	tee from existing line Makutano - Lanet	Commissioned
2013	West	HV	OHL	Nakuru West Tee #2	132kV Line - Wolf	1	km	tee from existing line Makutano - Lanet	Commissioned
2013	West	HV	Transf.	Kisii	132/33kV 23 MVA transformer	1	-		Commissioned
2013	West	HV	Transf.	Kisumu	132/33kV 45 MVA transformer	1	-		Commissioned

Source: Energy Regulatory Commission

5.1.2 Surveillance

5.1.2.1 Technical Audits

The Commission carried out technical audits of the undertakings of five licensees during the period under review. This is to ensure that licensees operate in accordance with the Energy Act and the licenses issued to them. The audits were carried out in the Coast and Nairobi Region of the Kenya Power and Lighting. Where anomalies were found, the concerned licensees were notified for appropriate corrective measures.

5.1.2.2 Accidents/Incidents

During the period under review, 86 accidents/incidences were reported to the Commission as required by section 117(1) of the Energy Act 2006. All of the incidents were from Kenya Power and Lighting Company (KPLC). Out of the 86 accidents reported, 28 (35%) were investigated and reports prepared and sent to KPLC for follow-up and remedial actions. These accidents resulted in the loss of 62 human lives and 24 injuries.

5.1.2.3 Consumer Complaints

As per the Commission's Service charter and Complaints Handling procedures, Kenya Power and Lighting Company (KPLC) handles all consumer complaints. If a consumer is still not satisfied with the manner in which KPLC handled the problem, the matter should then be referred to the Commission. In this period, 48 complaints were received. Billing complaints were the most prevalent, accounting for 56% of the total. 14 complaints have been resolved, 13 are under review, while 21 await responses from KPLC.

5.2 Petroleum

5.2.1 Petroleum Quality

The Commission under the mandate of Section 95 of the Energy Act, 2006 requires importers and traders of petroleum products to store, transport or offer for sale only such products that meet Kenyan standards. Petroleum standards have been developed and published by the Kenya Bureau of Standards (KEBS) such as:

- a. KS 275:2006: *Specification for Motor Gasoline*
- b. KS 1309-1:2003: *Specification for Diesel Fuels*
- c. KS 03-1289:1996: *Specification for illuminating Kerosene*
- d. KS 1309- PART 2:1996: *Specification for IDO*
- e. KS 03-1310:1996: *Specification for Fuel Oils*

Over the years, there have been cases of adulteration of petroleum motor fuel and the diversion of petroleum products meant for export. To curb these malpractices and in line with the Commission's mandate, a consultant has been engaged to carry out marking of domestic kerosene and export petroleum products (motor gasoline, automotive gasoil and export dual purpose kerosene). The consultant is also required to randomly carry out a monitoring program throughout the country on a monthly schedule. Stations found to be non-compliant were penalized by the Kenya Revenue Authority (KRA) and ordered by Kenya Bureau of Standards (KEBS) to upgrade the product. Only the stations that managed to clear with KRA and KEBS had their licenses reinstated by the Commission.

On a quarterly basis, ERC, KRA and KEBS carry out a joint inspection with the consultant. During the financial year, the following joint inspections were done:-

- a. March 12th to 15th 2013: The exercise covered parts of Nakuru and Kericho Counties. A total of 52 petroleum retail sites were sampled and tested.
- b. December 17th to 21st 2012: The exercise covered parts of Baringo, Elgeyo Marakwet, Uasin Gishu, Trans Nzoia and Bungoma counties. A total of 57 retail petroleum sites were sampled and tested.
- c. September 18th to 21st 2012: The exercise covered parts of Kisumu, Busia, Siaya, Kakamega, Nandi and Kericho Counties. A total of 89 retail petroleum sites were sampled and tested.
- d. June 17th to 19th 2013: The exercise covered parts of Kiambu, Muranga, Kitui and Embu counties. A total of 29 retail petroleum sites were sampled and tested.

During the same period the following areas were sampled independently by the Consultant (SGS Kenya Limited):-

- a. July 2012: Nairobi, Central, Western, Eastern, Nyanza and Rift Valley Regions.
- b. August 2012: Nairobi, Central, Western, Eastern, Nyanza and Rift Valley Regions.
- c. September 2012: Nairobi, Central, Western, Eastern, Nyanza and Rift Valley Regions.
- d. October 2012: Nairobi, Kiambu, Machakos, Kitui, Uasin Gishu, Bungoma and Trans Nzoia Counties.
- e. November 2012: Nairobi, Kitui, Kajiado, Taita-Taveta, Mombasa, Kilifi, Kwale and Nakuru Counties.
- f. December 2012: Nairobi, Baringo, Elgeyo Marakwet, Uasin Gishu, Trans Nzoia and Bungoma Counties.
- g. January 2013: Kirinyaga, Meru, Isiolo, Muranga and Nyeri Counties.
- h. February 2013: Uasin Gishu, Bungoma, Trans Nzoia, Busia, Kisumu Narok, Kisii, Migori and Nairobi Counties.
- i. March 2013: Nakuru and Kericho Counties.
- j. April 2013: Kirinyaga, Meru, Isiolo, Muranga and Nyeri Counties.
- k. May 2013: Malindi, Mombasa, Kwale and Makueni Counties.
- l. June 2013: Kiambu, Muranga, Kitui and Embu Counties.

5.2.2 Compliance with Export Marker

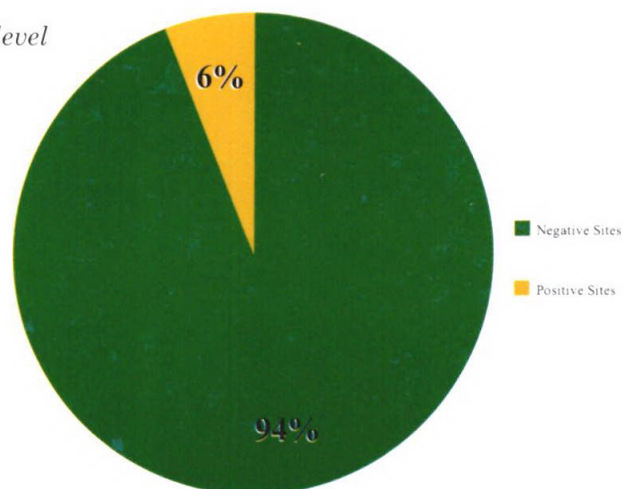
Of the 1,636 sites inspected in the 2012/2013 financial year, 35 sites were found in possession of product containing export marker. This is recorded as 2.1% of all sites inspected. Retail sites complied with the requirement not to sell export material to a level of 97.9% during the quarter.

5.2.3 Compliance with the Kerosene Marker

Of the 1,639 inspected sites forty-one (41) were found in possession of motor fuels containing Kerosene marker. This is recorded as 2.5% of all sites inspected. Retail sites complied with the requirement not to sell motor fuels containing domestic kerosene to a level of 97.5% during the quarter.

A total of 397 sites were sampled for both export and kerosene markers. Out of these, 53 sites tested positive for kerosene and/ or export marker, accounting for 3.2% of all the sites tested. This is an indication of 96.8% overall compliance.

Figure 12: Combined Compliance level the financial year 2012-2013



Source: Energy Regulatory Commission

5.3 Construction Permits

The Commission is mandated to issue construction permits to applicants wishing to set up new facilities or make major changes to existing facilities. Issuance of construction permits is provided for under Section 90 and 91 of the Energy Act 2006. The act specifies that the following activities need a construction permit:

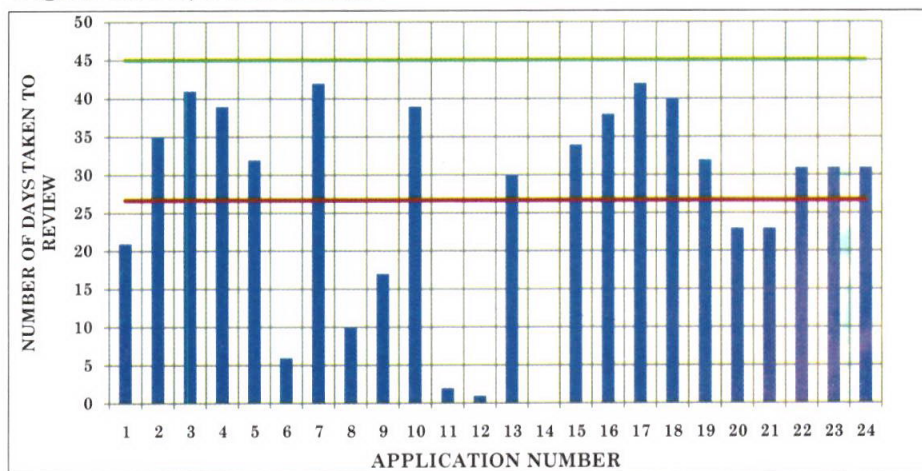
- i. Construction of a pipeline
- ii. Construction of a refinery
- iii. Construction of a bulk storage facility
- iv. Construction of retail dispensing site

The Commission is required to grant or defer a construction permit within 45 days for all applications made. The Energy Act 2006 Section 90 (3) requires the Commission to review and respond to all applications made within forty 45 days of application. During the financial year 2012/ 2013, the average number of days between application receipt and issuance of permit or deferral letters was 26.67 days.

5.3.1 Summary of Construction Permit Applications

A total of 24 applications were received and processed. Out of these, twenty (20) were approved and construction permits issued. Four were deferred due to lack of compliance with the requirements for issuance of a construction permit. A summary of construction permit applications and the outcomes of the review are listed in table 13.

Figure 13: Performance Levels



Source:
Energy
Regulatory
Commission

Table 13: Summary of Construct Permit Applications

No.	No. of applications	Date Received	Date Finalised	Days Taken to Review	Status
1	Kwale Sugar Company Ltd	20-Jun-12	11-Jul-12	21	Approved with conditions
2	EEDI Motor Services Limited	26-Jul-12	30-Jul-12	35	Approved with conditions
3	Hashi Energy Limited	18-Jul-g-12	28-Aug-12	41	Deferred
4	Mr. Ali Menza Mbogo	2-Aug-12	10-Sep-12	39	Approved with conditions
5	Wanjiru Matheri/ Matheri Kibathi	10-Sep-12	2-Oct-12	32	Approved with conditions
6	William Kimaru Samoei	2-Oct-12	8-Oct-12	6	Approved with conditions
7	Total Kenya Limited Service Station- Kwa Jomvu	3-Sep-12	15-Oct-12	42	Approved with conditions
8	Toyo Construction Co. Ltd	8-Oct-12	18-Oct-12	10	Approved with conditions
9	Mr. Duncan J. N. Kandia	8-Oct-12	25-Oct-12	17	Approved with conditions
10	Hunkar Trading Co. Ltd	8-Oct-12	16-Nov-12	39	Deferred
11	Hashi Energy Limited	14-Nov-12	16-Nov-12	2	Approved with conditions
12	Galana Oil Embu Service Station	15-Nov-12	16-Nov-12	1	Approved with conditions
13	Multi Energy Ltd	30-Jan-13	1-Mar-13	30	Approved

No.	No. of applications	Date Received	Date Finalised	Days Taken to Review	Status
14	Vivo Energy Limited	7-Mar-13	7-Mar-13	1	Approved With Conditions
15	Dr. Alpesh M Patel	16-Apr-13	20-May-13	34	Approved With Conditions
16	Genedo Nyaga Mwaniki	19-Apr-13	27-May-13	38	Approved With Conditions
17	Paulimo & Co	19-Apr-13	31-May-13	42	Approved With Conditions
18	Green Energy Limited - Upgrade	2-May-13	11-Jun-13	40	Approved With Conditions
19	Pekenya Gas Limited - Nakuru Plant	17-May-13	18-Jun-13	32	Deferred
20	Lali Kathuli	21-May-13	13-Jun-13	23	Approved With Conditions
21	Shreeji Service Station Busia	21-May-13	13-Jun-13	23	Deferred
22	Nock Filling Station Oyugis	21-May-13	21-Jun-13	31	Approved With Conditions
23	Nock Filling Station Makutano	21-May-13	21-Jun-13	31	Approved With Conditions
24	Nock Filling Station Mai Mahiu	21-May-13	21-Jun-13	31	Approved With Conditions

Source: Energy Regulatory Commission

5.4 EHS Audits

5.4.1 Electricity

Pursuant to Section 6(d) of the Energy Act No. 12 of 2006, the Commission is mandated to formulate, enforce and review environmental, health, safety and quality standards for the energy sector. As stated in the Environment Health and Safety (EHS) Policy of the Electric Power Sub-Sector, monitoring of EHS performance facilitates supervision and oversight and is an important tool in the enforcement of EHS requirements.

The Commission carried out Environment Health and Safety Audits on 13 electric power utilities namely: Rabai Power plant, Tsavo Power Plant, Muhoroni Power Plant, IberAfrica, KenGen's Tana Power Station, KenGen's Wanjii Power Station, KenGen's Sagana Power Station, KenGen's Masinga Power Station, KenGen's Gitaru Power Station, KenGen's Kindaruma Power Station, KenGen's Lamu Power Station, Unilever Tea (K) Limited and KPLC Mpeketoni Power Plant.

5.4.2 Petroleum

The Commission conducted EHS audits on fifteen petroleum installations namely: Libya Oil Terminal - Nairobi, Mombasa Joint Terminal, Mbaraki Bulk Terminal - Mombasa, Tecaflex Depot - Mombasa, Fossil LPG Plant in Mombasa, KPC - Nakuru Depot, KPC - Eldoret Depot, KPC - Kisumu Depot, Kenol Sagana Petroleum Depot, Trojan International - Nanyuki Depot, AGOL LPG Plant, Giakanja illegal LPG plant in Nyeri, NOCK Petroleum Depot, Oilcom Petroleum Depot and Gulf Petroleum Depot.

5.4.3 Review of EIA reports

Review of environmental impact assessment of proposed projects within the energy sector is one of the core functions of the Commission as provided by the Energy Act, 2006, Environmental Management and Co-ordination Act (EMCA, 1999) and the Environmental Impact Assessment and Audit Regulations of 2003.

The project proponents' carry out Environmental Impact Assessments as required under Section 58 of EMCA, 1999 and the EIA Regulations 2003 and send the reports to NEMA for review. NEMA sends the energy related reports to the Commission as the Lead Agency for recommendations which are considered in making a decision. ERC receives reports for projects proposed in the energy sector.

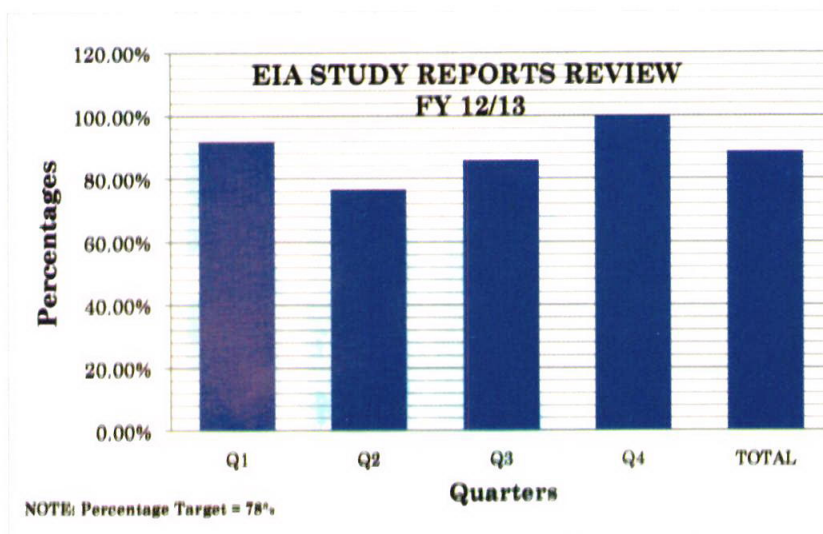
For the year under review, the Commission received 260 EIA reports from NEMA. 93.10% of the project reports were reviewed within 21 days against a set target of 84% while 82.46% of study reports were reviewed within 30 days against a target of 78%. The reports were also categorized per sub-sector as shown in table 14.

Table 14: EIA Reports Received

	Sub-sector	No. of Reports
1.	Downstream Petroleum	180
2.	Upstream Petroleum	3
3.	Electricity	73
4.	Others	4
Total		260

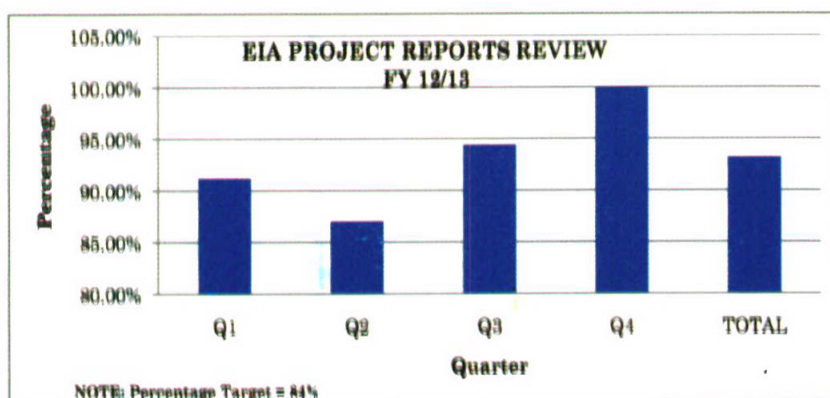
Source: Energy Regulatory Commission

Figure 14: EIA Study Reports Review FY 2012/13



Source: Energy Regulatory Commission

Figure 15: EIA Project Reports Review FY 2012/13



Source: Energy Regulatory Commission

5.4.4 Reported Incidents

5.4.4.1 Illuminating Kerosene (IK) spill incident at Hashi Energy Depot in Mombasa County

The incident occurred on 25th June 2013 and happened when there was product pump over from Kenya Petroleum Refineries Limited (KPRL) to Hashi Energy's storage tank at a time when there was inadequate ullage for the product at the receiving tank. The spill resulted in a loss of 72M3 of IK. Fortunately, no fatalities or personal injuries were reported but there was damage to nearby flora and fauna.

5.4.4.2 Liquefied Petroleum Gas (LPG) cylinder explosion incident at Jericho-Lumumba Estate in Nairobi County

This was an LPG cylinder explosion incident that occurred on 27th October 2012 at Jericho-Lumumba Estate in Makadara Location, Nairobi County. The incident resulted in 11 minor injuries and destruction of property. A joint investigation by ERC and the Kenya Bureau of Standards (KEBS) was tasked to undertake investigation of the incident whose primary cause was attributed to failure by the owner to turn off the gas cylinder valve that day.



Chapter 6
Regulations



Chapter 6: Regulations

6.1 Development of the New Energy Policy and Energy Bill

Following promulgation of the Constitution of Kenya 2010, the Energy Sector embarked on the development of a new Energy Policy and Energy Bill. The exercise is chaired by the Commission and the objective is to harmonize energy policy and legislation with the Constitution.

During the year, the draft Energy Policy and Energy Bill was exposed to various stakeholders in a number of workshops held in Nairobi and other counties. The stakeholders' views and comments were incorporated as appropriate. The two documents are expected to be finalized during the next Financial Year.

6.2 Development and Recommendation of Draft Regulations to the Minister responsible for Energy

When the Energy Act, 2006 was enacted, it was not accompanied by regulations that would guide and simplify the implementation of the Act. The Commission has been developing new regulations in addition to developing regulations to repeal old ones developed under the Electric Power Act 1997 and the Petroleum Act (repealed). The regulations had been saved under sections 123 of the Act.

During the Financial Year, the following regulations were developed and recommended to the Minister responsible for energy for approval and gazettelement:

- i. Energy (Electric Installation Works) Regulations
- ii. Energy (Electricity Tariff) Regulations
- iii. Energy (Regulatory Accounts) Regulations
- iv. Energy (Improved Cook stoves) Regulations
- v. The Energy (Licensing of Petroleum Business and Petroleum Facility Construction) Regulations, 2012
- vi. The Energy (Retail Facility Construction and Licensing) Regulations, 2012
- vii. The Energy (Licensing of Petroleum Refining Businesses and Facility Construction) Regulations, 2012
- viii. The Energy (Licensing of Petroleum Logistics Business and Facility Construction) Regulations, 2012.
- ix. The Energy (Licensing of Petroleum Road Transportation Business, Road Tankers and Drivers) Regulations, 2012
- x. The Energy (Operation of Common User Petroleum Logistics Facilities) Regulations, 2012.
- xi. The Energy (Operation of Marine Petroleum Jetties) Regulations, 2012

- xii. The Energy (Operation of Petroleum Refining Business) Regulations, 2012
- xiii. The Energy (Importation of Petroleum) Regulations, 2012
- xiv. The Energy (Petroleum Information and Statistics) Regulations, 2012

Once gazetted, the regulations are expected to facilitate the Commissions' regulatory work and increase certainty in the investment and commercial environment.

6.3 Regulations in Progress

6.3.1 Petroleum

During the year 2012/2013 the Commission developed and submitted for approval to the Ministry of Energy and Petroleum regulations on lubricant facility construction and business licensing. The regulations are intended to create order in the lubricants industry in Kenya by eliminating importation, blending and sale of sub-standard lubricants.

In April 2012, the commission revised the following regulations:

- a. The Petroleum (Amendment) (No. 2) Rules, 2003: The rules were revised to enhance the change at the Kenya Petroleum Refineries Limited from toll mode of operations to merchant.
- b. The Energy (Importation of Petroleum Products - Quota allocation) Regulations, 2010: The regulations were revised to incorporate the Kenya Petroleum Refineries Limited in the quota allocation of crude imports.
- c. The Energy (Petroleum Pricing) Regulations 2010: The revision comprised the review of the period considered for locally refined products in the computation of price from three months to one month and the merchant mode to be considered in pricing the local refinery products. In addition, the amendment also revised the exchange rate used to convert the US Dollar component of the price build up from the Bill of Lading date to the last date of discharge.



Part of the Kenya Petroleum Refineries complex at Changamwe, Mombasa.

6.3.2 Renewable Energy



An ERC team visits a workshop that manufactures energy saving cook stoves.

During the same Financial Year, the Commission developed and submitted to the Cabinet Secretary for Energy and Petroleum the Energy (Improved Biomass Cook stoves) Regulations, 2013.

The regulations are expected to reduce biomass energy demand and conserve natural indigenous forests hence improving energy security, reducing green house gas emissions and generally mitigating climate change.

The regulations are also expected to promote the use and manufacture of more efficient biomass cook stoves hence creating employment and improving living standards. Additionally, the regulations will lead to cost reduction to institutions and commercial establishments that use biomass thereby contributing to rural poverty reduction.

The target groups to be regulated include manufacturers, importers, technicians and large-scale biomass consumers such as schools and colleges.



Chapter 7
Studies and Surveys



Chapter 7: Studies and Surveys

7.1 Electricity

7.1.1 Cost of Service Study for the Electric Power sub-sector

The Commission in conjunction with the Ministry of Energy and Petroleum undertook the cost of service study for the electricity sub sector. The study was undertaken by a consultant, SNC-Lavalin of Canada, and was completed in January 2013. Findings from the study will be used to review the retail tariff application by KPLC and guide investment in the electricity sub-sector.

In analyzing current tariffs to meet annual revenue requirements for the sector, it was found that present tariffs are inadequate to operate a cost reflective system. The computed shortfalls are 19% across the system. To address these shortfalls, the study proposes that consumption at low voltage (67.4% of total consumption) reflects a 15% revenue shortfall. Further, in order to meet the revenue requirements of the electricity sub-sector, the study proposed increasing the base tariff excluding other adjustments by an average 63.2% for domestic consumers, 104.1% for medium voltage consumers and 92.8% for high voltage consumers by the year 2017. Accordingly, the equivalent tariff excluding fuel cost adjustment would be KShs.8.62/kWh in 2017 for low voltage consumers in all tariff categories, KShs.5.29/kWh at medium voltage and KShs.4.36/kWh at low voltage.

In terms of tariff adjustments, proposed tariff rates at low voltage will need to be adjusted by 12.9% in 2013, 9.4% in 2014, 7.7% in 2015 and 2.4% in 2017. At medium level, the upward adjustments will be 25.2% in 2013, 11.4% at 2014, 8.2% in 2015 and 3.2% in 2017. High voltage adjustments will be 23.5% in 2013, 9.4% in 2014, 6.7% in 2015 and a downward adjustment of 0.6% in 2017.

7.2 Customer Satisfaction Survey

In the pursuit of improving service delivery to its customers and being responsive to their needs, the Commission in the Financial Year 2012/13 conducted a customer satisfaction survey. The purpose of the survey is to gauge customer perception of how well the Commission delivers on its mission, critical success factors, dimensions of the core business and improvement in service delivery. The Commission continues to gain current insight into perceptions on quality of service offered to its customers and establish if there has been any improvement.

The survey targeted ERCs' direct and indirect customers. Direct customers are energy sector players and stake holders, while indirect customers are the energy consumers. From the expectations of direct customers, the survey revealed that customer satisfaction is driven by a spectrum of attributes which range from timely resolution of complaints, performance of role and responding to customers' queries.

Internally, the Commission's employees have a high perception rating with regards to our stakeholders. Employees are perceived to be neat, helpful, well trained in their roles and knowledgeable on the Commission's mandate. Furthermore, the Commission is perceived

very positively in awarding licenses with an overall perception rating for licensing standing at 78%. The Commission also has particularly excelled in enforcement of environmental, health and safety issues.

The report stated the areas that recorded the highest satisfaction levels as follows:

- i. Enforcing rules of fair play among service providers
- ii. Practicing high integrity in discharging its mandate
- iii. Resolving complaints and disputes in a fair and transparent manner

From the survey, the overall satisfaction index for ERC stands at 69% which indicates that 7 out of every 10 customers are satisfied with ERC services. This clearly shows an above-average positive perception towards ERC. The survey identified areas of improvement for the Commission and made recommendations to help improve performance and service delivery.

7.3 Competition Monitoring in the Energy Sector

In the period under review, the Commission analyzed the state of competition in the electricity and petroleum sub-sectors. Competition and structure of markets are measured using the Herfindahl index (HHI) among other methods. HHI measures the size of firms in relation to the industry and is an indicator of the amount of competition among firms. An increase in the Herfindahl index generally indicates a decrease in competition and an increase of market power, whereas a decrease indicates the opposite.

In the case of Kenya, the HHI was recorded at 0.149 in 2005, reduced to 0.135 in 2006 but increased to 0.163 in 2008 before declining to 0.154 in 2009 (See Figure 12). The competition threshold for Kenya is defined as follows: An HHI index below 0.1 indicates an unconcentrated industry while an HHI index between 0.1 and 0.18 indicates moderate concentration. An index above 0.18 indicates high concentration. From the analysis therefore, there is moderate concentration in market power within the petroleum sub sector of Kenya.

7.4 Competition in Electricity Power Generation

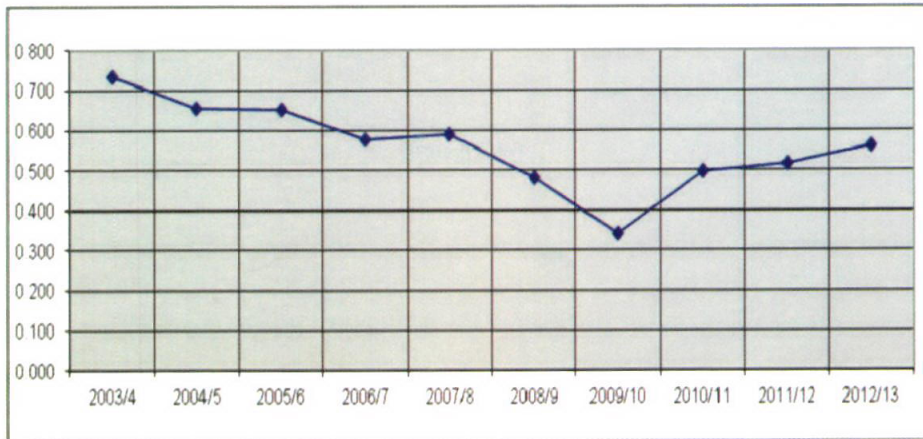
The HHI's for Financial Years 2009/10, 2010/11 and 2011/12 are; 0.339, 0.496 and 0.515 respectively. The explanation that can be attached to the lowest HHI of 0.339 in 2009/10 is largely due to drought experienced during that period which affected water levels at the Seven Forks dams, forcing the country to switch to emergency power supplies to cover the deficit. It would therefore be erroneous to conclude that competition has been increasing since 2003 to 2012 as seen in decreasing HHI level shown in figure 16.

The HHI index in the power generation sector has been well above 1.8 over the years indicating high concentration of activities by only a few firms meaning low competition. With perfect implementation of projects in the pipeline under LCPDP, electricity market structure is expected to change from the current monopoly structure towards competitive structure. This is expected to affect the current price of energy and hence improve the country's socio-economic characteristics.

Table 15: Market Shares and HHI for the Electricity Sub Sector

Sources	2003/4	2004/5	2005/6	2006/7	2007/8	2008/9	2009/10	2010/11	2011/12	2012/13
KenGen	0.853	0.800	0.797	0.746	0.755	0.669	0.54	0.69	0.71	0.74
REA	0.002	0.002	0.002	0.002	0.002	0.002	0.00	0.00	0.00	0.00
IberAfrica	0.048	0.062	0.072	0.052	0.048	0.053	0.10	0.10	0.09	0.07
Westmont	0.003	0.001	0.000	0.000	0.000	0.000	0.00	0.00	0.00	0.00
Tsavo	0.040	0.095	0.100	0.089	0.087	0.087	0.07	0.05	0.04	0.02
Mumias Cogen	0.000	0.000	0.002	0.001	0.001	0.001	0.01	0.01	0.01	0.01
Or-power 4	0.021	0.022	0.021	0.018	0.015	0.043	0.06	0.05	0.05	0.06
Aggreko	0.000	0.000	0.005	0.091	0.087	0.141	0.16	0.04	0.05	0.03
UETCL	0.034	0.019	0.003	0.002	0.004	0.004	0.01	0.00	0.00	0.01
TANESCO	0.000	0.000	0.000	0.000	0.000	0.000	0.00	0.00	0.00	0.00
Rabai	-	-	-	-	-	-	0.05	0.05	0.04	0.05
Imenti Tea	-	-	-	-	-	-	0.00	0.00	0.00	0.00
HHI	0.733	0.654	0.650	0.575	0.587	0.479	0.339	0.496	0.515	0.559

Source: Energy Regulatory Commission

Figure 16: Trend of the Hirschman herfindahl Index for the Electricity sub sector

Source: Energy Regulatory Commission

7.5 Petroleum Industry

The petroleum sub-sector is one of the most competitive in the energy sector. Players in the sub-sector display oligopolistic competitive tendencies. Kenya has about 26 operational firms in the petroleum industry where the four largest companies, mainly multinationals, account for 72% of total market share. The rest of the companies, about 20 or so, compete for the remaining market share.

By considering the four firms and eight firms' concentration ratio summary (Table 16), the industry tells us that the market structure is oligopolistic in nature. Problems of collusion and non price competition are common with this kind of market structure and therefore, close monitoring of operational behaviour should be enhanced.

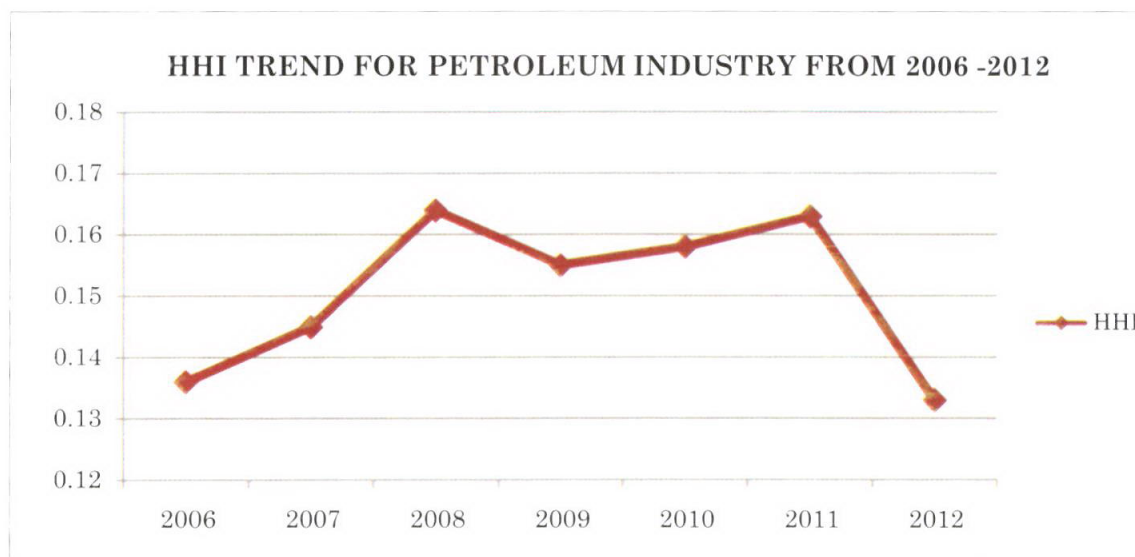
Table 16: Summary of concentration ratios

Year	Four firm concentration ratio	Eight firm concentration ratio
2006	68.7	89.5
2007	71.85	88.7
2008	75.3	91.6
2009	72.6	90.6
2010	74.9	88.8
2011	74.9	88.4
2012	66.94	84.2
Average	72.16	88.8

Source: Energy Regulatory Commission

A summary of the trend of HHI in the petroleum industry for the period 2006 – 2012 is provided next. The variation in HHI was mainly driven by exit or entry of new companies. For example, the exit of Chevron (Caltex) led to an increase in HHI.

Figure 17: HHI trend for petroleum industry from 2006-2012



Source: Energy Regulatory Commission

Key:

The average HHI for the period 2006 - 2012 = **0.150579886**. The threshold for Kenya is defined as follows:

- i. An index below 0.1 indicates an unconcentrated index
- ii. An index between 0.1 and 0.18 indicates moderate concentration
- iii. An index above 0.18 indicates high concentration

In conclusion, the downstream petroleum sub-sector/industry has been moderately concentrated for the period considered in the analysis with an average HHI of 0.1505 courtesy of price regulation by the Commission.



Chapter 8
Corporate Services



Chapter 8: Corporate Services

8.1 Competency Development

During the Financial Year 2012/13, the Commission engaged a consultant to conduct a salary survey and benchmark the Commission's salary and benefits with similar public institutions. Further, the Commission also advertised and filled seven vacant positions. This was done through promotion of two serving employees and recruitment of five employees.

The Commission engaged a Safety Auditor to undertake the following audits in line with the Occupational Safety and Health Act (OSHA) 2007 and the Factories and Other Places of Work (Fire Risk Reduction) Rules, Legal Notice No. 59 of 2007:

- i. Occupational Safety and Health
- ii. Statutory Risk Assessment
- iii. Fire Safety
- iv. Employee Occupational Medical Examination

The Commission then obtained its 'Certificate of Registration of a Workplace' from the Directorate of Occupational Safety & Health. The Commission finalized the Human Resource Policy and Procedures Manual (July 2012) and has operationalized it.

In line with the Commission's policy on training, employees attended various trainings, workshops and study tours both locally and abroad as a way of ensuring continuous competency development.

8.2 International Liaison

The Commission continues to work closely with regional utility regulators and other state agencies to front a common approach in interconnection of electric power and petroleum transportation in the region as well as share energy regulation experiences. The forums include the African Forum for Utility Regulators (AFUR), the Energy Regulators Association of East Africa (EREA), the Regional Association of Energy Regulators for Eastern and Southern Africa (RAERESA) and the East African Power Pool (EAPP) which met the following targets:

- i. Development of a Modus Operandi to guide in the relationship between the EAPP-Permanent secretariat and EAPP-IRB
- ii. Developed job descriptions for staff of EAPP-IRB
- iii. Regional Master Plan Update Component
- iv. Market Development Component
- v. Reviewed existing laws and institutions and assessed their workability for IRB to fulfill its mandate

In the year under review, the Commission hosted delegations from other regulatory agencies who were interested in learning about the regulatory environment in Kenya. Most of these agencies want to know the challenges and successes the Commission has experienced in regulating the energy sector.

ERC also participated in regional meetings in Tanzania, Rwanda, Uganda and Zambia among other countries. The Commission hosted teams of regulators from, among others, Gambia, Rwanda, Uganda and Zambia. The Commission is thus at the forefront in ensuring better regulation and improving the business and investment environment of the African region.

8.3 Corporate Social Responsibility (CSR)

The Commission believes in adding value to communities by getting involved in diverse activities. This is achieved through structured, continuous Corporate Social Responsibility (CSR) activities aimed at addressing some of the social, environmental and economic challenges facing Kenyan communities.

In the 2012/13 Financial Year, the Commission was involved in various CSR activities across the country. Among them was sponsoring the Africa Swimming Gala which offers opportunities to less fortunate children to participate in the sport, planting tree seedlings at Eburru forest, visiting Shelter and SOS children's homes and donating a water tank to Ogande School for the Mentally Challenged.

In the long run, the Commission plans to reach out in a more focused manner. A CSR policy will be rolled out to meet this goal.

8.4 Performance Contract

The Commission remains committed to the continuous progress of its obligations in Performance Contracting. The Commission met the requisite requirements in accordance with Legal Notice No. 93 of 2004 and Performance Contracting Guidelines.

ERC's performance for the contract period 2012/2013 was rated at a weighted score of 2.8086 compared to the previous year's score of 2.9340, demonstrating an improvement in the performance of the Commission.

Table 17: ERC Performance Contract Scores

	2007/8	2008/9	2009/10	2010/11	2011/12	2012/13
Score	2.8222	2.9136	2.5594	2.5565	2.9340	2.8086
Grading	Good	Good	Good	Very Good	Very Good	Very Good

Source: Energy Regulatory Commission

8.5 Renewable Energy Portal

The Commission, with support from the World Bank Group's Investment Climate Advisory services 'Africa Investment Climate Project', developed a Renewable Energy (RE) Portal.

The portal holds consolidated Renewable Energy data collected from various government institutions involved in issuing clearances, permits and/or licenses for renewable energy projects. The portal provides information to investors regarding the licence requirement regime and various factors involved in facilitating investment in the energy sector.

Further to this development, the Commission revamped its website with a view of improving the look and feel, making it more interactive, restructuring its content to make it user-friendly and enhancing cyber security.

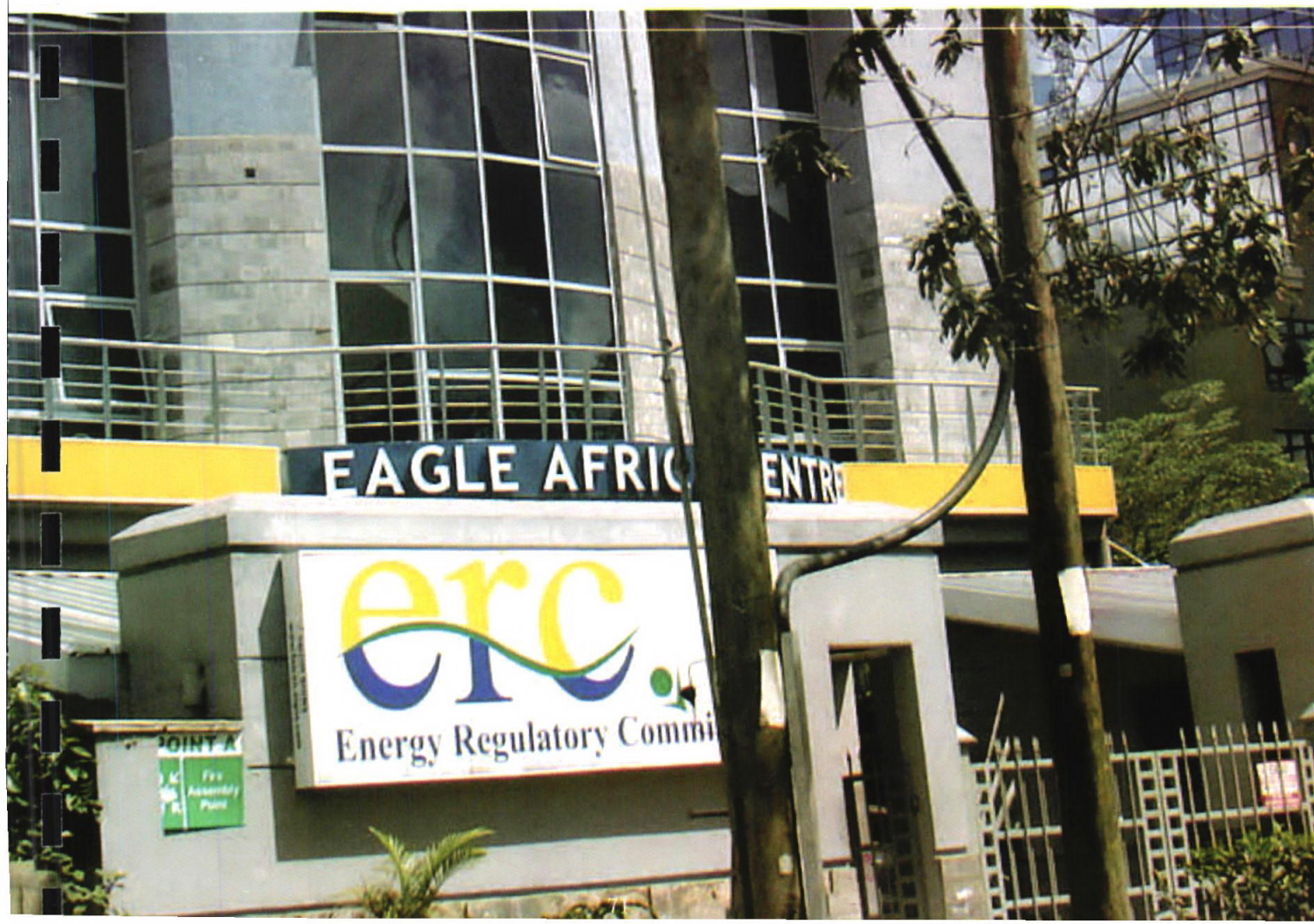
The screenshot shows the Renewable Energy Portal website. At the top, there is a navigation bar with the following items: HOME, ABOUT US, LICENSING, RE-SOURCES, INFORMATION, FAQs, BLOG, and CONTACT. The main content area features a large banner image of wind turbines with the text "Wind Energy". To the right of the banner is a "FIND REQUIREMENTS" sidebar with the following options: Select Energy Category, Select Energy Technology, Select Grid, and a Submit button. Below the banner, there is a section titled "Renewable Energy Portal" with a brief description of the portal's purpose. To the right of this section is a "Newsletter Subscription" form. Below the "Renewable Energy Portal" section is a "CLEARANCE FLOW CHART" section with a brief description of the clearance process. At the bottom right, there is a "RENEWABLE ENERGY SOURCES" section with a link to "Wind Energy".

The Renewable Energy Portal: <http://www.renewableenergy.go.ke/>



Chapter 9

Financial Information



Chapter 9: Financial Information

REPORT OF THE COMMISSIONERS FOR THE YEAR ENDED 30TH JUNE 2013

The Commissioners submit their report together with the audited financial statements for the year ended 30th June 2013 which show the state of the Commission's affairs.

INCORPORATION

ERC is a state corporation established under the Energy Act, No. 12 of 2006.

PRINCIPAL ACTIVITIES

The principal activities of the Commission are

1. To regulate: -

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

2. Protect the interests of the consumer, investor and other stakeholders

RESULTS

The results together with the notes for the year are shown from page 77 to 91.

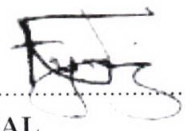
STATEMENT OF COMMISSIONERS' RESPONSIBILITIES ON THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2013

The Energy Act, No. 12 of 2006 requires the Commission to prepare financial statements for each financial year, which includes a Statement of Financial Position showing in detail the assets and liabilities of the Commission, a Statement of Financial Performance showing the income and expenditure, and such other statements that the Commission may deem necessary. The State Corporations Act (Cap 446) requires the Commission to ensure that proper books are kept recording all the property, undertakings, funds, activities, contracts, transactions and other business of the Commission. The Commission is also responsible for safeguarding the assets of the Commission.

The Commissioners accept responsibility for the annual financial statements, which have been prepared using appropriate accounting policies supported by reasonable and prudent judgment and estimates, in conformity with international financial reporting standards. The Commissioners are of the opinion that the financial statements give a true and fair view of the state of financial affairs of the Commission and of its operating results. The Commissioners further accept responsibility for the maintenance of accounting records, which may be relied upon in the preparation of financial statements, as well as adequate systems of internal financial control.

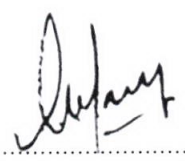
Nothing has come to the attention of the Commissioners to indicate that the Commission will not remain a going concern for at least twelve months from the date of this statement.

Dr. Frederick Nyang
Ag. DIRECTOR GENERAL



Date..... *14 March 2014*

Eng. Emma Kiilu (Mrs.)
CHAIRPERSON



Date..... *14 March 2014*



KENYA NATIONAL AUDIT OFFICE

REPORT

OF

THE AUDITOR-GENERAL

ON

**THE FINANCIAL STATEMENTS OF
ENERGY REGULATORY COMMISSION**

**FOR THE YEAR ENDED
30 JUNE 2013**



KENYA NATIONAL AUDIT OFFICE

REPORT OF THE AUDITOR-GENERAL ON ENERGY REGULATORY COMMISSION FOR THE YEAR ENDED 30 JUNE 2013

REPORT ON THE FINANCIAL STATEMENTS

I have audited the accompanying financial statements of Energy Regulatory Commission set out on pages 13 to 33, which comprise the statement of financial position as at 30 June 2013, the statement of comprehensive income, the statement of changes in owners funds and the statement of cash flows 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 14 of the Public Audit Act, 2003. 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.

Management's Responsibility for the Financial Statements

The Management of Energy Regulatory Commission is responsible for the preparation and fair presentation of these financial statements in accordance with International Financial Reporting Standards and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 13 of the Public Audit Act, 2003.

Auditor-General's Responsibility

My responsibility is to express an opinion on these financial statements based on the audit and report in accordance with the provisions of Section 15 (2) of the Public Audit Act, 2003 and submit the audit report in compliance with Article 229 (7) of the Constitution of Kenya. The audit was conducted in accordance with International Standards on Auditing. Those standards require compliance with ethical requirements and that the audit be planned and performed to obtain reasonable assurance about whether the financial statements are free from material misstatement.

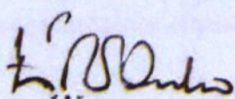
An audit involves performing procedures to obtain audit evidence about the amounts and disclosure in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of

the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Commission's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence obtained is sufficient and appropriate to provide a basis for my audit opinion.

Opinion

In my opinion, the financial statements present fairly, in all material respects, the financial position of the Commission as at 30 June 2013 and of its financial performance and its cash flows for the year then ended in accordance with International Financial Reporting Standards and comply with the Energy Act, 2006.



Edward R. O. Ouko, CBS
AUDITOR-GENERAL

Nairobi

15 April 2014

Statement of Comprehensive Income for the Year ended 30th June 2013

		2013 KES	2012 KES
Operating revenue	Notes		
ERB Levy	2(a)	194,487,122	182,574,919
Petroleum Levy	2(b)	137,087,045	123,358,289
Transfers from other government entities	2(c)	89,689,876	38,361,002
Other operating revenue	3	3,220,242	10,870,934
Total operating revenue		424,484,285	355,165,144
Operating expenses			
Commission expenses	4	22,736,899	19,094,707
Personnel emoluments	5	172,389,700	139,765,101
Training and other personnel costs	6	38,877,623	38,897,443
Office supplies and expenses	7	8,964,992	9,492,552
Transport and travel	8	22,722,971	24,390,491
Public relations and consumer services	9	24,180,533	36,914,653
Utilities	10	2,780,301	2,017,622
Information and communication technology expenses	11	3,098,072	3,380,106
Office rent and office services	12	29,474,395	26,181,247
Consultancy and other professional services	13	70,018,189	70,090,734
HIV/AIDS prevention related expenses	14	832,230	1,949,774
Depreciation/Amortization	15 & 16	42,981,269	40,614,271
Total operating expenses		439,057,175	412,788,700
Surplus (Deficit) from operating activities		(14,572,890)	(57,623,556)
Gain on disposal	25	1,685,115	1,123,075
Total non-operating revenue		1,685,115	1,123,075
Net surplus (loss) before transfer to Exchequer		(12,887,776)	(56,500,481)
Surplus to Exchequer (90%) provision		-	-
Net surplus (loss) after transfer Exchequer		(12,887,776)	(56,500,481)

Statement of Financial Position as at 30th June 2013

ASSETS	Notes	2013 KES	2012 KES
Non-current assets			
Property, Plant and Equipment	15	96,568,124	116,503,210
Intangible Assets	16	24,360,744	42,784,672
		120,928,868	159,287,882
Investments	19	55,537,700	55,537,700
Current assets			
Receivables	20	46,255,910	61,440,742
Cash & cash equivalents	17 & 18	50,151,142	41,944,912
		96,407,052	103,385,653
Total Assets		272,873,620	318,211,235
OWNERS FUNDS AND LIABILITIES			
Owners Funds			
Revaluation Reserves		7,032,500	7,032,500
Retained reserves		118,342,272	131,230,048
Sinking fund	24	55,000,000	55,000,000
		180,374,772	193,262,548
Liabilities			
Payables	21	77,956,787	112,059,623
Provisions	22	2,615,539	2,935,961
Employee benefits	23	11,926,522	9,953,103
		92,498,848	124,948,687
Total Owners Funds and Liabilities		272,873,620	318,211,235

The Financial Statements were approved by the Commission on **25th July 2013** and signed on its behalf by:

.....
Eng. Emma Kiilu (Mrs)

.....
Dr. Frederick Nyang

Statement of Changes in Owners Funds for the year ended 30th June 2013

	Revaluation Reserves KES	Retained Reserves KES	Sinking Fund Reserves KES	Total Reserves KES
Balance as at 1st July 2011	7,032,500	187,730,529	55,000,000	249,763,029
Net surplus/Loss for the period	-	(56,500,481)	-	(56,500,481)
Transfer to/from Sinking Fund		-	-	-
Surplus to Exchequer				-
Balance as at 30th June, 2012	7,032,500	131,230,048	55,000,000	193,262,548
Balance as at 1st July 2012	7,032,500	131,230,048	55,000,000	193,262,548
Net surplus/Loss for the period	-	(12,887,776)	-	(12,887,776)
Transfer to/from Sinking Fund		-	-	-
Surplus to Exchequer				-
Balance as at 30th June, 2013	7,032,500	118,342,272	55,000,000	180,374,772

Statement of Cash Flow for the year ended 30th June 2013

	Note	2013 KES	2012 KES
Cash flow from operating activities:			
Net surplus (loss) from operations before transfer to treasury		(12,887,776)	(56,500,481)
Adjustments:			
Investment Income		(3,137,681)	(10,336,128)
Gain on Disposal		(1,685,115)	(1,123,075)
Depreciation		42,981,269	40,614,271
Operating surplus (loss) before working capital changes		25,270,697	(27,345,412)
Decrease (Increase) in debtors		15,184,832	(23,126,220)
Increase (Decrease) in creditors and accruals		(32,449,839)	(30,445,406)
Cash generated from operations		8,005,690	(80,917,037)
Investing activities:			
Purchase of fixed assets	15 & 16	(4,812,242)	(35,626,429)
Proceeds of Sale of fixed assets		1,875,100	1,156,000
Interest Received		3,137,683	10,338,829
Net Cash outflow from investing activities		200,541	(24,131,600)
Net Increase (Decrease) in cash & cash equivalents		8,206,231	(105,048,638)
Cash & cash equivalents at the beginning of the Period			
Cash & cash equivalents at the end of the period		50,151,142	41,944,912
represented by:			
Short term deposits		30,000,000	30,000,000
Bank balances		20,150,517	11,894,912
Petty cash		625	50,000
		50,151,142	41,944,912

Notes to the Financial Statements for the Year Ended 30th June 2013

1. Significant Accounting Policies

a) Basis of Accounting

The financial statements comply with International Financial Reporting Standards (IFRS). The measurement base is historical cost adjusted for revaluation of assets.

The financial statements have been prepared on a going concern basis and the accounting policies have been applied consistently throughout the period.

b) Revenue Recognition

Revenue from the levy is recognized when received or receivable. Other sources of revenue are recognized to the extent that related revenue can be reliably measured.

c) Fixed Assets and Depreciation

Fixed Assets are stated at cost less accumulated Depreciation

Depreciation is calculated on the cost of the fixed assets on a straight line basis, at annual rates 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 & Fittings	12.5%
• Computer Equipments	30%
• Equipments	12.5%

The Amortization rates used are as follows;

• Intangible assets	30%
---------------------	-----

d) Taxation/Transfer to Treasury

No provision has been made for Income Tax. The commission does not operate for gain. Its income is therefore not subject to tax. However a provision is made for transfer of surplus funds to Treasury in line with Section 13A of the Government Financial Management Act that states that a regulatory authority established by an Act of Parliament shall remit into the Consolidated Fund, ninety per centum of its surplus funds reported in the audited financial statements after the end of each financial year.

e) Retirement Benefits

The Commission operates a defined contribution pension scheme for permanent and pensionable employees. The scheme is currently administered by Retirement Benefit Authority (RBA) approved Administrator, namely CFC Insurance Company. The

Commission makes a monthly contribution of 15% of the employees' basic salary and the employee contributes 7.5% of their monthly basic salary

The Commission also contributes to a statutory defined contribution plan, National Social Security Fund. Contributions are determined by Local statute and are currently limited to a maximum of KES 200 per employee per month.

f) Cash and Cash Equivalents

For the purposes of the cash flow statements, cash and cash equivalents comprise cash at hand and deposits held at call.

g) Comparatives

Where necessary, comparative figures have been adjusted where applicable to conform to changes in the current presentation.

h) Employee Entitlement

The estimated monetary liability for employees' accrued annual leave entitlement at the balance sheet date is recognized as an expense accrual.

Employee entitlements to gratuity are recognized when they accrue to employees. A provision is made for the liability for such entitlements as a result of services rendered by employees up to the balance sheet date.

i) Capital

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

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

j) Incorporation

The Commission is a state corporation established under The Energy Act NO.12 of 2006

k) Currency

These accounts are presented in Kenya Shillings (KES)

2 (a). ERB Levy

The ERB levy is payable by every consumers of electricity energy at the rate of 3 cents per every unit of electricity sold and payment in respect thereof received by Kenya Power and Lighting Company Limited (KPLC) as per Legal Notice No. 148 of 1999. The Levy collected is payable to ERC by KPLC before the 30th day of each month in respect of the immediately preceding month.

	2013	2012
	KES	KES
ERB Levy	194,487,122.00	182,574,919.05

2 (b). Petroleum Levy

The Petroleum levy is paid per Legal Notice Nos. 91 & 108 of 2008 on the petroleum products consumed in Kenya as follow: Motor spirit (gasoline) regular KES 50.00 per 1,000 litres at 20°C, Motor spirit (gasoline) Premium KES 50.00 per 1,000 litres at 20°C, Kerosene KES 50.00 per litre at 20°C, Automotive gas oil KES 40.00 per 1,000 litres at 20°C and Diesel oil (industrial heavy) KES 50.00 per 1,000 litres at 20°C. The levy is collected by the Kenya Revenue Authority (KRA) and is payable to ERC by KRA before the 30th day of each month in respect of the immediately preceding month.

	2013	2012
	KES	KES
Petroleum Levy	137,087,045.00	123,358,288.80

2 (c). Transfers from Government

ERC was financed under the Energy Sector Recovery Project. The Funds were received from International Development Association under Credit agreement Number 3958KE. The funds were utilized as follows:

	2013	2012
	KES	KES
Consultancy -Drafting of Regulations, Codes, systems study	79,045,502	26,947,698
Capacity Building – World Bank	10,644,374	9,396,604
Consultancy Regulatory Management Information System	-	2,016,700
	89,689,876	38,361,002

3. Other operating revenue

	2013 KES	2012 KES
Interest on investments	3,137,681	10,336,128
Miscellaneous revenue	82,561	534,808
	3,220,242	10,870,934

4. Commission expenses

	2013 KES	2012 KES
Monthly Fees /Honoraria	5,126,129	4,355,664
Sitting allowance - Commissioners	7,080,667	5,604,000
Seminars, travel & accommodation	7,942,073	7,695,611
Medical	746,503	562,646
Meeting, entertainment & others	1,841,527	876,784
	22,736,899	19,094,707

5. Staff salaries & benefits

	2013 KES	2012 KES
Salaries	105,587,717	81,902,505
House Allowance	30,654,329	28,881,468
Car/Commuting allowance	13,657,829	13,366,478
Pension & gratuity	15,802,855	13,469,080
Special Duty / Acting Allowance	548,695	448,176
Leave & Other Allowances	6,138,275	1,697,394
Total for staff	172,389,700	139,765,101

6. Training & other staff costs

	2013 KES	2012 KES
Medical	14,989,710	8,683,717
Life & accident insurance	2,042,582	1,542,004
Training & capacity building - ERC funded	9,732,402	18,245,470
Training & capacity building - World Bank funded	10,211,524	9,396,604
Subscriptions-clubs & professional associations	1,110,117	897,267
Staff welfare & laundry	65,108	67,088
Staff uniforms	759,779	65,293
	38,877,623	38,897,443
Number of employees	69	66

7. Office supplies & expenses

	2013 KES	2012 KES
Stationery, postage & supplies	4,432,249	4,529,813
Meetings, office tea & miscellaneous	3,644,089	3,407,413
Newspapers, books & periodicals	888,655	1,555,327
	8,964,992	9,492,552

8. Transport & travel expenses

	2013 KES	2012 KES
Travel: local and surveillance Audits	9,867,682	13,825,279
Travel: international	8,747,492	7,180,431
Fuel	1,659,455	1,469,628
Vehicle repair & service	1,245,420	918,921
Vehicle insurance & licenses	1,202,923	996,233
	22,722,971	24,390,491

9. Public relations & consumer services

	2013 KES	2012 KES
Corporate subscriptions	1,612,164	875,234
Corporate social responsibility	4,116,119	3,797,681
Advertisements & public relations	12,880,559	22,610,115
Branding	498,550	4,125,911
Public seminars/workshops	3,073,142	3,505,712
Kenya Energy Environment Programme (KEEP)	2,000,000	2,000,000
	24,180,533	36,914,653

10. Utilities

	2013 KES	2012 KES
Telephone & fax	2,492,328	1,747,321
ISDN line	287,973	270,301
	2,780,301	2,017,622

11. Information and communication technology expenses

	2013 KES	2012 KES
Bandwidth	1,109,360	741,588
Software licenses	1,988,712	2,638,518
	3,098,072	3,380,106

12. Office rent & office services

	2013 KES	2012 KES
Rent	25,810,743	22,078,761
Security	1,164,800	1,090,345
Office cleaning	1,569,619	1,957,549
Repair & service-office equipment	463,760	669,703
Insurance & other	465,473	384,889
	29,474,395	26,181,247

13. Consultancy & other services

	2013 KES	2012 KES
Consultancy - ERC funded	26,741,655	40,174,524
Consultancy - WB funded	42,396,785	28,964,398
Bank charges	531,749	651,812
Audit fees & Expenses	348,000	300,000
	70,018,189	70,090,734

14. HIV/AIDS prevention related expenses

	2013 KES	2012 KES
Gender	116,000	498,800
Drugs & Substance Abuse	-	40,000
HIV / AIDS, disability, drug/substance abuse and safety	716,230	1,410,974
	832,230	1,949,774

15. Property, Plant and Equipment

	Motor Vehicles	Computer equipment	Furniture & Fittings	Equipment (Telephone Fax & others)	Work in Progress	Total
	KES	KES	KES	KES	KES	KES
Cost:						
At 1st July, 2011	25,479,357	17,727,411	3	7,773,150	152,855,352	203,835,273
Adjustment	-	5,774,054	96,942,486	964,457	(152,855,352)	(49,174,354)
Add: additions during the year	14,466,450	2,536,949	201,840	2,834,251	-	20,039,490
Less: disposals during the year	(4,399,200)	(915,470)		(399,248)		(5,713,918)
At 30th June 2012	35,546,607	25,122,944	97,144,329	11,172,610	-	168,986,490
Cost:						
At 1st July, 2012	35,546,607	25,122,944	97,144,329	11,172,610	-	168,986,490
Adjustment	-	-	-	-	-	-
Add: additions during the year	-	3,723,475	164,245	900,161	-	4,787,882
Less: disposals during the year	(4,700,000)	(5,139,198)	(66,773)	(144,130)		(10,050,101)
At 30th June 2013	30,846,607	23,707,222	97,241,801	11,928,641	-	163,724,271

Depreciation

	Motor Vehicles	Computer equipment	Furniture & Fittings	Equipment (Telephone Fax & others)	Work in Progress	Total
	KES	KES	KES	KES	KES	KES
At 1st July, 2011	18,063,868	15,737,657	3	5,722,398	-	39,523,926
Adjustment		(3,920,336)				(3,920,336)
Charge for the year	3,950,103.20	5,006,075.50	12,142,413.59	1,263,390.81	-	22,361,983
Disposal	(4,399,200)	(915,470)		(363,623)		(5,678,293)
At 30th June, 2012	17,614,771	15,907,927	12,142,417	6,622,166	-	52,287,280
At 1st July, 2012	17,614,771	15,907,927	12,142,417	6,622,166	-	52,287,280

Adjustment	-	1	1	-	-	1
Charge for the year	6,124,201.04	5,664,375.56	12,152,878	787,525.95	-	24,728,981
Disposal	(4,700,000)	(5,043,802)	(8,347)	(107,967)-		(9,860,116)
At 30th June, 2013	19,038,972	16,528,501	24,286,949	7,301,725	-	67,156,147
Net book value:						
At 30 June 2013	11,807,635	7,178,721	72,954,852	4,626,916	-	96,568,124
At 30 June 2012	17,931,836	9,215,018	85,001,912	4,550,444	-	116,699,210

16. Intangible Assets

Cost:	KES
At 1st July, 2011	
Adjustment	49,174,355
Add: additions during the year	15,586,939
Less Disposal during the year	-
At 30th June 2012	64,761,294
At 1st July, 2012	64,761,294
Adjustment	-
Add: additions during the year	24,360
Less Disposal during the year	-
At 30th June 2013	64,785,654

Amortization Charge

Cost:	KES
At 1st July, 2011	-
Adjustment	3,920,334
Amortisation charge	18,252,288
Less Disposal during the year	-
At 30 June, 2012	22,172,622
At 1st July, 2012	22,172,622
Adjustment	-
Amortization charge	18,252,288
Less Disposal during the year	-
At 30 June, 2013	40,424,910

Net book value

As at 30 June 2013	24,360,744
As at 30 June 2012	42,588,672

Included in the cost of intangible assets is a carrying amount of KES 3,920,334 fully amortized software.

17. Fixed/Call Deposits

	2013	2012
	KES	KES
National Bank of Kenya (FDR)	30,000,000	30,000,000
	30,000,000	30,000,000

18. Bank balances

Commercial Bank of Africa	94,500	-
National Bank of Kenya	120,212	11,294,634
Kenya Commercial Bank	19,935,805	600,277
Petty Cash	625	50,000
	20,151,142	11,944,912

19. Investment

Treasury bonds	55,537,700	55,537,700
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20. Receivables

G.O.K (I.D.A project) Consultancy	10,644,374	27,857,546
Hospital and Rent Deposits	5,245,472	4,660,472
Levies	28,747,077	23,767,732
Telephone-Deposits	94,000	94,000
Investment Interest Receivable		681,863
Staff Advance	541,575	130,187
Commission Imprest	10,000	-
Staff Imprest	898,668	2,991,492
Miscellaneous receivables	74,744	677,449.41
Miscellaneous deposits		580,000
	46,255,910	61,440,742

	2013	2012
21. Payables		
Suppliers	41,175,872	64,267,658
Rural Electrification Authority-Contractors	593,525	209,400
Year end Accrual	14,141,173	26,061,467
Commission Fees payable	91,482	1,433,976
Energy Act Advances from energy sector stakeholders	21,954,736	20,087,122
	77,956,787	112,059,623
22. Provisions		
Audit fees	348,000	300,000
Withheld VAT and Other statutory deductions	2,267,539	2,635,961
	2,615,539	2,935,961
23. Employee benefits		
Gratuity Director General	3,959,570	3,177,200
Gratuity & staff accruals	1,248,431	2,342,083
Other-payroll Benefits	6,718,520	4,433,820
	11,926,522	9,953,103

24. Sinking Fund

The Commission established a sinking fund policy and management frame work and approved an initial provision of KES 45,000,000 sinking fund in 2010 to be separated from accumulated reserves in line with the State Corporation Act (Cap 446) section 16(1), which states that 'every state corporation shall make provision for the renewal of depreciating assets by the establishment of sinking funds and for contributions to such reserve and stabilization funds as may be required'. A further sinking fund provision of KES 10,000,000 was made in 2011 making the total sinking fund KES 55,000,000.

25. Gain on Disposal

During the year under review, in line with the Procurement and Disposal Act, ERC disposed several fixed assets above their net book value realizing a gain on disposal amounting to KES 1,685,115.

26. Contingency liabilities

A former employee of the Commission filed a suit for wrongful dismissal and a claim for his terminal dues in the High Court; the matter was later moved to the industrial court and is still outstanding.

Notes



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